

**TOWN COUNCIL  
MEETING MINUTES  
JANUARY 5, 2016**

The Town Council met in regular session on Tuesday, January 5, 2016 at 6 p.m. at 372 Town Place, Fairview, Texas. Those present were Mayor Darion Culbertson; Councilmembers Ron Samuels, John Adler, Frank O'Reilly, Henry Lessner, Paul Hendricks and Renee Powell; Town Manager, Julie Couch; Assistant to the Town Manager, Adam Wilbourn; Town Engineer, James Chancellor; Chief Financial Officer, Jason Weeks; Economic Development Manager, Ray Dunlap; Police Chief, Granver Toliver; Town Secretary, Elizabeth Cappon; and Town Attorney, Clark McCoy.

Mayor Culbertson called the meeting to order at 6 p.m. and declared a quorum was present.

At 6:01 p.m., the council then adjourned into executive session regarding a consult with legal counsel, personnel and economic development negotiations.

At 7:41 p.m., Mayor Culbertson reconvened back into regular session and invited everyone to stand for the Pledge of Allegiance.

**PROCLAMATIONS, RECOGNITION AND AWARDS:** The Mayor and Council honored Fairview student Bridget Kozlowski who represented McKinney High School in the 2015 UIL 5A State Marching Contest in San Antonio on November 3, 2015.

**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 December 1, 2015 regular Town Council meeting. B) Approve a resolution approving the Town's written investment policy regarding funds for the Town of Fairview; and providing an effective date. C) Approve an ordinance authorizing a budget amendment pertaining to the fiscal year 2015-16 budget and providing an effective date.

Councilmember O' Reilly made a motion to approve the consent agenda. Councilmember Hendricks seconded the motion and the motion was unanimously approved.

**M CHRISTOPHER CUSTOM HOMES REZONING 44.069 ACRES FROM FH TO RE-2:** Conduct 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. LaCroix gave a presentation on agenda item 7(a) 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.

Mr. LaCroix stated that while Phase II of Harper's Landing will have 15 lots in total, two of which were already zoned RE-2. Mr. LaCroix added that Phase I was final platted to 13 lots, making the two developments total 28 RE-2 lots.

Mr. LaCroix stated that the applicant has submitted a request for a Flood Plain Reclamation Permit and conducted a flood study; however, the Town also conducted its own comprehensive flood study, which Mr. Chancellor would review with the Council.

Mr. LaCroix stated that if Phase II is approved the applicant intends to move their access point from Farmstead Street to FM 1378 and make Farmstead emergency access only.

Mr. LaCroix stated that of the 56 notices mailed to those living within the 500-foot boundary, the Town received five statements of opposition and no statements of support.

Mr. LaCroix stated that on December 10, 2015, the Planning and Zoning Commission voted 2-2 to send the rezoning to Council with no recommendation for or against the item. He did indicate that Commission did not have a chance to review fully the results of the Town's flood study. Mr. LaCroix stated that the staff recommends approval of the rezoning.

Mr. Chancellor presented the results of the flood study by Huitt-Zollars that applied to this case. Mr. Chancellor explained that due to the increased number of cross sections used over a much smaller area, the Town's flood study is more accurate than the national FEMA flood study. Mr. Chancellor stated that the Town's consultant looked at all of Sloan Creek into McKinney and Allen, from one end to the other including the backflow from Wilson Creek.

Mr. Chancellor stated that the study found that some of the south side lots were actually not in the floodplain and that only eight lots would remain as floodplain. Mr. Chancellor stated that the developer plans to construct the parallel channel as proposed, which would slightly improve the flood area on the north side of the creek.

The Council and Mr. Chancellor had an extended discussion about the results of the flood study as it applied to this case including the flood plain, water flow, future development considerations, drainage, channels and detention/retention ponds. Mr. Chancellor stated that while the study was complete that he was still awaiting the final drainage report for the rest of the Town and that he would go over the entire flood study with the Council at a future meeting.

Councilmembers Adler and Hendricks expressed concerns about the maintenance costs of the channel over time. Mr. LaCroix stated that staff would work with the developer to have the two phases share the maintenance cost through their HOA. Councilmember Samuels suggested establishing a reserve fund to pay for maintenance.

Mayor Culbertson opened the public hearing and offered the applicant the opportunity to speak first.

The applicant, Bryon Reid, President of M Christopher Custom Homes, 5500 S Highway 5, stated his support for the rezoning and asked that the Council approve the item. Mr. Reid stated that in its current state the property has only ever required mowing and has not had much debris. Mr. Reid stated that because the Town does not allow fences or additional buildings in flood plain, there would not be much additional opportunity for debris. Mr. Reid stated that with the cost spread over 28 homes, the HOA could afford to maintain the channel and that he would ensure this is included in the documentation. Mr. Reid added that the Town's flood study serves as verification of his hydrologist's study stating that the flood plain is ideal for reclamation. Mr. Reid stated that in the flood plain, the street would be a minimum of one foot above and there would additionally be a minimum slab height of one foot above that, making the homes two feet above the 100-year floodplain. Mr. Reid added that each lot would have a minimum of one acre of land not in the floodplain and many homes will have much more than one acre. Mr. Reid stated that their plan does reduce the floodplain for Camino Real and that as discussed earlier, there is no amount of reclamation that can be done to remove Camino Real entirely from the flood plain. Mr. Reid stated that the residents of Countryside wanted the additional emergency access on Farmstead and that the main entry would be on Country Club only due to resident concerns.

Mike Weaver, 481 Home Place, of the Countryside Subdivision, stated that he felt two feet was the minimum the developer had to build the home above the flood plain; he suggested building homes higher on piers as his home is built above a swail. Mr. Weaver stated that one acre out of the flood plain per lot was an ample amount. Mr. Weaver stated that the fact that other homeowners in the area were not at the meeting showed a lack of caring on the matter.

Mayor Culbertson closed the public hearing.

Mayor Culbertson stated he felt that the Council needed to see the complete flood study before making a decision. Councilmember Samuels agreed. Councilmember Adler stated his dissatisfaction with the maintenance plan due to potential of silt build up in the flood area. He stated that he would like it documented who would be responsible for it. Mayor Pro Tem Lessner stated his agreement with Mr. Weaver about traffic concerns on Farmstead. Mayor Pro Tem Lessner stated that as much as he would like to see the additional FM-1378 access, he agreed the Council should wait to speak with the conductors of the flood study. Councilmember Powell stated her agreement. Councilmember O'Reilly added that he would like to see the HOA issue addressed at this meeting as well.

Mayor Pro Tem Lessner motion to table until the March 1, 2016, Regular Town Council meeting 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. Councilmember Powell seconded the motion and the motion was unanimously approved.

**CHASE OAKS CHURCH CONDITIONAL USE PERMIT (CUP):** Conduct a public hearing, consider, and take any necessary action on an Ordinance granting a request by Chase Oaks Church for approval of an amendment to Ordinance No. 2014-35, a Conditional Use Permit (CUP) for a religious institution on a 10.672± acre tract of land located in the John A. Taylor Survey – ABS No. 909, and generally located north of Stacy Road and 1,400' west of Meandering Way. (ZA2015-15).

Mr. LaCroix gave a presentation on agenda item 7(b) regarding approval of an Ordinance granting a request by Chase Oaks Church for approval of an amendment to Ordinance No. 2014-35, a Conditional Use Permit (CUP) for a religious institution. Mr. LaCroix stated that while their original CUP allowed for a monument sign, the church would like to add halo-lit signage on the building as well as changing some landscaping and open space to an additional 78 parking spaces.

Mr. LaCroix stated the conditions of additional landscaping and use of bollard lights were added during the Planning and Zoning Commission. Mr. LaCroix stated that of the 30 notices mailed to those living within the 500-foot boundary, the Town received four statements of opposition and no statements of support. Mr. LaCroix stated that the conditions from Planning and Zoning were reflective of the issues brought forward by the letters of opposition.

Mr. LaCroix stated that on December 10, 2015, the Planning and Zoning Commission voted to recommend approval of the CUP with the conditions that they add larger trees for screening as deemed appropriate by Staff and use bollard lights in the parking lot. Mr. LaCroix stated that staff recommends approval of the CUP.

Mr. LaCroix and Mayor Pro Tem Lessner discussed the landscape plan. Councilmember Adler and Mr. LaCroix discussed the complaints about the appearance of the building.

Mayor Culbertson opened the public hearing and offered the applicant the opportunity to speak first.

The applicant, Pastor Glen Brechner, 611 Stacy Road, stated his support for the CUP. Pastor Brechner stated that the additional parking was necessary so that the church would not need to hold additional services on Sunday to accommodate their parishioners. Pastor Brechner stated that they currently have met the code requirement with 167 parking spaces for a building with a capacity of 500, but that the church is averaging 1.8 adults per car. Pastor Brechner stated that he believes they have resolved the neighbors' issues with the lighting. Pastor Brechner added that they would offer the neighbors options to paint the stark white building a different color to better camouflage the building.

Councilmember O'Reilly asked if the Church would consider changing the campus name to the Fairview campus. Pastor Brechner stated that he would ask the church Elder Board and

leadership regarding changing the church's campus name but added that the church was attempting to be neutral in reaching members in Lucas, McKinney and Allen as well as Fairview.

Mayor Culbertson closed the public hearing.

Councilmember Adler made a motion to approve an Ordinance granting a request by Chase Oaks Church for approval of an amendment to Ordinance No. 2014-35, a Conditional Use Permit (CUP) for a religious institution on a 10.672± acre tract of land located in the John A. Taylor Survey – ABS No. 909, and generally located north of Stacy Road and 1,400' west of Meandering Way with the conditions from the Planning and Zoning Commission regarding landscaping and use of bollard lights. Mayor Pro Tem Lessner seconded the motion and the motion was unanimously approved.

**FINAL PLAT NGUYEN ADDITION:** Consider, discuss and take any necessary action on a request by Kha Nguyen for approval of a Final Plat for the Nguyen Addition, a proposed residential subdivision comprised of 2 single-family residential lots on a 2.765 acre tract of land in the George Fitzhugh Survey, Abstract No. 320, Town of Fairview, Collin County, Texas, and generally located at 940 Old Stacy Road. (FP2015-08).

Mr. LaCroix gave a presentation on agenda item 8(a) regarding approval of a Final Plat for the Nguyen Addition, a proposed residential subdivision comprised of two single-family residential lots on a 2.765 acre tract of land generally located at 940 Old Stacy Road.

Mr. LaCroix and the Council had a discussion regarding access to the two lots, fire protection as well as tree removal mitigation.

Councilmember Hendricks made a motion to approve a Final Plat for the Nguyen Addition, a proposed residential subdivision comprised of 2 single-family residential lots on a 2.765 acre tract of land in the George Fitzhugh Survey, Abstract No. 320, Town of Fairview, Collin County, Texas, and generally located at 940 Old Stacy Road. Councilmember O'Reilly seconded the motion and the motion was unanimously approved.

**FAIRVIEW YOUTH THEATRE:** Consider and discuss a resolution approving a project and agreement between the Town's Community Development Corporation and Plano Children's Theatre, and take any necessary action. Consider, discuss and take action on a funding grant by the Fairview Community Development Corporation Board of Directors to the Fairview Youth Theatre from Type B funds.

Mr. Dunlap gave a presentation on agenda items 8(b) through 8(d), regarding a resolution approving a project and agreement between the Town's Community Development Corporation and Plano Children's Theatre as well as a funding grant by the Fairview Community Development Corporation Board of Directors to the Fairview Youth Theatre from Type B funds. Mr. Dunlap stated that the McKinney Youth Theatre currently has no permanent location and has made an agreement with the CDC to move to the Village at Fairview and become Fairview

Youth Theatre, a project that would bring 5,000 people per week to the Village shopping center including parents from West Plano and Frisco, in search of entertainment during rehearsals.

Mr. Dunlap stated that on December 16, 2016 the Fairview Community Development Corporation voted unanimously to recommend using Type B funds to provide a \$45,000 funding grant for Fairview Youth Theatre. Mr. Dunlap added that the CDC's agreement is contingent upon the Theatre signing a 10-year lease with the Village at Fairview, with a prorated amount due back to the Town if the Theatre leaves early. Mr. Dunlap stated that the Theatre would create a Fairview Youth Theatre landing page and utilize the logo in their materials. Mr. Dunlap added that restaurants in Fairview would have two years of free advertising in their Playbills.

Hollie Hongosh, Managing Director of McKinney Youth Theatre, 1301 Custer Road, Suite 706, Plano, TX, stated her support for the project. Ms. Hongosh stated that because the Theatre is currently without a permanent home, they are doing less shows than they would prefer as the second oldest chapter of the organization. Ms. Hongosh stated that this is an ideal location due to the Theatre's relationship with Lovejoy. Ms. Hongosh stated that the Theatre is just awaiting their approved final lease agreement but that their current building plan includes both a 200-seat theatre and a 100-seat black box. Ms. Hongosh stated that as the space, next door to JCPenney, is bigger than their Plano campus, there is discussion of possibly moving their corporate headquarters to Plano, particularly because there is space in the Village for possible expansion.

Mayor Culbertson stated that two readings of the resolution are required. Mayor Culbertson gave a first reading of the resolution:

*A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS  
APPROVING A PROJECT AND AGREEMENT BETWEEN TOWN OF FAIRVIEW  
COMMUNITY DEVELOPMENT CORPORATION AND PLANO CHILDREN'S THEATRE*

*WHEREAS, the Town of Fairview Town Council (the "Town Council") has received a request from the Town of Fairview Community Development Corporation (the "CDC") to undertake a project including a grant of funds to the Plano Children's Theatre to incentivize the Theatre to open a location in the Town of Fairview and to provide certain promotional benefits (the "Project"); and*

*WHEREAS, in accordance with Texas Local Government Code Sec. 505.158-505.159, the CDC has held a public hearing on the Project, published notice of the Project, and found that the Project will promote new or expanded business development in the Town of Fairview; and*

*WHEREAS, the Town Council has reviewed the Project plan as detailed in the agreement between the CDC and the Theatre and finds that the Project will promote new or expanded business development in the Town of Fairview; and*

*WHEREAS, the Town Council has given this resolution two separate readings before its adoption;*

Mayor Culbertson gave a second reading of the above-described resolution. Councilmember O'Reilly made a motion to approve a resolution approving a project and agreement between the Town's Community Development Corporation and Plano Children's Theatre. Mayor Prom Tem Lessner seconded the motion and the motion was unanimously approved.

**TAPS**: Discuss status of TAPS transit service and take any necessary action.

The Council and staff had a discussion regarding agenda item 8(e), the status of TAPS transit service.

Town Manager Couch stated that Texoma Area Paratransit System (TAPS) service recently discontinued in Collin County after approximately one year of serving Fairview residents by providing on-demand transportation for seniors and the disabled in Fairview. Ms. Couch reminded the Council that they had declined to establish regular transit routes with the service.

Ms. Couch stated that since the service has been discontinued, Frisco has contracted with the Denton County Transit Authority (DCTA) for a year and McKinney is evaluating using grants for establishing a transportation system for the City of McKinney that they possibly could offer to other cities. Ms. Couch stated that while DART is an option, cities must have a Town vote to join and contribute the 1 percent sales tax. Ms. Couch added that the current issues with TAPS might speed up possible changes by DART to that system.

Ms. Couch stated that similarly to what had been done until TAPS started running, the North Central Texas Council of Governments (COG) has volunteered to provide temporary transit services for 90 to 120 days until the affected areas decide how they want to proceed, but that the Town must fund it to the same level that they funded TAPS. Ms. Couch stated that the Town has not seen significant ridership but that this might have been due to the quality of service provided by TAPS. Ms. Couch stated her recommendation that the Town utilize COG while exploring other options for the future.

Councilmember O'Reilly asked if the Town is aware of what the City of Allen was doing to replace TAPs. Ms. Couch stated she was not but that all the local cities are going through a similar process and that COG has made this offer to all the affected cities.

Mayor Culbertson stated that he only received two inquiries from residents regarding concerns about the services and that both residents, while stating their preference for public transportation, stated they had other options available to them. Mayor Culbertson stated that his satisfaction that the Town did not commit further to TAPS service as the provider had wanted. Mayor Culbertson suggesting treading with similar caution as staff moved forward with other options. Ms. Couch stated that staff would evaluate these options further and bring the choices back to Council before interim service discontinued.

The Council and Ms. Couch discussed the temporary transit services and communications to affected individuals.

Roy Serpa, 412 Saddleback Drive, complimented the Council for not getting heavily involved with TAPS. Mr. Serpa stated that communities that have gotten involved did not do their due diligence in evaluating the organization. Mr. Serpa added that the program was a poorly designed fiasco.

**CAPITAL IMPROVEMENTS PLANNING:** Discuss and consider setting a date for a work session related to capital improvement planning and take any necessary action.

The Council and staff had a discussion regarding agenda item 8(f), setting a date for a work session related to capital improvement planning and selected Monday, February 8, 2016 at 6 p.m.

Ms. Couch stated that staff was finalizing their planned capital improvements expenditures for the next 10 years and that staff would provide notebooks with the information on these items to Council soon.

The Council and Ms. Couch discussed communications of the Capital Improvements Plan and the meeting to the public. Mayor Culbertson suggested the Town hold a Community Open House or Town Hall meeting after the work session to share the thought process with residents.

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

Mayor Culbertson stated that there are still some vacancies but that the Council did not have a chance to review applications to take action at this meeting.

**CITIZEN INPUT:**

Nancy Lewis, 420 Black Diamond, addressed the Council to request a multipurpose room for citizens of the Town to meet, which would fit 300-400 people. Ms. Lewis suggested the use of grants to fund the project.

Chris Hendricks, 711 Glenwood Circle, stated her support of Ms. Lewis' suggestion and suggested the Town develop a building that would house the police, fire department as well as the multipurpose room with lots of parking. Ms. Hendricks stated that this would be helpful for special events, in case of inclement weather. Ms. Hendricks suggested this item be added to the Council Agenda for February.

Mayor Culbertson stated to Ms. Hendricks that the Town would hear more about this after the Capital Improvements Work Session on February 8.



**REPORTS FROM STAFF:**

Ms. Couch provided an update on agenda item 10(a) regarding the status of the Water Rate Study. Ms. Couch stated that the person conducting the water rate study had passed away and that Staff was deciding how best to proceed or not proceed with his company.

Regarding the monthly financial reports, Mr. Weeks stated that the Town's auditors would be there the following week and that staff would present the Audit Report at the March Town Council Meeting. Mr. Weeks stated that there was only one remaining water billing issue. Mr. Chancellor provided a report on agenda item 10(d) regarding an Update on Stacy Road construction. The Council and Mr. Chancellor discussed the Stacy Road construction. Mr. Chancellor stated that a concrete batch plant had been established in Allen rather than Fairview for the project. Mr. Chancellor stated that TxDOT had not released the contractor to start work yet with only a couple power poles left to move. Mr. Chancellor added that moving gas lines was the only big project left before work could begin.

Pastor Brechner stated that the Chase Oaks Church was currently hoping to open during the last weekend in February. Councilmember Powell added that is when the new Church of Jesus Christ of Latter-day Saints was also planning to open.

Mr. Dunlap invited the Council to the groundbreaking of the Marriott Residence Inn on January 22.

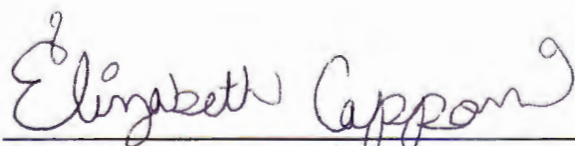
Mayor Culbertson noted that Wild Salsa was now open. Mr. Dunlap stated that they were currently open for dinner only but would be open for lunch in about four weeks.

Councilmember Powell stated that Lovejoy High School would be hosting Seussical the Musical in January.

Mayor Culbertson adjourned the meeting at 9:50 p.m.



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Darion Culbertson, Mayor



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Elizabeth Cappon, Town Secretary