



**MINUTES**  
**CITY COUNCIL MEETING**  
**SEPTEMBER 17, 2024**

**CALL TO ORDER – Roll Call and Determination of a Quorum**

The Parker City Council met in a workshop on the above date at Parker City Hall, 5700 E. Parker Road, Parker, Texas, 75002.

Mayor Lee Pettie called the meeting to order at 5:38 p.m. Mayor Pro Tem Jim Reed and Councilmembers Todd Fecht (arrived at 5:46 p.m.), Randy Kercho, and Buddy Pilgrim were present. Councilmember Amanda Noe was absent.

Asst. City Administrator/City Secretary Patti Scott Grey verified a quorum of council was present. Interim City Attorney Clifton said a quorum of City Council was fine for this workshop. *[Councilmember Fecht arrived as noted and there was a super quorum.]*

Staff Present: Asst. City Administrator/City Secretary Patti Scott Grey, and Interim City Attorney Catherine Clifton

**WORKSHOP (5:30 – 7:00 PM)**

ETHICS,

QUORUMS,

OPEN MEETINGS, AND

PUBLIC RECORDS

Mayor Pettie recognized Interim City Attorney Clifton, who reviewed the Open Government Ethics 2024 PowerPoint, dated Tuesday, September 17, 2024. **[See Exhibit 1 – Open Government Ethics 2024 PowerPoint, dated Tuesday, September 17, 2024.]**

Interim City Attorney Clifton, responded to questions from the City Council.

Mayor Lee Pettie ended the workshop and adjourned at 6:40 p.m.

**CALL TO ORDER – Roll Call and Determination of a Quorum**

The Parker City Council met in a regular meeting on the above date at Parker City Hall, 5700 E. Parker Road, Parker, Texas, 75002.

Mayor Lee Pettie called the meeting to order at 7:00 p.m. Mayor Pro Tem Jim Reed and Councilmembers Todd Fecht, Randy Kercho, and Buddy Pilgrim were present. Councilmember Amanda Noe was absent.

Staff Present: Asst. City Administrator/City Secretary Patti Scott Grey (left at 9:00 p.m.), Finance/Human Resources Director Grant Savage (left at 8:30 p.m.), Interim City Attorney Catherine Clifton, Public Works Director Gary Machado (left at 8:30 p.m.), Fire Chief Mike Sheff (left at 8:30 p.m.), and Police Investigator Kyle Boles (left at 8:30 p.m.)

## PLEDGE OF ALLEGIANCE

AMERICAN PLEDGE: Planning and Zoning (P&Z) Commissioner Alternate Three (3) Lynnette Ammar led the pledge.

TEXAS PLEDGE: Fire Chief Mike Sheff led the pledge.

**PUBLIC COMMENTS** The City Council invites any person with business before the Council to speak. No formal action may be taken on these items at this meeting. Please keep comments to 3 minutes.

No comments

## ITEMS OF COMMUNITY INTEREST

Mayor Pettle reviewed the upcoming Community Interest items below:

1. PEANUT BUTTER FOOD DRIVE FOR NORTH TEXAS FOOD BANK – SEPTEMBER 1-30, 2024

COLLIN APPRAISAL REVIEW BOARD ACCEPTING APPLICATIONS – THROUGH SEPTEMBER 30, 2024 FOR 2025 – PARKER COMMUNITY

NATIONAL NIGHT OUT (NNO) – TUESDAY, OCTOBER 1, 2024, 6 P.M. – 9 P.M

CANCEL OCTOBER 1, 2024 REGULAR CITY COUNCIL MEETING DUE TO NNO/RESCHEDULED TO OCTOBER 2, 2024

PARKS AND RECREATION COMMISSION (P&R) – WEDNESDAY, OCTOBER 9, 2024, 5 PM

CANCEL OCTOBER 15, 2024 REGULAR CITY COUNCIL MEETING DUE TO INTERIM CITY ATTORNEY CLIFTON UNAVAILABILITY/RESCHEDULED TO OCTOBER 22, 2024

PARKERFEST - SUNDAY, OCTOBER 20, 2024, 3:00 PM to 6:00 PM

NATIONAL PRESCRIPTION DRUG TAKE BACK EVENT SATURDAY, OCTOBER 26, 2024, 10 AM – 2 PM

CANCEL NOVEMBER 5, 2024 REGULAR CITY COUNCIL MEETING DUE TO GENERAL ELECTION RESCHEDULED TO NOVEMBER 12, 2024

**REMINDER – NOVEMBER 5, 2024 – GENERAL ELECTION (EV AND ED INFO) –**

### Early Voting Dates and Times

Monday, October 21, 2024 – Friday, October 25, 2024 8 a.m. – 5 p.m.

Saturday, October 26, 2024 7 a.m. – 7 p.m.

Sunday, October 27, 2024 11 a.m. – 5 p.m.

Monday, October 28, 2024 – Friday, November 1, 2024 7 a.m. – 7 p.m.

**CONSENT AGENDA** Routine Council business. Consent Agenda is approved by a single majority vote. Items may be removed for open discussion by a request from a Councilmember or member of staff.

2. APPROVAL OF MEETING MINUTES FOR SEPTEMBER 3, 2024. [REGULAR MEETING]
3. APPROVAL OF MEETING MINUTES FOR SEPTEMBER 4, 2024. [SPECIAL MEETING – EXECUTIVE SESSION ONLY]

MOTION: Councilmember Kercho moved to approve consent agenda items 1 and 2, the September 3 and September 4, 2024 meeting minutes, as presented. Mayor Pro Tem Reed seconded with Councilmembers Fecht, Kercho, Pilgrim, and Reed voting for the motion. Motion carried 4-0.

## INDIVIDUAL CONSIDERATION ITEMS

4. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON ORDINANCE NO. 875 AUTHORIZING EXPENDITURES AND APPROVING AMENDMENT(S) TO THE FY 2023-2024 OPERATING BUDGET.

Finance/Human Resources Director Savage reviewed the information in tonight's packet, explaining this was a year-end cleanup item for additional work Republic Services did for the May/June storm.

MOTION: Mayor Pro Tem Reed moved to approve Ordinance No. 875 authorizing expenditures and approving amendment(s) to the FY 2023-2024 Operating Budget. Councilmember Kercho seconded with Councilmembers Fecht, Kercho, Pilgrim, and Reed voting for the motion. Motion carried 4-0.

5. **COLIN AND AUBREE MARINO SPECIAL USE PERMIT (SUP):**

PUBLIC HEARING FOR A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 3901 SYCAMORE LANE IN THE 3900 BLOCK OF SYCAMORE LANE FOR COLIN AND AUBREE MARINO.

Mayor Lee Pettle summarized the item and opened a public hearing to receive comments regarding a SUP for the property located at 3901 Sycamore Lane in the 3900 block of Sycamore Lane for Colin and Aubree Marino at 7:10 p.m.

Aubree and Colin Marino, 3901 Sycamore Lane, stated their plans for the property [SUP for Boarding/Breeding and Activities for quarter horses and a variance for a larger/relocated riding arena, including a LOMR {Letter of Map Revision}, which officially revises the Flood Insurance Rate Map {FIRM} or Flood Boundary and Floodway Map {FBRM}.] and requested that they be able to follow up at the end of the hearing to answer any questions. **[See Exhibit 2 – Neighbors' positive comments, 1) David and Marcy Morgan, 3808 Sycamore Lane, 2) Danny and Jennifer Ashby, 4206 Sycamore Lane, 3) Van Huu and Huong Vann Nguyen, 4001 Windream Lane, and 4) Ilene Simerka, 3908 Sycamore Lane, dated Tuesday, September 17, 2024.]**

Charity Smith, 4003 Windream Lane, said she lives behind the Marino's and the 10 foot wall on one side of the arena would be facing her home. She is concerned about the sun reflecting off the wall into her home and she was also concerned about drainage/flooding. **[See Exhibit 3 – Council Agenda Item – SUP 3901 Sycamore Lane – Neighbor Concerns email, dated Monday, September 9, 2024, 8:57:20 AM was in the 2024 0917 City Council packet, plus additional photos presented to City Council.]**

Paul Moore, 4307 Sycamore Lane, spoke in support of the Marino SUP and their plans for their property.

Rudi Otto, 3725 Buckboard Drive, Plano, Texas, said his questions regarding the Marino SUP were answered during the summary and/or during the Marinos review of their plans for the property. He thanked City Council.

Herb Schiff, 3731 Buckboard Drive, Plano, Texas, related he has no issues with the riding arena. He said his concern is with drainage and possible flooding of his property mostly due to the land topography.

Aubree and Colin Marino responded to questions.

No one else came forward. The Mayor declared the public meeting closed at 8:01 p.m.

**CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 3901 SYCAMORE LANE IN THE 3900 BLOCK OF SYCAMORE LANE FOR COLIN AND AUBREE MARINO.**

**MOTION:** Councilmember Kercho moved to approve the Special Use Permit allowing the boarding and activities with horses, sometimes referred to as a riding academy for the property at 3901 Sycamore Lane for Colin and Aubrey Marino. Also, Councilmember Kercho moved to approve a variance on the accessory building from 2,500 square feet to 9,500 square feet. Mayor Pro Tem Reed seconded.

Mayor Pettie asked if there were any additional contingencies City Council wanted to include in the motion prior to the vote.

Councilmember Fecht noted there was a motion and second and called for the vote.

Councilmembers Fecht, Kercho, and Reed voting for the motion. Councilmember Pilgrim voting against the motion stating one of the reasons he voted against the motion was he thought there should be more specificity added to the motion about what should be done about the reflectivity. Motion carried 3-1.

**6. DISCUSSION, CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON DUBLIN ROAD WATER LINE PROJECT.**

Mayor and City Council discussed the Dublin Road water line project.

Public Works Director Machado reviewed the Dublin Road water line project and responded to questions.

**MOTION:** Mayor Pro Tem Reed moved to approve moving forward and going out for bid for the Dublin Road water line project. Councilmember Fecht seconded with Councilmembers Fecht, Kercho, Pilgrim, and Reed voting for the motion. Motion carried 4-0.

**7. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION NO. 2024-811 REGARDING THE SUSPENSION OF SELECT PARK RULES PURSUANT TO PARKER CODE OF ORDINANCE SECTIONS 97.11 AND 97.14 FOR PARKERFEST 2024 ON SUNDAY, OCTOBER 20, 2024, FROM 12:00 P.M. TO 8:00 P.M. UPON SATISFYING CERTAIN CONDITIONS.**

**MOTION:** Mayor Pro Tem Reed moved to approve Resolution No. 2024-811 regarding the suspension of select park rules pursuant to Parker Code of Ordinance Sections 97.11 and 97.14 for Parkerfest 2024 on Sunday, October 20, 2024, from 12:00 p.m. to 8:00 p.m. upon satisfying certain conditions. Councilmember Kercho seconded with Councilmembers Fecht, Kercho, Pilgrim, and Reed voting for the motion. Motion carried 4-0.

## **ROUTINE ITEMS**

### **8. UPDATE(S):**

#### **FM2551**

Public Works Director Machado noted Texas Department of Transportation (TxDot) has set up traffic diversions to move water lines but no real movement. He indicated TxDot is behind schedule.

#### **COMP PLAN**

Mayor Pettle asked Asst. City Administrator/City Secretary Scott Grey the date of the upcoming meeting for the COMP Plan. Ms. Scott Grey said the Planning and Zoning (P&Z) Commission meeting would be Thursday, September 26, 2024, 5:00 PM at Parker City Hall and the public hearing notice was published Monday, September 9, 2024 in the Dallas Morning News.

#### **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)**

No update at this time. Nothing has been scheduled presently.

#### **PROJECTS IN PROGRESS**

#### **ENGINEERING CONTRACTS**

Mayor Pettle noted an Engineering Contract Review Committee, consisting of Finance/Human Resources Director Savage, Public Works Director Gary Machado, and Engineer Craig Kerkhoff, PE, CRM of Birkhoff, Hendricks & Carter, LLP, plan to review all the engineering submittals and report back to City Council as soon as possible, as the Request for Qualifications (RFQs) for various professional and engineering services was advertised in February 2024 and due by March 28, 2024 prior to 4:30 PM CST to City of Parker City Administrator Olson. The Mayor noted Mr. Savage has agreed to put all the information into a spreadsheet for review.

#### **NOISE COMMITTEE**

Councilmembers Fecht and Kercho said the Noise Committee met on Wednesday, September 11, 2024, 3-4:30 p.m. and indicated the committee is working and taking decibel readings. They are also researching applicable laws and working with nearby cities. The next Noise Committee meeting is planned for Thursday, October 10, 2024, 3:00 p.m.

#### **MONTHLY/QUARTERLY REPORTS**

City Council accepted the reports hyperlinked below:

[August 2024 - Building Permit/Code Report](#)

[August 2024 – Court Report](#)

[August 2024 – Finance \(monthly financials\) Report](#)

[Fire 2nd Qtr. Report 2024](#)

[July/August 2024 – Police Report](#)

[August 2024 – Republic Services Inc., dba Allied Waste Services of Plano](#)

## **DONATION(S)**

### **9. ACCEPTANCE OF DONATION(S) FOR POLICE, FIRE, AND CITY STAFF FOR THE RECORD (Each valued at between \$0 - \$1,000 [RES. NO. 2024-801])**

Tory and Melissa Tierce donated cookies valued at \$20 to the Police Department.

Patricia Mejia, President & CEO, Children's Advocacy Center for Rockwall County, donated a basket of flavored popcorn valued at \$30 to City Staff.

Dan Terrill & family donated popcorn valued at \$40 to the Police Department.

Mayor Pettie, on behalf of herself, City Council, and City Staff, thanked the donors for their kind and generous donations.

## **FUTURE AGENDA ITEMS**

### **10. FUTURE AGENDA ITEMS**

Mayor Pettie asked if there were any items to be added to the future agenda.

Hearing no requests, the Mayor encouraged everyone to email her any requests. She noted the next regularly scheduled meeting for Tuesday, October 1, 2024, has been canceled, due to National Night Out (NNO), and a special meeting has been rescheduled to Wednesday, October 2, 2024.

**EXECUTIVE SESSION** - Pursuant to the provisions of Chapter 551, Texas Government Code, Vernon's Texas Codes Annotated the City Council may hold a closed meeting.

### **RECESS TO CLOSED EXECUTIVE SESSION IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN:**

Government Code Section 551.074 Personnel—To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

Government Code Section 551.071(1)—Consultation with City Attorney concerning Pending or Contemplated Litigation.

Government Code Section 551.071(2) – Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter (Open Meetings Act).

Mayor Lee Pettie recessed the regular meeting to Executive Session at 8:30 p.m.

### **RECONVENE REGULAR MEETING.**

Mayor Lee Pettie reconvened the meeting at 9:31 p.m.

### **ANY APPROPRIATE DELIBERATION AND/OR ACTION ON ANY OF THE EXECUTIVE SESSION SUBJECTS LISTED ABOVE.**

No action was taken.

## **ADJOURN**

Mayor Lee Pettie adjourned the meeting at 9:30 p.m.

**APPROVED:**



  
Mayor Lee Pettie

ATTESTED:



Patti Scott Grey, City Secretary

Approved on the 22nd  
day  
of October, 2024.



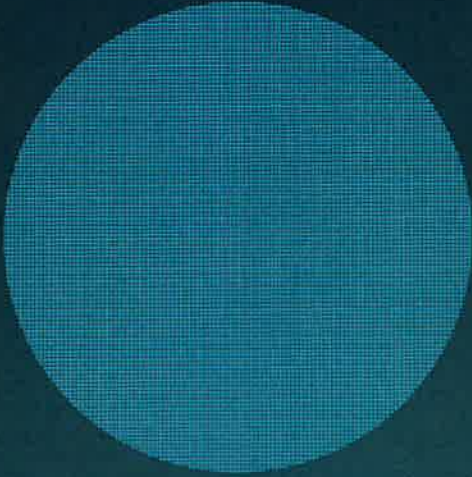



# TOMA and Ethics Overview

SEPTEMBER 17, 2024

**Exhibit 1**





# Outline

- Texas Open Meetings Act
  - General Application
  - Quorum Rules
- Public Information
  - Definitions
  - Temporary Custodians
- Ethics
  - Conflict of Interest/Recusal
  - Gifting issues



# Texas Open Meetings Act

TEXAS GOVERNMENT CODE CHAPTER 551

# TOMA - General Requirements

- ▶ All regular, special, and called meetings of a governmental body shall be open to the public, except as provided by the Act.
- ▶ Elements:
  - ▶ (1) Governmental Body; and
  - ▶ (2) that body is meeting.



# TOMA – “Meeting”

- ▶ A “meeting” requires:
  - ▶ A gathering of a quorum of the governmental body; and either:
    - ▶ Deliberation about the governmental body’s public business or formal action taken by the governmental body; or
    - ▶ An opportunity provided by the governmental body for members to ask about, speak about, or listen to information relating to public business.
- ▶ A gathering of a quorum at a social event, convention, workshop, ceremonial event, or press conference is NOT a meeting provided:
  - ▶ No formal action is taken
  - ▶ Any discussion of public business is incidental to the authorized event.
    - ▶ Where City staff has prior knowledge of one of these events, a notice of potential quorum will still be posted.

# TOMA – Quorum Requirements

- ▶ Governmental Body meets through a quorum. For a Type A General Law City, the following provisions of the Texas Local Government Code apply:
  - ▶ Section 22.039: “A majority of the number of aldermen [councilmembers] established by Section 22.031 for the municipality constitutes a quorum. However, at a called meeting or at a meeting to consider the imposition of taxes, two-thirds of the number of aldermen established by that section constitutes a quorum unless provided otherwise.”
  - ▶ Section 22.031 (b): “If the municipality is not divided into wards, the governing body consists of a mayor and five aldermen who are elected by the qualified voters of the municipality, and the provisions of this subchapter relating to proceedings in a ward apply to the whole municipality.”
  - ▶ The Mayor does not count towards a quorum. See Section 22.039 re: aldermen.

# TOMA – Quorum Req’s Continued

- ▶ The Mayor is the Presiding Officer and the Mayor Pro Tem acts in the Mayor’s absence. However, the Mayor Pro Tem retains voting rights.
- ▶ For regular meetings of the Parker City Council:
  - ▶ Mayor plus 3 councilmembers or 4 councilmembers.
- ▶ For special called meetings and a tax meeting of the Parker City Council:
  - ▶ Mayor plus 4 councilmembers or 5 councilmembers.
- ▶ If members leave during the meeting, resulting in a loss of a quorum, the meeting must be recessed until a quorum is again present.



# TOMA – Notice Required

- ▶ Shall given written notice of the:
  - ▶ Date
  - ▶ Hour
  - ▶ Place
  - ▶ Subjects to be considered at the meeting
- ▶ Timeframes:
  - ▶ Generally, 72 hours before a meeting
  - ▶ In an emergency (imminent threat or reasonably unforeseeable situation), 2 hours before the meeting
- ▶ Locations:
  - ▶ Bulletin Board with convenient public access
  - ▶ City Website



# TOMA – Closed Meetings

- ▶ Section 551.101 states the requirements for holding a closed meeting. It provides:
  - ▶ If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:
    - ▶ (1) announces that a closed meeting will be held, and
    - ▶ (2) identifies the section or sections of this chapter under which the closed meeting is held
- ▶ Closed/Executive Session are only allowed where expressly authorized by statute.
  - ▶ TOMA contains more than 25 fact specific exceptions to the general requirement that meetings be open to the public.
  - ▶ Limited only to the purpose of discussion/deliberation; any vote/final action must be conducted in an open meeting.
- ▶ Most commonly used exceptions: Attorney consultations, Deliberations about personnel matters, and deliberations about real property.
- ▶ Must keep a Certified Agenda or recording, which must be preserved for at least 2 years.
- ▶ Council has a right to go into closed session on any item on a posted agenda, so long as one of the exceptions apply and the exception is announced.

# TOMA - Consequences

- ▶ Actions taken without proper notice are voidable.
  - ▶ A court may void any action taken in violation of the Act.
  - ▶ Individuals may sue to prevent threatened actions in violation of the Act.
  - ▶ Improperly noticed actions may be ratified at a subsequent meeting where the subject matter has been properly noticed.
- ▶ Knowing violation could lead to individual criminal penalties in the following circumstances:
  - ▶ Failing to keep a certified agenda or recording of closed meeting
  - ▶ Unlawfully disclosing a certified agenda or recording
  - ▶ Holding or participating in an illegal closed meeting
  - ▶ Participating in a Walking Quorum



# TOMA – Walking Quorum

§ 551.143 PROHIBITED SERIES OF COMMUNICATIONS; OFFENSE; PENALTY.

(a) A member of a governmental body commits an offense if the member:

(1) knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by [TOMA] and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members, and

(2) knew at the time the member engaged in the communication that the series of communications:

(A) involved or would involve a quorum; and

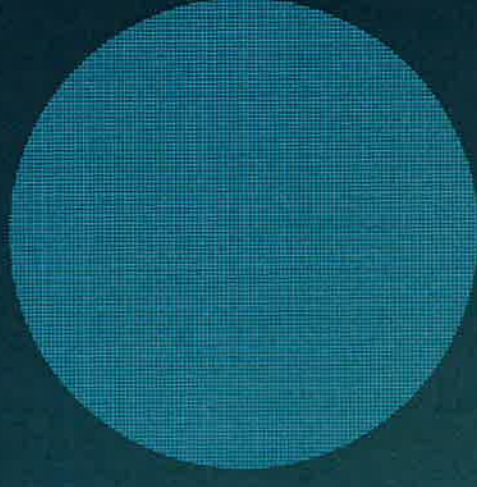
(B) would constitute a deliberation once a quorum of members engaged in the series of communications.

§ 551.143 PROHIBITED SERIES OF COMMUNICATIONS; OFFENSE; PENALTY.

- ▶ (b) An offense under Subsection (a) is a misdemeanor punishable by:
  - ▶ (1) a fine of not less than \$100 or more than \$500;
  - ▶ (2) confinement in the county jail for not less than one month or more than six months; or
  - ▶ (3) both the fine and confinement.

# TOMA – Walking Quorum Cont.

- ▶ Caution! A walking quorum can be achieved through:
  - ▶ In-person meetings;
  - ▶ Telephone calls;
  - ▶ Texts;
  - ▶ Emails; and
  - ▶ Any combination thereof.





# Texas Public Information Act

- ▶ Texas Government Code Chapter 552
- ▶ Records of all forms – applies to recorded information in any medium; not tangible items; numerous exceptions apply
- ▶ Temporary Custodian
  - ▶ A current or former governmental employee or official
  - ▶ Governmental entity must make reasonable efforts to obtain public information from temporary custodian if
    - ▶ Information has been requested from governmental body
    - ▶ Officer for public information has a reasonable belief that the temporary custodian has possession, custody, or control
  - ▶ The officer for public information cannot obtain the requested information any other way
  - ▶ The temporary custodian has not provided the information to the officer for public information



# Ethical Considerations



# Conflict of Interest

- ▶ State-mandated rules for local officials found in Chapter 171 of the Texas Local Government Code
  - ▶ Governmental Bodies can pass more restrictive policy/rules
- ▶ General Rule: Public Officials are prohibited from participating in and voting on a matter involving a business entity or real property in which the official has a **substantial interest** if an action on the matter will result in:
  - ▶ A special economic interest on the business that is distinguishable from the effect on the public; or
  - ▶ It is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from the effect on the public.



# Conflict of Interest “Substantial Interest”




- ▶ Section 171.002 defines substantial interest as the following:
- ▶ For Businesses [subsection (a)]:
  - ▶ Ownership of 10% or more of the voting stock or shares of the business entity;
  - ▶ Ownership of 10% or more or \$15,000 or more of the fair market value of the business entity; or
  - ▶ Receipt of funds from the business entity that exceed 10% of the person's gross income for the preceding year.
- ▶ For Real Property [subsection (b)]:
  - ▶ An equitable or legal ownership interest with a fair market value of \$2,500 or more.



# Conflict of Interest

## Substantial Interest of Family Member

- 
- ▶ Section 171.002(c) extends “substantial interest” to the family members of the public official within the first degree of:
    - ▶ Consanguinity (blood)
      - ▶ Parents, children
    - ▶ Affinity (marriage)
      - ▶ Spouse, parent-in-law, child-in-law, step-children




# Conflict Procedure

- ▶ Where a conflict arises, must file an affidavit with the City Secretary stating the nature and extent of the interest *prior* to the vote or decision on the matter.
- ▶ Must abstain from further participation in that matter
  - ▶ Includes deliberations



# Conflict of Interest Penalty

- 
- ▶ Action itself is not voidable *unless* the action taken would not have passed without the vote of the person who violated the provision.
  - ▶ A *knowing* violation of these rules is a Class A misdemeanor.
  - ▶ Punishable by a fine up to \$4,000 and/or up to 1 year in a county jail.

# Receiving Gifts

## Texas Penal Code Chapter 36

- ▶ Section 36.02 defines Bribery and classifies it as a 2<sup>nd</sup> degree felony.
  - ▶ Cannot *intentionally* or knowingly **offer or accept** *any benefit* as consideration for a decision, vote, etc.
  - ▶ Not a defense that official wasn't qualified or lacked jurisdiction
  - ▶ Not a defense that benefit was not offered or received until after the decision/vote/etc.
- ▶ Section 36.09 makes it an offense to *offer* such a benefit as defined above and classifies it as a Class A misdemeanor.





# Receiving Gifts

## Specific Exclusions

- ▶ Section 36.10 provides specific exclusions to the bribery offense:
  - ▶ A gift conferred on account of a personal, professional, or business relationship independent of the official status of recipient;
  - ▶ A political contribution under the Election Code;
  - ▶ A gift derived from a function in honor or appreciation if reported over \$50 and benefit is solely to defray expenses accrued in the performance of duties which are non-reimbursable;
  - ▶ A gift to a member of the legislature required to be reported under the Government Code
- ▶ **An item with a value of less than \$50.00, excluding cash or negotiable instrument**
- ▶ An item issued by a governmental entity that allows use of property or facilities owned/operated by said entity;



# Gifts of Public Resources Prohibited

- ▶ Texas Constitution, Article III:

- ▶ Section 44:

The legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

- ▶ Section 52(a):

Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town, or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association, or company.

## Gift of Public Resources - Exception

- ▶ An expenditure of public funds for a public purpose is not prohibited.

See Tex. Att'y Gen. Op. GA-0076 (2003).

# Gift of Public Funds

## Three Part Test

- ▶ Texas Supreme Court established a three-part test to determine whether a payment violates Article III:
  - ▶ (1) The purpose of the payment is to accomplish a public purpose, not benefit a private party;
  - ▶ (2) The governmental entity must retain public control over the funds to ensure the public purpose is accomplished and the public's investment is protected; and
  - ▶ (3) The governmental entity must ensure that it receives a return benefit.
- ▶ *Tex. Mun., League Intergovernmental Risk Pool*, 74 S.W.3d 377, 384 (Tex. 2002).



# THE END

## RESOURCES

### ▶ TEXAS ATTORNEY GENERAL ONLINE:

TEXAS OPEN MEETINGS ACT & PUBLIC INFORMATION ACT TRAINING VIDEOS & HANDBOOKS:  
<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources>

### ▶ TEXAS ETHICS COMMISSION:

<https://www.ethics.state.tx.us>  
<https://www.ethics.state.tx.us/data/resources/guides/Gofficers-employEthics.pdf>

### ▶ TML: HANDBOOK FOR MAYORS AND COUNCILMEMBERS (2022):

<https://www.tml.org/186/Handbook-for-Mayors-and-Councilmembers-2>

My name is David and Marcy Morgan I live at 3808 sycamore LN. I am neighbors with Colin and Aubree Marino at 3901 Sycamore In. I am well aware of their plans to improve their property by putting an arena on the north end of their land. I have walked the area and discussed the plans and agree that this is appropriate for their farm. I believe this fits with the ideals of Parker to try to keep Parker quaint and more like a country town with farms etc. Furthermore, in my opinion, I believe there will be no negative impact on the neighborhood or city of Parker.

David Morgan Marcy Morgan


Exhibit 2

My name is Danny and Jennifer Ashby I live at 4206 sycamore LN. I am neighbors with Colin and Aubree Marino at 3901 Sycamore Ln. I am well aware of their plans to improve their property by putting an arena on the north end of their land. I have walked the area and discussed the plans and agree that this is appropriate for their farm. I believe this fits with the ideals of Parker to try to keep Parker quaint and more like a country town with farms etc. Furthermore, in my opinion, I believe there will be no negative impact on the neighborhood or city of Parker.



1



 Our name is Nguyen Van Huu & Huong Vann at 4001 Windream Ln. We are neighbors directly north of Colin and Aubree Marino at 3901 Sycamore Ln. We are well aware of their plans to improve their property by putting an arena on the north end of their land. We have walked the area and discussed the plans and agree that this is appropriate for their farm. We believe this fits with the ideals of Parker to try to keep Parker quaint and more like a country town with farms etc. Furthermore, in our opinion, we believe there will be no negative impact on the neighborhood or city of Parker.

  
VAN NGUYEN

  
HUONG NGUYEN



My name is Ilene Simerka and I live at 3908 Sycamore LN. I am neighbors with Colin and Aubree Marino at 3901 Sycamore Ln. I am well aware of their plans to improve their property by putting an arena on the north end of their land. I have walked the area and discussed the plans and agree that this is appropriate for their farm. I believe this fits with the ideals of Parker to try to keep Parker quaint and more like a country town with farms etc. Furthermore, in my opinion, I believe there will be no negative impact on the neighborhood or city of Parker.

*Ilene Simerka*

**From:** [Charity Smith \(US\)](#)  
**To:** [Lee Pettie](#); [Todd Fecht](#); [Jim Reed](#); [Buddy Pilgrim](#); [Amanda Noe](#); [Randy Kercho](#)  
**Cc:** [Patti Grey](#); [Gary Machado](#)  
**Subject:** Council Agenda Item - SUP 3901 Sycamore Lane - Neighbor Concerns  
**Date:** Monday, September 9, 2024 8:57:20 AM

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Mayor and Parker City Council,

By way of introduction, my name is Charity Smith and I reside at 4003 Windream Lane, a single residence property. My home is adjacent to 3901 Sycamore Lane, a single-family residence, owned by Colin and Aubree Marino (the Marino Property). As described at the P&Z meeting, the Marino's are requesting a special use permit to build a covered riding arena, partially enclosed on the North & West sides with 10 ft high beige walls (the Arena). The proposed location of the arena is directly adjacent to my property, set upon a man made 4-foot-high hill overlooking my backyard.

I respectfully request that the City Council consider imposing reasonable conditions to mitigate specific adverse effects of the proposed Arena. As currently proposed, the Arena could be injurious to the use and enjoyment of my property based upon the following:

- **Reflectivity:** The light colored 10-foot-high walls set upon a 4 ft high man-made hill could reflect the westward setting sun directly into my living room and bedroom windows creating a nuisance and impeding the use/enjoyment of my property.
- **Lighting:** Lighting within or on the arena could also shine directly at or into my home.
- **Drainage:** Consider impacts of water run-off into floodplain & regulatory floodway (*see also below regarding homeowner modifications to engineer drawings*)
- **Personal vs. Commercial Use:** Commercial use of the arena, for horse boarding and training could greatly increase traffic and noise, creating a nuisance, potentially reducing neighboring property values.

Absent the choice of a different location for the Arena on the Marino Property, I respectfully ask that the City Council consider including some or all of the following conditions within the Ordinance:

**Landscaping** – the planting of trees and/or other suitable landscaping around the Arena to block the reflectivity of the sun off the walls. The landscaping should also be suitable for blocking any lights installed within or on the Arena.

**Personal Use Only** – The permit fails to address the current commercial, profit-making use of the property, which as stated by Mrs. Marino at the P&Z hearing, the Marino Property is being used for public horse boarding and as a breeding operation. I would request that the ordinance determine with specificity the number of grazeable acres and limit the number of horses as per City Ordinances (i.e., similar to the Karma Ridge SUP) taking into account all current and proposed buildings and the newly built "lake". It is unclear to me if any other special use permits are required for the commercial (horse boarding) activities, but I will defer to the City regarding that matter (Ord 156.31(B)(2)?).

**Errors and Omissions in the Application for Special Use Permit dated May 8, 2024, and the Accessory Building Application (collectively, the Permit) submitted by Colin & Aubree Marino** – The submitted designs and conceptual photograph do not represent the Arena as described by the Marino's in the P&Z meeting.

-The Permit states that the Arena is not enclosed and shows 0% for exterior metal finishes (*see page 23 of the Aug 22, 2024 P&Z Agenda*).

-On page 27, the applicant added arrows that do not align with the original arrows as drawn by the engineer (i.e., the engineer did not extend the line of drainage to the lake, instead the drainage goes to my property line). I respectfully request that the ordinance address with specificity the building exterior details, lighting, and drainage, considering any adverse or injurious effect to the adjacent neighbors (especially considering the proximity to the floodway).

-If the property is A-O, doesn't section Parker Ordinance 156.31( C) require a 100 foot setback of the property line? If Residential District, then shouldn't the horse boarding be addressed in this Permit or a separate permit?

I have called and texted the Marino's to discuss my concerns and options to address, but as of today, they have not addressed the concerns raised at the P&Z meeting.

Respectfully,

Charity Smith

Patti – As appropriate, can you please share with the P&Z committee members? I was not able to locate their addresses on the City website. Thank you!!

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