

MINUTES
CITY COUNCIL MEETING

April 7, 2015

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 Marshall called the meeting to order at 5:30 p.m. Councilmembers Stone, Standridge, Levine, Pettie and Taylor were present.

Staff Present: City Attorney Jim Shepherd, City Administrator Jeff Flanigan, City Secretary Carrie Smith, Finance/H.R. Manager Johnna Boyd, Police Chief Rushing and Fire Chief Sheff

EXECUTIVE SESSION – 5:30 P.M. TO 7:00 P.M. Pursuant to the provisions of Chapter 551, Texas Government Code the City Council may hold a closed meeting

1. RECESS TO CLOSED EXECUTIVE SESSION IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN:

- a. Govt. Code 551.087 and 551.071--Confidential legal advice regarding a development agreement with Geneva Partners for approximately 131 acres located at the Northeast Corner of Donihoo Lane and Donna Lane, in Parker's extra territorial jurisdiction (ETJ).
- b. Govt. Code 551.071-Confidential legal advice regarding legal issues arising from past litigation with the City of Allen and current legal options.
- c. Govt. Code 551.071--Confidential legal advice regarding the pending litigation of Jernigan vs. City of Parker.

Mayor Marshall recessed the regular meeting at 5:30 p.m.

2. RECONVENE REGULAR MEETING.

Mayor Marshall reconvened the regular meeting at 7:01p.m.

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

No action was taken.

PLEDGE OF ALLEGIANCE

AMERICAN PLEDGE: Eleanor Evans led the pledge.

TEXAS PLEDGE: John Barber 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

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.

4. APPROVAL OF MEETING MINUTES FOR MARCH 17, 2015 [SMITH]

Amendments:

Page 3, right above Item 7: Correction: Stone, Standridge and Pettie voted for; Levine and Taylor against.

Page 3: Item 7 second paragraph: 1000 packets (file of life) not 3000.

5. ACCEPTANCE OF A DONATION BY THE PARKER WOMEN'S CLUB OF A DEFIBRILLATOR TO THE POLICE DEPARTMENT [RUSHING]

MOTION: Councilmember Stone moved to approve the consent agenda as amended. Councilmember Pettie seconded with Councilmembers Stone, Standridge, Levine, Pettie and Taylor voting for. Motion carried 5-0.

INDIVIDUAL CONSIDERATION ITEMS

6. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION 2015-470 APPROVING THE TERMS OF A PROPOSAL FROM COLLIN COUNTY TO RECONSTRUCT DONIHOO LANE AND HACKBERRY LANE; UTILIZING COLLIN COUNTY BOND AND ROAD MAINTENANCE FUNDS [FLANIGAN]

A portion of Donihoo Lane is located in Collin County and after working with Collin County's Public Works Department staff recommends asking the Commissioners Court to use remaining bond funds from the McCreary Road project to pay Parker's portion of the reconstruction, which is approximately \$80,000. Upon City Council's approval a letter requesting approval by Commissioners Court will be sent to the County. If the request is denied by Commissioners Court the project will be put back in the City's next fiscal budget.

MOTION: Councilmember Taylor moved to approve Resolution 2015-470. Councilmember Pettie seconded with Councilmembers Stone, Standridge, Levine, Pettie and Taylor voting for. Motion carried 5-0.

7. PUBLIC HEARING, CONSIDERATION AND/OR AN APPROPRIATE ACTION ON A ZONING CHANGE REQUESTED BY WARNER LAND ADVISORS, L.P. FOR RE- ZONING APPROXIMATELY 322.34 ACRES OF LAND LOCATED IN THE G.W. GUNNELL SURVEY, ABSTRACT NO. 350, AND THE THOMAS ESTES SURVEY, ABSTRACT NO.298, COLLIN COUNTY, TEXAS FROM SINGLE-FAMILY AND AGRICULTURAL-OPEN SPACE TO SINGLE-FAMILY TRANSITIONAL WITH SPECIAL CONDITIONS. THE PROPERTY IS GENERALLY LOCATED AT THE WEST SIDE OF DILLEHAY/FM 2551 AND SOUTH OF KARA LANE AND NORTH OF E. PARKER ROAD. PRELIMINARY NAME DONIHOO FARMS. [FLANIGAN]

Planning and Zoning Commission held a public hearing on the zoning request and Commissioner Raney was present to represent the Commission. Commissioner Raney read the draft minutes of the February 12th P&Z meeting.

P&Z February 12, 2015 Minutes:

Steve Sallman, President of Warner Group, reviewed his residential development concept plan. The master plan includes 453 acres with 131 acres in the City's extra territorial jurisdiction (ETJ). He is proposing a development with mixed lot sizes and requesting zoning of single family transitional with special conditions and a development agreement for property located in the City's ETJ. (See Exhibit A)

Chairperson Wright opened the public hearing at 7:50 p.m.

The following residents spoke in opposition to the requested SFT zoning:

- *Jeff Harrison, 4400 Pecan Orchard Drive*
- *Andy Piziali, 6616 Estados Drive*
- *Michael Black, 4609 Hackberry Lane*
- *Karen Pritzken, 4706 Pecan Orchard*
- *John Barber, 4905 Hackberry Lane*
- *Cindy Meyer, 6618 Estados Drive*
- *Stephanie Casson, 1807 Dublin Road*
- *Richard Lavendar, 680 Overbrook Drive*
- *Patti Cordina, 4302 Boulder Drive*
- *Richard Coker, 4006 Lost Hollow Court*
- *George Bednarz, 4607 Springhill Estates Drive*

Hugh Lewis, 3910 Bois D'Arc spoke in favor of working with Developer Steve Sallman to develop a quality subdivision that would benefit Parker.

Chairperson Wright closed the public hearing at 8:59 p.m.

MOTION: Commissioner Raney moved to recommend denial of the requested zoning change to City Council. Commissioner Lozano seconded with Commissioners Raney, Wright, Lozano, Sutaria and Stanislav voting for. Motion carried 5-0.

Mayor Marshall asked Developer Steve Sallman his comments and presentation. (See Exhibit 7A.)

Some changes to the plan were made in response to comments received at the P&Z Public Hearing.

Mayor Marshall opened the public hearing at 7:42 p.m.

- Pat Moorer and John Barber sent a letter in favor. (Exhibit 7B)
- Mark and Cindy Stachiw sent a letter in opposition. (Exhibit 7C)
- Mike Russell, 6404 Northridge Parkway; representing the Southridge Estates HOA, stated the 93 home owners in Southridge Estates were polled and are in full support to Mr. Sallman's plan and any future plans he proposes with 1-acre lots.
- Karen Pritzker, 4706 Pecan Orchard Drive spoke in favor.
- Chuck Molyneaux, 6618 Estados Drive spoke in opposition.
- Stephanie Casson, 1807 Dublin Road spoke in opposition.
- Hugh Lewis, 3910 Bois d' Arc spoke in favor.
- Cindy Meyer, 6618 Estados Drive spoke in opposition.
- Peter Reisinger, 4300 Wagonwheel Drive spoke in opposition.
- John Phipps, 6504 Northridge spoke in favor.
- Richard Penn, 4511 Pecan Orchard spoke in favor.
- Garland McClendon, 5500 Kara Lane is concerned with drainage issues.
- Kathleen Brooks, 4304 Wagonwheel Drive concurred with Mr. McClendon.

City Administrator Flanigan explained the draining and engineering will be addressed when the developer submits the engineering plans and preliminary plat.

Mayor Marshall closed the public hearing at 8:06 p.m.

Mr. Sallman thanked everyone for their participation in the public hearing.

Council is concerned that a future developer may present a development with larger lots, but lower quality. The general consensus of the Council is the desire for a quality development with smaller lots that will benefit the City.

The developer has worked with the citizens adjacent to the development to address their concerns. The developer is not planning to connect a roadway to Pecan Orchard, a connector will be to the development to the North. The smaller lots will be contained within the development. There will be a connection to the trail system along the creek. Native landscaping will be required in the development to conserve water usage. All community green spaces will be maintained by the home owners association.

MOTION: Mayor Pro Tem Levine moved to approve and create an ordinance reflecting the zoning change with the proposed concept plan. Councilmember Taylor seconded with Councilmembers Stone, Standridge, Levine, Pettie and Taylor voting for. Motion carried 5-0.

The form of the ordinance will be brought back to Council at a future meeting for approval.

8. **CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION 2015-471 APPROVING THE TERMS OF AN AGREEMENT BETWEEN THE CITY OF PARKER AND GENEVA PARTNERS, LTD., A TEXAS LIMITED PARTNERSHIP AND WARNER LAND ADVISORS, L.P., A TEXAS LIMITED PARTNERSHIP PROVIDING FOR A DEVELOPMENT AGREEMENT FOR APPROXIMATELY 131.6 ACRES OF LAND IN THE EXTRA TERRITORIAL JURISDICTION OF THE CITY OF PARKER. GENERALLY LOCATED AT THE EAST CORNER OF DONIHOO LANE AND DONNA LANE LOCATED IN PARKER'S EXTRA TERRITORIAL JURISDICTION [SALLMAN]**

MOTION: Mayor Pro Tem Levine moved to table this item to a future agenda. Councilmember Taylor seconded with Councilmembers Stone, Standridge, Levine, Pettie and Taylor voting for. Motion carried 5-0.

9. **CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION 2015-472 APPROVING THE TERMS OF AN AGREEMENT BETWEEN THE CITY OF PLANO, THE CITY OF ALLEN AND THE CITY OF PARKER PROVIDING FOR RADIO SERVICES FOR POLICE DISPATCH SERVICES [RUSHING]**

*Council took action on both Items 9 & 10 in a single motion.

The agreement is to allow the Police Department to be placed on the PAWM radio system for communications capabilities with the Parker Police Department and surrounding communities. The radio services will provide better communication qualities and digital capabilities in compliance with Federal Mandates for 2017-2018.

10. **CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION 2015-473 APPROVING THE TERMS OF AN AGREEMENT BETWEEN THE CITY OF MURPHY AND THE CITY OF PARKER PROVIDING FOR POLICE DISPATCH SERVICES [RUSHING]**

The agreement is to provide local interoperability with Parker Fire Department and surrounding agencies and includes Emergency Medical Dispatch (EMD) Services to our citizens and provides better communication qualities and digital capabilities.

* **MOTION:** Councilmember Stone moved to approve Resolutions 472 and 473. Councilmember Pettie seconded with Councilmembers Stone, Standridge, Levine, Pettie and Taylor voting for. Motion carried 5-0.

11. **CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON THE 2015 PLANNING SESSION [LEVINE]**

Mayor Pro Tem Levine moved to change the annual planning session to the Fall. Councilmember Pettie seconded with Councilmembers Stone, Standridge, Levine, Pettie and Taylor voting for. Motion carried 5-0.

ROUTINE ITEMS

12. ACCEPTANCE OF POLICE DEPARTMENT RACIAL PROFILING REPORT 2014.
[RUSHING]

13. FUTURE AGENDA ITEMS


a. Sallman Development agreement and zoning

14. ADJOURN


Mayor Marshall adjourned the meeting at 9:03 pm.



APPROVED:


Mayor Marshall

ATTESTED:


City Secretary Carrie L. Smith

APPROVED on the 21st day
of April, 2015.

7B

Zoning Request
"Donihoo Farm"
4/7/2015 - Council

4902 Hackberry Lane
Parker, TX 75002
April 2, 2015

Mayor Z Marshall and Parker City Council
5700 E. Parker Rd.
Parker, TX 75002

Subject: Warner Group tract 2 & 3 concept plan dated March 30, 2015

Mayor and City Council:


My property is to the West of and adjacent to the 322 acre tract being presented by the Warner Group to the City Council for rezoning. Mr. Solomon of the Warner Group visited with me and presented his plan for re-zoning and subdividing the property. Naturally, I would much rather that the property remain a wheat field, but if it is the intent of the landowner to sell and subdivide the land I think that the plan presented by Mr. Solomon is "as good as it gets" or is likely to be.

The plan provides a large lot buffer adjacent to my property and does not use Pecan Orchard Rd. for access. Accordingly, the plan meets my principle needs and I would not object if the City Council approves the Warner Group Plan.

Mr. Solomon also presented his plan to my neighbor, John Barber, whose property at 4905 Hackberry Lane is to the West of my property, one lot (mine) from the subject tract. Mr. Barber says that if the plan meets my needs it also meets his needs, and he too would not object if City Council approves the plan.

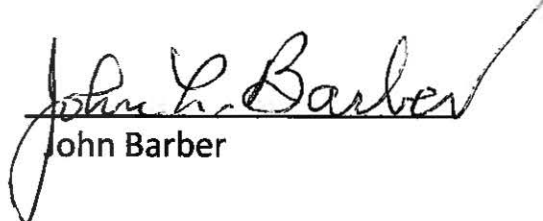
My greater concern is that if a plan that seems to be, "as good as it gets" is not approved, a plan that may not be so accommodating to my wishes will be presented and approved in the future.

Sincerely,



Patricia Moorer

Concurred,



John Barber

Carrie Smith

From: Cindy Stachiw <castachiw@gmail.com>
Sent: Tuesday, April 07, 2015 4:15 PM
To: Z Marshall; Lee Pettie; Tom Stone; Ed Standridge; Patrick Taylor; Carrie Smith; Jeff Flanigan; Scott Levine; Mark Stachiw; Cindy Stachiw
Subject: City Council Meeting - April 7, 2015 Citizen Comments - Stachiw - To be placed in Official Public Record - Agenda Item Number 7

Dear Mayor and All City Councilmen and Woman:

We **oppose** the zoning change requested by Warner Land Advisors, L.P. for re-zoning approximately 322.34 acres of land located in the G.W. Gunnell survey, Abstract No. 350, and the Thomas Estes Survey, Abstract No. 298, Collin County, Texas from Single-Family and Agricultural-Openspace to Single-Family Transitional with special conditions. Since we will be unable to attend the Public Hearing to be held on April 7, 2015 in person, we would like have the following comments in opposition to the requested re-zoning be included in the record of the Meeting.

We oppose the proposed rezoning of the subject property from Single Family (SF) and Agricultural-Openspace (A-O) to Single Family Transition (SFT) with special conditions for a number of reasons.

First, **re-zoning is inappropriate**. The SF property is already in the city and zoned and, as such, there is simply no reason for the city to re-zone it. Further, the request to rezone the A-O property to SFT should similarly be denied. Under the comprehensive land use plan, land which is not adjacent to another city is to be zoned as SF. Here, both the SF property and the A-O property are not adjacent to another city and therefore should not be zoned SFT. Moreover, while it is unclear given the poor reproduction of the plat and maps, it appears that some of the property (e.g., the land adjacent to Hackberry Lane) included in the development may be in the Extraterritorial Jurisdiction (ETJ) of Parker. If that is the case, that fact also is not a valid reason to change the zoning classification for the SF and A-O property to SFT. First, this ETJ land also is not adjacent to another city. Thus, it appropriately should be zoned SF as well. Second, the city cannot not allow a developer to combine a small portion of land in the ETJ with other land in the city (and already zoned) to attempt to dictate re-zoning land already properly zoned. This is especially the case when the ETJ land is completely landlocked within the city limits thus limiting the land owner's ability to access services outside the city. Indeed, using the excuse that some of the land in a proposed development is outside the city as a justification to rezone the entire tract opens the city up to similar tactics by developers who would seek to combine land already in the city with ETJ land in an effort to force the city to abandon its existing zoning in favor of one-off *ad hoc* zoning. Such a tactic could lead to a complete collapse of the comprehensive land use plan and the city's existing zoning. As a result, the city should and must resist such tactics.

Second, **re-zoning land would jeopardize the legal foundation for the existing comprehensive land use plan.** The Comprehensive land use plan is exactly that – a comprehensive plan of how land in the city and its ETJ is to be zoned and developed. If Parker decides on an *ad hoc* basis to allow deviations from the comprehensive land use plan, it will cease to be a comprehensive land use plan and it will open Parker up to new challenges for other land in Parker and the ETJ. Indeed, such an action would make it much more difficult (if not impossible) to uphold the plan against other landowners seeking similar changes – now and in the future.

Third, **development with increased density will tax already overburdened Parker infrastructure.** As the Commission knows Parker already has significantly burdened infrastructure and the new development on Allen Heights Road will further tax that infrastructure – including roads. If the land is allowed to be developed with densities in excess of those set forth in the comprehensive land use plan the existing infrastructure – which is planned with development in line with the comprehensive land use plan – will suffer. This is especially true with respect to roads. Regardless of how the land is developed, the Commission must be mindful to not burden Pecan Orchard and Springhill Estates Road further by allowing the development to spill additional traffic onto those already heavily burdened streets. Moreover, Parker currently has lived under Stage 3 water restrictions for the last two summers – development in excess of the comprehensive land use plan will cause this situation to be even further exacerbated.

Fourth, **Parker should reject pleas from developers that the land contains features which may make it difficult (or diseconomic) to develop.** The plain fact is that the land has whatever features it does (such as floodplain) and the developer should not be able to push the responsibility for having land which cannot be developed to the maximum extent allowed under the comprehensive land use plan on the city. The city's zoning classifications are minimums -- not maximums -- and a particular zoning classification does not guarantee that a landowner can develop the land to the maximum extent allowed under the zoning classification. SF zoning provides that all lots must be a minimum of 2 acres -- and does not specify a maximum number of acres. Since the developer can develop the land as provided in the zoning classification (e.g., 2 acre minimum lot sizes), there is no reason to deviate from the existing comprehensive land use plan or the current zoning. This is not a situation where the city has zoned the land in a way that the landowner cannot comply with the zoning classification. The fact that the developer may have paid too much for the land or the landowner would like to make more money by having smaller lots (to the minimums or smaller than the current zoning) is not sufficient justification for rezoning the land.

Fifth, **Parker's current SF zoning classification is not outdated.** First, the comprehensive land use plan has just undergone a review and the citizens of Parker have requested that there be no changes to the plan. Second, while most of the land which has been recently developed was in the ETJ (or was annexed and could be de-annexed) and was developed with some deviation from the comprehensive land use plan, that fact is irrelevant with respect to land which is already within the city and zoned. Third, this

argument fails to account for new developments -- such as the one on Allen Heights Road -- that does include lots 2 acres or larger. Therefore, the City's current land use plan and the include SF zoning classification is not outdated.

Sixth, the argument that since the city is largely developed it should allow rezoning for the remaining land is not persuasive. First, the city has a considerable amount of land still undeveloped and upholding the existing comprehensive land use plan is important to make sure that the remaining land does not get developed in ways that are outside the comprehensive plan. Second, how much land is remaining is not a justification for changing zoning. While initial zoning may end when all land is initially developed, the comprehensive land use plan continues to govern when existing landowners want to redevelop their land in the future. If Parker starts a process of disregarding its comprehensive land use plan now, it will have difficulty in the future upholding it when landowners want to redevelop their land (e.g., lots which are currently SF want to move to SFT or apartments). The plain fact is that Parker has undertaken a process to ensure that development (now and in the future) is in accordance with the comprehensive land use plan and it should not abandon it now even if the amount of land that remains is less than it was 10 or 20 years ago.

Seventh, this is not (and should not be) a debate about whether Parker should have large or small lots or should be developed. The fact is that the citizens of Parker have already made that decision in the comprehensive land use plan and there is no reason to alter it. Indeed, when Parker put its comprehensive land use plan to public notice it roundly received opposition to change it. While some may want more dense development so that Parker can hire more people, have larger tax bases, or satisfy their own special interests, the plain fact is that Parker has had a longstanding policy embodied in its comprehensive land use plan to develop Parker in areas not adjacent to other cities with 2 acre lots and that is what it needs to do here. It is not about whether homeowners who have 2 acre lots are better or otherwise than those with smaller lots. The sole issue is and must be the comprehensive land use plan and what it provides -- it provides for a well thought out development scheme that provides for SFT in certain areas and SF in others. Parker residents have repeatedly spoken that they want to preserve the country look and feel -- regardless of how large their lots are. The only sure way to do so is to allow development only in line with the comprehensive land use plan.

Thank you for your consideration.

Mark and Cindy Stachiw

4404 Pecan Orchard Drive
972-881-2231

Parker Residents since October, 1996