

**TOWN COUNCIL  
MEETING MINUTES  
MAY 3, 2016**

The Town Council met in regular session on Tuesday, May 3, 2016 at 5:30 p.m. at 372 Town Place, Fairview, Texas. Those present were Mayor Darion Culbertson; Mayor Pro Tem Henry Lessner; Councilmembers Ron Samuels, John Adler, Frank O'Reilly, Paul Hendricks and Renee Powell; Town Manager, Julie Couch; Assistant to the Town Manager, Adam Wilbourn; Planning Manager, Israel Roberts; Town Engineer, James Chancellor; Chief Financial Officer, Jason Weeks; Economic Development Manager, Ray Dunlap; Police Chief, Granver Toliver; Interim Fire Chief, Jeff Bell; Police Sergeant, Troy Neasbitt; Firefighter, Justin Miller; Firefighter, Garrett Puls; Town Secretary, Elizabeth Cappon; and Town Attorney, Clark McCoy.

Mayor Culbertson called the meeting to order at 5:30 p.m. and declared a quorum was present.

At 5:31 p.m., the council then adjourned into executive session regarding a consult with legal counsel, property acquisition, personnel and economic development negotiations.

At 7:30 p.m., Mayor Culbertson reconvened back into regular session and invited everyone to stand for the Pledge of Allegiance.

**PROCLAMATIONS, RECOGNITION AND AWARDS:** Mayor Culbertson stated that the Fairview students of the Evans Middle School Pantherettes Drill Team were unable to attend the May meeting and would be attending the June 2016 Council meeting.

The Mayor and Council honored the Fairview students of the Lovejoy ISD Engineering team who participated in the VEX Worlds 2016 Robotics Competition from April 20 to 23, 2016.

Firefighters Justin Miller and Garrett Puls of Fairview Fire Rescue presented a check for more than \$6,000 to the Muscular Dystrophy Association for the Fill the Boot campaign.

Mayor Darion Culbertson read a proclamation declaring the month of May as Motorcycle Safety and Awareness Month in the Town of Fairview.

**CONSENT AGENDA:** All items listed under the Consent Agenda are considered routine and are acted on by one motion, with no separate discussion of these items. If discussion is desired, an item may be removed from the consent agenda and be considered separately. A) Approve minutes of the March 31, 2016 special Town Council meeting. B) Approve minutes of the April 5, 2016 regular Town Council meeting. C) Consider awarding the bid for the fire hydrant relocation project for the TxDOT widening of Stacy Road. D) Approve a resolution to require Oncor Electric Delivery Company, LLC to show cause why its transmission and distribution rates should not be reduced. E) Approve an ordinance approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division. F) Approve an Interlocal Agreement with North Texas Municipal Water District for road construction to supersede previously approved agreement.

Mayor Culbertson stated that items A, B, D and F of the consent agenda needed to be removed, as the items were not ready for Council. Councilmember O'Reilly requested to pull item C. Councilmember Samuels made a motion to approve item E of the consent agenda. Councilmember Adler seconded the motion and the motion was unanimously approved.

Councilmember O'Reilly asked Mr. Chancellor about the delta between the low bid and the other bids on the project. Mr. Chancellor stated that the low bid is about \$10,000 over his engineer's estimate; Mr. Chancellor stated the other contractors likely do not actually need the small job but still put in a very high bid, just in case it is accepted. Mr. Chancellor added that the low bidder is the only one who likely actually ran the numbers and TxDOT is reimbursing the Town for the 12 fire hydrants regardless. Councilmember O'Reilly made a motion to approve item C of the consent agenda. Councilmember Hendricks seconded the motion and the motion was unanimously approved.

**REPLAT 2.002 ACRE SITE LOCATED AT 870 ST. JAMES ROAD, ZONED RE-1:** Hold a public hearing, consider and take action on a request for approval of a replat of Lot 1, Block E of the Oakwood Estates, Phase III Addition into two (2) lots. The 2.002-acre site is located at 870 St. James Road and is zoned for the (RE-1) One-acre Ranch Estate District. Applicant: Lawrence Ringley, representing Herbert Linder. (Case No. RP2016-01).

Mr. Roberts gave a presentation on agenda item 8(a), a request for approval of a replat of Lot 1, Block E of the Oakwood Estates, Phase III Addition into two (2) lots. The 2.002-acre site is located at 870 St. James Road and is zoned for the (RE-1) One-acre Ranch Estate District.

Mr. Roberts stated there have been 15 statements of opposition but only three letters came from within the 500-foot notification boundary, including one letter from the HOA.

Mayor Culbertson opened the public hearing.

Lawrence Ringley, 701 S. Tennessee Street in McKinney, Ringley and Associates, Inc., stated that he was the land surveyor of the property. Mr. Ringley stated the plat meets all the requirements of the zoning including setbacks and impervious area coverage.

Herbert Linder, 870 St. James Road, stated that he was the property owner. Mr. Linder stated that he hoped the Council would consider him and his wife's property rights in this case. Mr. Linder stated that he is only requesting to do what is allowed by law on his own property. Mr. Linder added that this is not the first subdivide replat in Oakwood Estates and presented examples of replats approved by the Town both inside and outside of Oakwood Estates.

Mr. Linder stated the May 1995 letter of proposed restricted covenants mentioned by those in opposition of the replat was never filed with the County or the final plat. Mr. Linder added he was not a party to this contract. He also stated that the limit of homes and building permits mentioned in this letter has already been exceeded. Mr. Linder stated that seven of the letters of opposition came from outside the Oakwood Estates subdivision. Mr. Linder stated that he is working with the HOA toward a resolution regarding the HOA's stone fence on his property. Mr. Linder stated that the replat meets all zoning ordinances and that Staff has recommended

approval. Mr. Linder stated that the Planning and Zoning Commission unanimously voted for approval as in accordance with state law it is required to be approved under the ministerial review process.

Richard Connelly, 980 Fox Dale, President of the Oakwood Homeowners Association, stated that he is a resident of Oakwood Estates Phase II. Mr. Connelly stated that there is a general consensus among the HOA Board members not to subdivide and a proposal regarding banning subdivision will be brought to the HOA Annual Meeting in the fall of 2016. Mr. Connelly stated that they oppose approval of this item. Mr. Connelly stated that the May 1995 letter was approved by the Town Council and signed by the developer, making it a valid binding contract setting a limit on the number of homes within Phase III. Mr. Connelly stated to ignore this would be a removal of covenants, which requires a vote of Oakwood Home Owners. Mr. Connelly stated that Mr. Linder was informed of this in a July 2015 letter. Mr. Connelly stated his belief that the Town undermining the HOA's authority would set a damaging precedent. Mr. Connelly explained his dissatisfaction with the replat design aesthetics in order to meet the one-acre requirement and setbacks.

Wynne Allen, 1021 Hart Road, stated her request for denial of the case. Ms. Allen stated that while she is not in Oakwood Estates, she is across the street. Ms. Allen stated that she did not receive a letter but felt she is within the notification boundary. Ms. Allen stated this could create traffic congestion and a safety hazard at the corner of St. James and Hart Road, which would be similar to Country Club Road and Hart Road, where they often block the road with garbage and visitor parking.

Mayor Culbertson closed the public hearing.

Mayor Culbertson made a request for a motion of denial, stating that it was inconsistent with the Town's subdivision ordinance, not meeting the width requirements.

Mayor Pro Tem Lessner made a motion to deny a replat of Lot 1, Block E of the Oakwood Estates, Phase III Addition into two (2) lots. The 2.002-acre site is located at 870 St. James Road and is zoned for the (RE-1) One-acre Ranch Estate District. Applicant: Lawrence Ringley, representing Herbert Linder. (Case No. RP2016-01). Councilmember Powell seconded the motion and the motion was unanimously denied.

**M CHRISTOPHER CUSTOM HOMES REZONING 44.069 ACRES FROM FH TO RE-2 AND DEVELOPER'S AGREEMENT:** Continue a public hearing, consider, and take any necessary action on an Ordinance granting a request by M. Christopher, Custom Homes, to rezone a portion of a 44.069 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being generally located adjacent to and east of Country Club Road (FM 1378) and north of Farmstead Street from Open Space and Flood Hazard (FH) Zone to Two-Acre Ranch Estate (RE-2) Zone. (ZA2015-14).

Mr. Roberts stated that the Council was continuing a public hearing on agenda item 8(b) regarding approval of an ordinance rezoning a 44.069 acre tract of land generally located east of Country Club Road and north of Farmstead Street from Open Space and Flood Hazard (FH)

Zone to Two-Acre Ranch Estate (RE-2) Zone from the April 5, 2016 regular Town Council meeting. Additionally, the Council was to address agenda item 9(a) regarding a development agreement with Harper Landing Development LLC. Mr. Roberts then asked Mr. Chancellor to discuss the drainage improvements made to the development.

Mayor Culbertson first asked that any interested residents in the audience to note any changes made as part of the developer's agreement.

Mr. Chancellor gave a presentation on the changes to the drainage plan and additions to the developer's agreement due to the Council's drainage fieldtrip to the affected properties including the new larger swale design, the creation of an escrow fund for maintenance in case of HOA failure, removal by the developer of the large trees in Sloan Creek and improvements to be made to homes on Farmstead to resolve the issues created by Lovejoy ISD's detention.

Mr. Chancellor stated that while the drainage engineer was not able to remove any existing homes entirely from the flood plain, they were able to improve the flood plain on the north side in certain areas with the creation of the larger swale in the development. Mr. Chancellor stated that he will have the final results of the flood study on the new swale design in approximately a week or two and it would be required before the final plat process. Mr. Chancellor added that it currently looks to be better than the old swale design, particularly in how it self-cleans.

Councilmember Samuels asked Mr. Chancellor to address the traffic issues. Mr. Chancellor stated that the current access to Harper's Landing Phase I would only be from Farmstead with widening improvements to be made by the developer. Mr. Chancellor added that with those improvements, it is still not an optimal site distance, but if Phase II is approved, that will become a gated emergency-only access, making the only entrance to both Phases on Country Club.

Mayor Pro Tem Lessner asked Mr. Chancellor to address the swampy land on Phase II. Mr. Chancellor stated that the developer plans to add a property line swale down the eastside to channel into the existing pond and back to the creek to improve the ground water problems.

The Council and Mr. Chancellor had an extended discussion about the drainage including the swale's effect on Montecito Estates, HOA maintenance, landscaping maintenance, the trail easement, the Wilson Creek backflow, the detention for future CPDD development in the Town, the debris in Wilson Creek and possible future assistance from the Army Core of Engineers.

Mayor Culbertson reopened the public hearing.

Guy Wormald, 926 Medinah Drive, stated that he is on the Infrastructure Committee of the Heritage Ranch HOA. Mr. Wormald described the severe drainage problems they have seen on the trail at Heritage Ranch and asked if there would be any impact from this development.

Mr. Chancellor stated that while all development increases runoff, residential development, particularly on two-acre lots, is very low impact and it would be so minimal an increase that it would not be a noticeable difference. Mr. Chancellor stated that commercial development in McKinney, Allen and the CPDD would have a much greater impact, which is why the Town has

created a drainage masterplan to offset future commercial development within the Town with regional detention.

Councilmember Samuels stated to Mr. Wormald that Jim Coats of Heritage Ranch participated in the Council fieldtrip and has looked at this plan and feels comfortable with its effect on Heritage Ranch. Mr. Wormald stated he felt reassured now.

Bruce Huot, 900 Sycamore Court of Heritage Ranch, stated a suggestion that the Council send a copy of the Developer's Agreement and the drainage plan to the President of the Heritage Ranch HOA. Mr. Huot stated he is the Chairman of the Heritage Ranch Greens Committee and a member of the Golf Committee, he stated his concerns about any effect on the golf course. Mr. Huot stated there is a significant financial impact on Heritage Ranch due to golf course flooding.

Mr. Huot asked for confirmation that Huitt-Zollars found the impact to be negligible on Heritage Ranch. Mr. Chancellor stated that Huitt-Zollars was asked to confirm the benefits of the parallel channel but that he felt the downstream effect would not be noticeable. Mr. Chancellor described a greater problem to Heritage Ranch as the backwater effect of Wilson Creek.

Mayor Culbertson stated that the Town is actively seeking a plan to clear Wilson Creek of debris along its path to Lake Lavon, hoping that may aid residents with flooding issues.

Lawrence Link, 918 Sycamore Court, stated that his opposition to rezoning Flood Hazard property to RE-2 as it would further the existing drainage problems in the area.

Ken Hardison, 1280 Camino Real, stated his opposition to the rezoning. Mr. Hardison stated while he can see the benefits of the swale on the south and north sides of the property, he is on the east side of the area, after the swale would rejoin the creek, so he felt his home would not see any benefit from the swale. Mr. Hardison described the increase in flooding his property has seen over the years. He added that that he does not feel the development is minimal and that this would be passing more runoff downstream of the swale. Mr. Hardison stated his appreciation for the time the Council has spent on this project. Mr. Hardison added that he felt it is the Town Council's responsibility to protect citizens and should err on the side of safety.

Mayor Culbertson explained that the issue is that the Town does not currently have an ordinance prohibiting floodplain reclamation as much of the Town is built on reclaimed floodplain. Mayor Culbertson stated that this case is a straight zoning case because it is consistent with the Town's future land-use plan, unlike the prior PC rezoning request that the Council denied. Mayor Culbertson stated that regardless of his or the rest of the Council's personal opinions on the project, the Town did not have any rules that would prohibit the passage of the rezoning.

Larry Thomas, 283 Cheyenne Dr of Heritage Ranch, stated that he is a retired real estate developer and personally, he would not touch that piece of property for flood plain reclamation. Mr. Thomas stated he felt there were still too many unconfirmed variables to approve the project.

Jeff Marlow, 1270 Camino Real, stated the risk was too high and that he felt more examining and testing still needed to be done before approval. Mr. Marlow stated there is no reason to rush this process. Mr. Marlow asked that the Town try clearing Wilson Creek first and seeing the affect before proceeding.

The applicant, Bryon Reid, President of M Christopher Custom Homes, 5500 S Highway 5, stated his support for the rezoning. Mr. Reid stated some of the residents are misunderstanding how the new swale works. He stated he felt that due to it crowning in the middle rather than dumping on the east side, making a significant difference. Mr. Reid added that several hydrologists have studied it and found that it does not hurt the area but actually helps it. Mr. Reid stated surprise at the opposition to the current plan as the science shows it helps the area. Mr. Reid added there is a significant elevation change between there and Wilson Creek, which would mean it should not affect Heritage Ranch.

Mike Hollowell, 1250 Camino Real, stated that he truly believes the Council has the residents' best interest at heart but wanted to know what the Town's plan is to help those with flooding issues.

Mr. Chancellor stated that the Town performed the drainage study with Huitt-Zollars in order to plan for future development. Mr. Chancellor reiterated that while the Town cannot help existing flood problems, they could ensure enough detention for any future development. Mr. Chancellor stated that is the best thing the Town can do and that the Town is a member of the National Flood Insurance Program, making it available to anyone who wants it. Mr. Chancellor recommended for anyone in the floodplain to acquire flood insurance.

Tina Hardison, 1280 Camino Real, stated her opposition to the rezoning. Ms. Hardison had Mr. Chancellor explain the physics of the swale in more detail. Ms. Hardison stated that with Phase I already approved, the Town should allow construction of the swale alone on the property to see how that helps the area before allowing the rezoning for Phase II.

Ms. Hardison expressed concern regarding the groundwater issues as well as the resulting septic issues. Ms. Hardison also expressed concerns regarding one entrance on Country Club. Ms. Hardison had Mr. Chancellor explain how the NTMWD blowout value would work, should they need to release it. Ms. Hardison stated that Justin Jinright was unable to attend that night's meeting but would like to see the new information presented, as he had been diligent in attending the meetings. Ms. Hardison requested the Council wait for the final study results before making a final decision. Ms. Hardison thanked the Council for their time spent on the project and stated the residents are putting their trust in them to make the right decision.

Mayor Pro Tem Lessner stated his belief that the standing water in that area is due to Wilson Creek and that he believes it is a big problem without a simple solution.

Richard Hickman, 1220 Camino Real, stated that he has lived along Sloan Creek for 38 years and that most of the flooding has occurred during the last four years. Mr. Hickman stated that he would rather see the open field across the creek rather than homes. Mr. Hickman stated his appreciation of the time the Council has spent and if the decision of the Council is to approve, he

asked the Council ensures there is a concrete plan and documentation for the maintenance of the swale by the HOA or the homeowners.

Mayor Culbertson explained the changes to the upfront funding of the maintenance fund to Mr. Hickman. Councilmember Adler added that ultimately, the homeowners are responsible for the cost but the Town is able to decide whether the swale is being properly maintained.

Martha Irish, 970 Winged Foot Drive, described her flooding problems from Sloan Creek. Ms. Irish stated her concerns about erosion between the swale and Sloan Creek. Ms. Irish stated that the issue is that there is nowhere for the flow of Sloan Creek to go when Wilson Creek is full.

Kim Seaber, 1201 Farmstead and 1200 Camino Real, thanked the Council for all their work on the project. Ms. Seaber asked Mr. Chancellor for clarification on the size of the swale. Mr. Chancellor stated it would be 80 to 100 feet wide and 6 to 7 feet deep. Ms. Seaber asked if the residents could see the drainage master study. Councilmember Powell asked that it be posted to the website. Ms. Seaber read from portions of the website and comprehensive plan that she felt did not support floodplain reclamation. Ms. Couch stated that the Town still would need a supporting ordinance in order to block reclamation. Ms. Couch clarified that the Town does not allow floodplain development but rather floodplain has to be reclaimed. Ms. Seaber stated that while she does not want Farmstead as the thru street to Phase I, she does not view 9000 square foot homes as low impact on the area. Ms. Seaber stated that she has yet to see follow through from the developer on any of his promises, so she stated her skepticism of the entire project.

Tina Hardison, 1280 Camino Real, asked what the steps would be to create an ordinance banning flood plain reclamation. Ms. Couch stated that would require direction from Council to Staff to draft such an ordinance, but that such an ordinance would not be applicable to any applications filed prior to the creation of the ordinance, making this particular rezoning not subject to the ordinance. Ms. Hardison asked why the Town is sending out the information the adjacent residents if their voice does not matter in whether it can be approved.

Mayor Culbertson stated that this application is currently a request for straight RE-2 zoning, rather than the request for PC zoning, which the Town Council had previously been denied to this applicant. Mayor Culbertson stated the Council could deny PC for any reason but that RE-2 conforms to the Town's future land-use plan and the surrounding area's zoning, which is the difference with this case. Ms. Hardison asked what could happen if the application were denied. Mr. McCoy stated the Council has received legal advice during executive session and it would be at the Town's legal disadvantage to go into detail about it in public session but the Council has been made aware of the potential substantial legal issues. Ms. Hardison stated if the existing homes flood that too could produce substantial legal issues from multiple residents.

Mayor Pro Tem Lessner stated that the Council has taken a lot of time working on this case with multiple engineers in order to see what they could do to help the existing residents. Mayor Pro Tem Lessner explained that without the development there would not be the relief for the homes on Farmstead or any additional swale. Mayor Pro Tem Lessner stated his belief that what the developer has agreed to would likely make the situation better on shorter-term events and will likely only delay but not make it worse on longer-term events. Mayor Pro Tem Lessner

suggested building up the berm on the Hardison and surrounding properties to make it more difficult for water to get on it.

Mayor Culbertson added that the Council is listening to the residents but there are extenuating circumstances that the Town has to contend with when making this decision.

Mike Hollowell, 1250 Camino Real, stated that while he understood that it is too late to stop this case that he would like to see an ordinance banning floodplain reclamation on the next Council agenda. Mr. Hollowell stated he did not believe the channel design was big enough to improve the problem. Mayor Pro Tem Lessner asked Mr. Hollowell if he would still want this case denied even if that meant denying the swale and other things that would help his current flooding situation. Mr. Hollowell stated that he would rather see it denied for a better solution.

Chris Owens, 1290 Camino Real, stated that he had previously been denied an application to build a barn due to it being in the floodplain. Mr. Owens stated he felt it was unfair that he accepted his application denial while the developer can make multiple attempts at getting his approved. Mr. Owens stated he felt it would be unfair to adjust the floodplain later due to changes caused by the development.

Mr. Chancellor described the permitting process in the floodplain to the Council. Mr. Chancellor stated by default items are typically denied in the floodplain but can be approved on a case-by-case basis, depending how it could affect the surrounding homes. Mr. Chancellor stated that in their last conversation, he had allowed Mr. Owens to move some dirt at his home because it was a small amount. Ms. Couch added that it is more than just bringing in dirt; there must be some sort of floodplain reclamation. Mr. Owens stated that some was not reclaimed.

Ken Hardison, 1280 Camino Real, stated his concerns about those wanting to bring more dirt into the floodplain in order to increase their berm. Mr. Hardison stated his concern that more dirt would push the floodplain further up. Mr. Hardison stated that he would want the Council to approve the project if it made the flooding better but he does not believe it will make the flooding better beyond where the swale rejoins the creek. Mr. Hardison reiterated his opposition to the project but stated he would support trying the swale without the development itself.

Mr. Chancellor reiterated that the swale is not designed to help downstream but within the particular area where the reclamation is taking place.

John Gill, 348 Rio Bravo, stated that he felt that with only 28 homes in the development, he felt the burden of the maintenance of the swale would be too great for the HOA to pay for on its own. Mr. Gill asked Mr. Reid for the approximate cost of the homes. Mr. Gill stated that the total number of homes in Heritage Ranch is much larger to share the cost of the maintenance.

The applicant, Bryon Reid, President of M Christopher Custom Homes, 5500 S Highway 5, stated the homes would range from \$800,000 to \$1.4 mil.

Mayor Culbertson closed the public hearing.



Councilmember Samuels stated he had been on both sides of the issue and asked many of the same questions as the Hardisons did and stated there was no doubt that the swale would help several homeowners and not hurt anyone. He also stated the Countryside Subdivision would be helped by the Developer's Agreement. Councilmember Samuels added that the Farmstead access is not as good an option as the new access on Country Club Road. He stated that if the study does not return conforming to staff requirements, the Council would not approve the final plat. Councilmember Samuels stated that it was not practical to ask the developer to build the swale without the development in order to see what happens. Councilmember Samuels stated that based on the engineers, the studies and the field trip, he felt the development would have a minimal downstream effect and should not be a concern for those in Heritage Ranch. Councilmember Samuels added that he felt the real problem downstream is Wilson Creek.

Councilmember Adler stated this was the most studied piece of property he can recall in his time on the Council. He added that while he was initially completely opposed to the development but he now believes it will benefit many residents. Councilmember Adler added he has focused on getting the best possible developer's agreement in order to ensure proper swale maintenance and financial responsibility. Councilmember Adler added that the drainage improvements along the eastern edge of Kentucky Lane would not be made without the development. Councilmember Adler stated that this project will benefit many including having inspired the Town to perform a comprehensive drainage study. Councilmember Adler stated consistency in the plat and the final developer's agreement would be needed for plat approval.

Councilmember O'Reilly stated that there has been a lot of study around this item and it has been rejected many times. He added that he believes the swale will help, even downstream, on lighter rains as the design changed to a deeper swale. Mr. O'Reilly stated the problems on Camino Real have existed for years and that he believes it will be positive for the area. Mr. O'Reilly stated that the changes to the swale as well as the Farmstead improvements have been based on listening to the resident feedback during the field trip.

Mayor Pro Tem Lessner stated he agreed with the rest of the Council that the project would do more good than possible harm. He stated that none of the improvements to the area would occur without the development, as the Town does not own the land. He added that it would help Farmstead by not allowing thru traffic in the neighborhood. Mayor Pro Tem Lessner stated that the one additional thing he would like to see is for Lovejoy ISD to extend their drainage directly into the M Christopher swale but he understands there are issues with accomplishing that. He added that while the swale may not help on big rains it would help on medium rain events due to the size of the swale.

Councilmember Hendricks stated that he felt they were moving in right direction and that he would like to show the residents the results of the final study as well as the Town's drainage plan. He added that he was set on creating a solution for avoiding using Farmstead.

Councilmember Powell stated that she has always been a proponent of larger lots since her time on the Planning and Zoning Commission. She added that there have been several attempts to rezone the property for less than two-acre lots, even before the property was zoned RE-2. Councilmember Powell stated she is torn because following the zoning is important to the Town

plan and this item does conform to the RE-2 zoning with the developer is throwing in extra items to help the area. Councilmember Powell stated her apprehension about the studies and stated that she understands the residents are concerned as they live through the flooding.

Councilmember Hendricks asked what recourse the Town had if they approved the item and the drainage study does not come back as needed. Mr. Chancellor stated that he would go back and forth with the developer, as needed for improvements before the Council reviews the study. Mr. Chancellor stated he would not issue a floodplain development permit until Council has approved the study. Ms. Couch added the Council would still have to approve the final plat, which would not happen if the developer were not meeting the requirements.

Mayor Pro Tem Lessner made a motion to approve ordinance granting a request by M. Christopher, Custom Homes, to rezone a portion of a 44.069 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being generally located adjacent to and east of Country Club Road (FM 1378) and north of Farmstead Street from Open Space and Flood Hazard (FH) Zone to Two-Acre Ranch Estate (RE-2) Zone with the condition that the property's current drainage plan and the Town's comprehensive drainage plan be reviewed at the next Regular Council meeting. Councilmember Adler seconded the motion and the motion was approved by a vote of 6 to 1; Councilmember Powell opposed.

Councilmember Hendricks made a motion to enter into a development agreement with Harper Landing Development, LLC, contingent upon final form and legal counsel's review of the agreement. Councilmember Samuels seconded the motion and the motion was unanimously approved.

**EMERGENCY PLAN UPDATE:** Hear an update from staff regarding status of the emergency plan and consider, discuss and take any necessary action.

Mr. Wilbourn provided an update to the Council on agenda item 9(b) regarding status of the Town's basic emergency plan, which supplements the Collin County Emergency Management Plan, and that the Council previously discussed at the April 5, 2016 regular Town Council meeting.

Mr. Wilbourn discussed the Town's Emergency Management Plan including comparison to surrounding municipalities, an explanation of the difference between the County Plan and the Town's Plan and possible incorporation of certain County Plan annexes.

Ms. Couch stated that since the Town has limited staff, she would recommend Town staff utilize the existing combination of the Town's basic plan paired with the County plan and spend time on training exercises, rather than creating a new Town plan, which would copy the larger countywide plan.

Mayor Culbertson asked if the Town needed to revise its plan to include the names of appropriate contacts, as in the County plan. Ms. Couch stated the Town plan already included that but revisions could possibly include clarifying some locations.

Mayor Pro Tem Lessner asked what needed to be done to practice the plan. Ms. Couch stated that if the Council approved of the current plan, then staff would return with recommendations for tabletop and in-field exercises of the plan. Mayor Culbertson agreed he would like to participate in such trainings.

Mayor Culbertson asked if there were any benefits to the Town customizing a plan similar to the County's larger plan, specific to only the Town. Ms. Couch stated there was not as the Town could be specific to the needs of the Town in the Town's basic plan and utilize the County's larger plan to fill in any other needs. Mayor Culbertson stated the City of Lucas utilizes the County's plan; Ms. Couch added that all smaller cities in Collin County do. Mayor Culbertson added that it might help smaller cities work together in times of crisis to be working from the same plan.

Chief Bell added that Fairview Fire Rescue already works with other local municipalities on many of their calls.

Councilmember O'Reilly asked if Fairview Fire Rescue is on the same radio frequency as surrounding municipalities and the Fairview Police Department. Chief Bell stated it was possible to get other municipalities on other channels on the radio. Sergeant Neasbitt stated that Fairview Police Department is on Collin County's system while FFR is on Wylie's system, requiring them to go through dispatch to connect; Sergeant Neasbitt added that it does make communication more difficult leading him sometimes to use his cell phone over his radio. Ms. Couch stated that one of the items in the Town's capital improvement plan is to join the digital radio system in Collin County, which will resolve this issue.

Mayor Pro Tem Lessner asked about the hail damage to Wylie's Emergency Operations Center. Chief Bell stated they were currently operating out of a modular building outside of Wylie's Fire Station #3 until they decide how to proceed regarding a permanent solution for their hail damaged EOC building.

Mayor Culbertson asked the Town Manager to come back with training recommendations for the Council to learn how to execute the plan.

**NCTCOG MOBILITY 2040 PLAN:** Consider, discuss and take any necessary action regarding a request from the North Central Texas Council of Governments (NCTCOG) on their Mobility 2040 plan.

Ms. Couch gave an update to the Council on agenda item 9(c) regarding a letter from the North Central Texas Council of Governments (NCTCOG) and the Texas Department of Transportation (TxDOT) requesting all the municipalities across Collin County to identify their top three priority highway and freeway projects. Ms. Couch stated that due to the rapid growth in Collin County, NCTCOG recently completed their Mobility 2040 plan and they are rapidly moving toward implementing the projects in that plan and would like input in order to establish priorities.

Ms. Couch added in addition to that, Collin County has contacted all its municipalities to inform them of their four top projects: Highway 380, Highway 78, a north-south corridor west of Lavon and the outer loop from Denton County to U.S. 75. Ms. Couch stated a north-south corridor west of Lavon is of concern to Fairview, as it would likely need to be Co Rd 317. Ms. Couch added the NCTCOG Mobility 2040 plan also reflects a potential project in that area. She stated that other roads that could affect Fairview in the Mobility 2040 plan are U.S. 75 and Highway 5. Ms. Couch stated that due to the potential impact of these projects on the Town, staff wants to inform NCTCOG, TxDOT and Collin County that the Town wants to be involved in the discussion regarding any of these projects.

Ms. Couch recommended the Ridgeview Overpass as the first of the Town's top three priorities. Mayor Culbertson asked that they spend time with County Commissioner to better understand the County's intention and then send back a formal response to NCTCOG and to the Collin County Commissioner's Court documenting whether the Town's thoroughfare plan is consistent with the County's plans. Councilmember Samuels agreed that if the Town did not express any possible dissenting opinions, the County could take silence as agreement.

Ms. Couch stated that the Council would need to provide their thoughts to NCTCOG very soon. Mayor Culbertson stated that he and Ms. Couch would draft a letter and bring it to the May 9, 2016 special meeting for approval by the Council.

**UPDATE ON FAIRVIEW FIRE RESCUE:** Hear an update from Interim Fire Chief, Jeff Bell on Fairview Fire Rescue and take any necessary action.

Chief Bell gave an update to the Council on agenda item 9(d) on Fairview Fire Rescue including an update on their staff, education and training, community events, sharing of Fire Marshal responsibilities, status of the new/existing ladder trucks, weather delays on the Fire Station #1 modular building, electrical/sewer hookup for the modular building and possible roof shoring on the current Fire Station #1.

Councilmember Samuels asked if the NTMWD notifies the FFR when they travel with chlorine trucks through the Town. Chief Bell stated that they are standard one or two ton tanks that make regular trips along a hazmat route that is through the Town and the NTMWD is not required to notify them of the trips. Councilmember Samuels recommended asking if there is a standard time of day and day of the week that they make those trips due to the increasing area traffic.

Councilmember Powell asked how the Firefighters were eating since they have recently been moved out of the Fire Station #1 kitchen. Chief Bell stated the Firefighters have a budget to eat out for lunch and dinner until the modular building arrives.

**BOARDS/COMMISSIONS:** Discuss boards and commissions and take any necessary action.

Mayor Culbertson stated that the Council did not have enough time to discuss this item during Executive Session and will discuss and make appointments at the regular June Council meeting.

Mayor Culbertson added that Brad Northcutt recently resigned as Chairman of the Planning and Zoning Commission and that his position would need to be filled.

**CITIZEN INPUT:** No citizens provided input.

**REPORTS FROM STAFF:**

Mr. Weeks provided a report on agenda item 11(a) regarding the status of the Republic Services garbage services contract. Mr. Weeks stated that staff was working with Republic Services on acquiring an updated contract without an increase but including a CPI. Mr. Weeks stated the majority of resident feedback is regarding brush/bulk service, leading staff to look at other possible options. Mayor Culbertson stated he had noticed trash feedback seems to occur in spurts; Mr. Weeks stated it is generally weather related.

Mayor Culbertson reminded the Council that if they look to increase bulk trash pickup, they should remember that the vast majority of bulk pickups are on the eastern side of Town but all residents will have to share the cost of adding any additional service.

Ms. Couch stated that the Council would have a formal discussion of the contract in June but that staff needed direction now if the Council wanted any possible changes or additions to services. Ms. Couch stated that staff would be recommending the addition of commercial service.

Mr. Weeks provided a report on agenda items 11 (b) regarding the water and sewer rate study. Mr. Weeks stated that the results of the water rate study would be in the next week and staff would begin reviewing those results so they can come before the Council. Mr. Weeks stated that they also looked at the disparity for some HOAs between being billed as commercial versus residential and found there will not be much of a difference, so they will go ahead and switch them now to residential except for the truly commercial accounts at Heritage Ranch. He added that the consultant would be providing suggestions for options for the Villas as residential would actually cost them more. Mr. Weeks stated that Council would likely be considering different larger tier structures, similar to the City of Allen.

Ms. Couch stated that Town staff will soon receive the report and would provide the study for review by Council in June. She added that Kimley-Horn is working on planning for Fairview Parkway and that the Council will want to establish possible dates for a Special Meeting in June to review those items as well as the CIP.

Mr. Weeks provided a report on agenda item 11(c) regarding an update on monthly financial report. Mr. Weeks stated property tax revenue increased due to some properties that were improperly zoned agriculture that received a one-time recapture. Mr. Weeks stated that sales tax growth was still positive. Mr. Weeks stated that due to the combination of the registration and inspection stickers by the State, the Town's fine revenues were down. Mr. Weeks stated that during the annual warrant round up they collected about \$15,000 in revenue but \$2,000 of it was already sent to collections.

Mr. Weeks provided a report on agenda item 11(d) regarding an update on the quarterly investment report, stating that Staff is looking into how the Town structures funds. Mayor

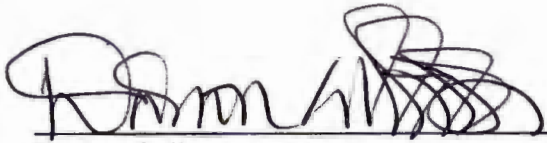
Culbertson asked if an abbreviated version of the financial reports could be run in the newsletter quarterly.

Mr. Chancellor provided a report on agenda item 11(e) regarding an update on Stacy Road construction including the moving of utilities, the possible dedicated turn lanes, a possible left-hand turn lane on FM-1378 by Sloan Creek Intermediate and the switch of two-way traffic.

Ms. Couch, Ms. Cappon and the Council discussed the results of the Fairview Art Show.

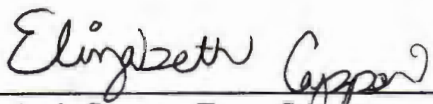
Mayor Pro Tem Lessner reminded the Council of the upcoming Rotary Club meeting.

Mayor Culbertson adjourned the meeting at 11:32 p.m.



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Darion Culbertson, Mayor



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Elizabeth Cappon, Town Secretary