

MINUTES
CITY COUNCIL MEETING
SEPTEMBER 20, 2016

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 Z Marshall called the meeting to order at 6:30 p.m. Council members Scott Levine, Lee Pettie, Cleburne Raney, Ed Standridge, and Patrick Taylor were present.

Staff Present: City Administrator Jeff Flanigan, Finance/H.R. Manager Johnna Boyd, City Secretary Patti Scott Grey, City Attorney Jim Shepherd, and Capital Improvement Advisory Committee (CIAC) Member Steve Sallman

EXECUTIVE SESSION 6:30 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:

Government Code Section 551.074 Personnel—To deliberate the appointment, employment, evaluation, compensation, and/or duties, of the city attorney.

Mayor Marshall recessed the regular meeting at 6:32 p.m.

2. RECONVENE REGULAR MEETING.

Mayor Marshall reconvened the regular meeting at 7:07 p.m.

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

Action/No action was taken.

PLEDGE OF ALLEGIANCE

AMERICAN PLEDGE: Boy Scout Thomas Rose, Troop 221, led the pledge.

TEXAS PLEDGE: Boy Scout Drew Christian, Troop 221, 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 AUGUST 10, 2016. [SCOTT GREY]
5. DEPARTMENT REPORTS-BUILDING, COURT, FIRE, POLICE AND WEBSITE

MOTION: Councilmember Pettle moved to accept the consent agenda. Councilmember Taylor seconded with Councilmembers Levine, Pettle, Raney, Standridge, and Taylor voting for the motion. Motion carried 5-0.

INDIVIDUAL CONSIDERATION ITEMS

6. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON PARKER MUNICIPAL CODE SECTIONS 156.67-69, REGARDING THE ZONING BOARD OF ADJUSTMENT (ZBA). [SHEPHERD]

City Attorney Shepherd reviewed the proposed changes to the Parker Municipal Code Sections 156.67-69, regarding the Zoning Board of Adjustment (ZBA), commenting this was almost a total revision on the Zoning Board of Adjustments (ZBA) rules and regulations. Mr. Shepherd recommended City Council review the changes carefully, forward the draft to both Planning and Zoning (P&Z) Commission and Zoning Board of Adjustment (ZBA) for a public hearing, and then that document would return to City Council for a second public hearing, any deliberation, and a vote.

There was discussion of reviewing the entire Zoning Ordinance, regarding concerns City Council and City Staff had and the cost of publishing in the newspaper for future public hearings. Mayor Marshall asked if City Council wanted to look at other issues within our Zoning requirements, possibly a mass overhaul. He asked how City Council would like to proceed.

Councilmember Pettle said the entire Parker Municipal Code needed to be reviewed. The City Code was a mix of different revisions.

Mayor Marshall suggested talking to ZBA about this specific ordinance and put an item on the next agenda about other factors and things City Council needed to consider.

MOTION: Councilmember Pettle moved to forward the draft discussed by City Council, with changes, to the Zoning Board of Adjustment (ZBA) for their comments and suggestions. (See Exhibit 1 – Parker Municipal Code Sections 156.67-69) Councilmember Taylor seconded with Councilmembers Levine, Pettle, Raney, Standridge, and Taylor voting for the motion. Motion carried 5-0.

7. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON HONORING FORMER COUNCILMEMBER TOM STONE. [MARSHALL]

Mayor Marshall said Mr. Sallman has agreed to name a street in one of the developments in Tom Stone's honor. Another way to honor him would be through the City's Living Legacy Tree Program and a plaque. He said he added this item to the agenda to get City Council's input. Councilmember Standridge said he thought it was a great idea and would last for a long time.

MOTION: Councilmember Standridge moved to approve honoring former Councilmember Tom Stone with a tree and plaque from the City of Parker Living Legacy Tree Program, in memory of Tom Stone for his service to the City. Councilmember Pettie seconded.

Councilmember Raney said the plaque proof was simple, to the point, and well covered. Mr. Raney recommended using the information in the proof. City Council decided to leave the tree selection and location to Annette Stone (former Councilmember Tom Stone's wife).

Councilmember Standridge and Pettie agreed to add the tree selection and location to be chosen by Annette Stone to their motion and second. Councilmembers Levine, Pettie, Raney, Standridge, and Taylor voting for the motion. Motion carried 5-0.

8. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON THE PERSONNEL COMMITTEE, AND OR TO FILL A VACANCY ON THE COMMITTEE. [MARSHALL]

Mayor Marshall said he asked Mayor Pro Tem Levine to lead the discussion on this item, because he had some very good thoughts on the subject. Mr. Levine said he thought City Council should do away with the Personnel Committee. Without going through history and too much detail, at the time the committee was instituted there was a reason for it, the committee served its purpose. At this point, on a day-to-day basis it is handle either by the Mayor and City Administrator or the entire City Council. He said he did not see the necessity of the Personnel Committee to review and then the entire City Council.

MOTION: Councilmember Levine moved to disband the Personnel Committee. Councilmember Taylor seconded with Councilmembers Levine, Pettie, Raney, Standridge, and Taylor voting for the motion. Motion carried 5-0.

9. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION 2016-523 DESIGNATING THE DALLAS MORNING NEWS AS THE OFFICIAL NEWSPAPER FOR THE CITY OF PARKER FOR FISCAL YEAR 2016-2017. [SHEPHERD]

After discussing area newspaper qualifications and costs, City Attorney Shepherd said The Dallas Morning News, along with several other area newspapers, meet state requirements. In the future, the City may want to seek a less expensive alternative. City Council asked about changing legislation, regarding publishing. Mr. Shepherd said this would be something to watch, but not likely due very strong newspaper lobbyist. Publishing and Advertising was an expensive budget item for the City and

would be worthy of contacting legislators for support in making changes. Mayor Pro Tem asked Finance/H.R. Manager Johnna Boyd if she checked either Allen or Plano. She said no. City Attorney Shepherd said there was a circulation issue in the past. Our options were very limited.

MOTION: Councilmember Standridge moved to approve Resolution No. 2016-523, designating The Dallas Morning News as the official newspaper for the City of Parker for Fiscal Year 2016-2017. Councilmember Taylor seconded with Councilmembers Levine, Pettie, Raney, Standridge, and Taylor voting for the motion. Motion carried 5-0.

ROUTINE ITEMS

10. FUTURE AGENDA ITEMS

Mayor Marshall reminded everyone the October 4, 2016 City Council meeting was canceled, due to National Night Out (NNO). The next regularly scheduled meeting would be Tuesday, October 18, 2016 and a special meeting would be called, if needed. The Mayor asked if there were any items to be added to the future agenda, noting the Zoning Ordinance reviewed earlier would be sent to P&Z and ZBA for their comments and suggestions. Mayor Pro Tem Levine added a Census item. Councilmember Pettie asked that City Council and Staff discuss and assemble a package of legislative issues.

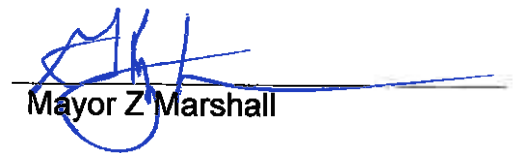
Councilmember Standridge asked about the City's latest ISO rating and when that information would be relayed to the insurance agencies. Mayor Marshall asked Chief Sheff to look into the notification process and asked about the ISO presentation by Kelley Stalder.

11. ADJOURN

Mayor Marshall adjourned the meeting at 7:55 p.m.



APPROVED:


Mayor Z Marshall

ATTESTED:


Patti Scott Grey, City Secretary

Approved on the 18th day
of October, 2016.

§ 156.67 BOARD OF ADJUSTMENT.

(A) *Establishment.* There is hereby created a Board of Adjustment which shall be organized, appointed, and function as set forth in this Section 156.67. The Board of Adjustment may also be known as the "Zoning Board, Zoning Board of Adjustment, or, in the context of this Section, the "Board". The governing body may authorize the Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

References:

References in this Section of the Parker Municipal Code are:

1. **Section—this sections regarding the Board at 156.67-69 of the Parker Municipal Code ("PMC")**
2. **Chapter—Chapter 211 MUNICIPAL ZONING AUTHORITY, of the Texas Local Government Code ("LGC")**
3. **Subchapter—Subchapter A. GENERAL ZONING REGULATIONS of LGC 211.**
4. **Ordinance—the ordinance adopting this Section 156.67 of the PMC.**

(B) *Organization.*

- (1) The Board of Adjustment shall consist of 5 members who are residents of the city, each to be appointed by resolution of the City Council for a term of 2 years and removable for cause by the City Council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made.**
- (2) The City Council may appoint 2 alternate members of the Board who shall serve in the absence of 1 or more of the regular members when requested to do so by the Mayor, who may authorize the Chairman of the Board to make the request. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.**

- (3) All cases to be heard by the Board of Adjustment will be heard by a minimum number of 4 members.**
- (4) The person acting as Secretary of the Board shall maintain a separate file for each application for appeal and variance received and shall record the names and addresses of all persons, firms, and corporations to whom notices are mailed, including the date of mailings and the person by whom the notices were delivered to the mailing clerk, post office, or mail box, and further keep a record of all notices published as required herein. All records and files herein provided for shall be permanent and official files and records of the city. The Secretary of the Board shall be the Municipal Court Clerk unless otherwise appointed by the City Council.**
- (5) The Secretary of the Board shall notify in writing the City Administrator; City Secretary, and the City Building Inspector of each decision, interpretation, and variance granted by the Board of Adjustment.**
- (6) The terms of the Board of Adjustment members and alternates shall commence December 1 of the 2-year term, and shall expire on November 30. Members and Alternates shall serve until their successors have been appointed and qualified.**

(C) *Operational procedure.*

- (1) The Board of Adjustment shall adopt rules to govern its proceedings; provided, however, that the rules are not inconsistent with this Parker Municipal Code or state law. The Board of Adjustment does adopt the provisions in this Subsection 156.67 as the rules governing its proceedings. Meetings of the Board shall be held at the call of the chairperson and at other times as the Board may determine. The chairperson, or in his or her absence, the acting chairperson (chosen by majority vote of the Board members), may administer oaths and compel the attendance of witnesses.**
- (2) All meetings of the Board shall be open to the public, save and except any lawful executive sessions. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep record of its examinations and other official actions, all of which shall be immediately upon the Chairman's**

execution of the Decision of the Board, and legal approval, filed in the office of the Board and shall be a public record.

(D) AUTHORITY OF BOARD.

(1) The Board of Adjustment may:

- (a) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of Local Government Code Section 211 or an ordinance adopted under that Chapter;**
- (b) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the Board to do so;**
- (c) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; and**
- (d) hear and decide other matters authorized by this ordinance.**

(2) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(3) The concurring vote of four (4) of the members of the board is necessary to:

- (a) reverse an order, requirement, decision, or determination of an administrative official;**
- (b) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or**

(c) authorize a variation from the terms of a zoning ordinance.

(E) APPEAL TO BOARD.

- (1) Any of the following persons may appeal to the Board of Adjustment a decision made by an administrative official:
 - (a) a person aggrieved by the decision; or
 - (b) any officer, department, board, or bureau of the municipality affected by the decision.
- (2) The appellant must file with the Secretary of the Board of Adjustment, and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal.
- (3) Upon notice of appeal being given to the Secretary and before the appeal shall be construed as having been perfected, the applicant must file with the notice of appeal to the Board an amount of money estimated by the Secretary to be sufficient to mail and publish all notices required herein, that amount in no case to be less than the fee established by the City Fee Schedule.
- (4) The appeal must be filed within a reasonable time (fifteen calendar days of the date of the decision appealed from, unless otherwise determined by the Board). On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record of the action that is appealed.
- (5) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.
- (6) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the

parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time after the hearing, which shall be seven days, if not otherwise determined by the Chairman.

- (7) At a public hearing relative to any appeal, any interested party may appear in person or by agent or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the Board on any appeal. Any variance granted or authorized by the Board under the provisions of this chapter shall authorize the issuance of a building permit or a certificate of occupancy, as the case may be, for a period of 180 days from the date of the favorable action of the Board, unless the Board shall have in its action approved a longer period of time and has so shown that specific longer period of time in the minutes of its action. If the building permit or certificate of occupancy shall not have been applied for within the 180-day period or extended period as the Board may have specifically granted, then the variance shall be deemed to have been waived and all rights thereunder terminated. This termination and waiver shall be without prejudice to a subsequent appeal, and the subsequent appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original appeal.**

(F) *Actions of the Board.*

- (1) In exercising its powers, the Board of Adjustment may, in conformity with the provisions of the statutes of this state as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such an order, requirement, decision, or determination as ought to be made, and shall have all the powers of the officer from whom the appeal is taken. The Board shall have the power to impose reasonable conditions to be complied with by the applicant.**
- (2) The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance in this chapter.**

- (3) Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, or board of the municipality, may present to a court of record (district court) a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of illegality. The petition shall be presented to the court within 10 days after the filing of the decision in the office of the Board and not thereafter.**
- (4) No appeal to the Board for the same or related variance on the same piece of property shall be allowed prior to the expiration of twelve (12) months from the previous ruling by the Board on any appeal to that body unless other property in the immediate vicinity has, within that twelve-month period, been changed or acted on by the Board or City Council so as to alter the facts and conditions on which the previous Board action was based. Such a change of circumstances shall permit the rehearing of an appeal by the Board prior to the expiration of the 6-month period, but those conditions shall in no wise have any force in law to compel the Board, after a hearing, to grant a subsequent appeal. The subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.**
- (G) *Notice of hearing before the Board required.* The Board of Adjustment shall hold a public hearing on all appeals made to it, and written notice of the public hearing shall be sent to the applicant and all other persons who are owners of real property lying within 200 feet of the property on which the appeal is made. This notice shall be given not less than 3 days nor more than 30 days before the date set for the hearing to all such owners who have rendered their property for city taxes as the ownership appears on the last city tax roll. The notice may be served by depositing the same, properly addressed and postage paid, in the U.S. post office. Public notice shall be given by posting the same at the entrance to city hall and on the official website of the city at least 3 days and not more than 30 days prior to the date set for the hearing. The notice shall state the subject, time and place of the hearing.**
- (H) *Authority of the Board.***
- (1) A variance is an authorization by the Board of Adjustment granting relief and doing substantial justice in the use of the**

applicant's property by a property owner where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship.

- (2) When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards, authorize the following variances to the regulations herein established and take action relative to the continuance or discontinuance of a nonconforming use.**
- (3) (a) A variance may be granted an applicant when the Board finds:**
- 1. There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to that land or building and do not apply generally to lands or buildings in the same district or neighborhood, and that those circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building;**
 - 2. The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located;**
 - 3. The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted by the Board is the minimum variance that will accomplish this purpose; and**
 - 4. The literal enforcement and strict application of the provisions of this Section will result in an unnecessary hardship inconsistent with the general provisions and intent of this Section, and in granting the variance the spirit of the chapter will be preserved and substantial justice done.**

- (b) The Board may, after public notice and hearing and subject to the conditions and safeguards herein contained, vary or adapt the strict application of any of the terms of this Section under the power and authority herein granted.**
 - (c) In granting any variance under the provisions of this Section, the Board may designate conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this Section.**
- (4) The Board may:**
 - (a) Hear and decide appeals where it is alleged there is error on any written order, requirement, decision, or determination made by the city staff in the enforcement of this chapter;**
 - (b) Interpret the intent of the Zoning Map where uncertainty exists because the physical features on the ground vary from those on the Zoning Map and none of the rules set forth herein apply;**
 - (c) Initiate on its motion, or cause to be presented by interested property owners, action to bring about the discontinuance of a nonconforming structure or use under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this chapter;**
 - (d) Permit the change of occupancy from one (1) nonconforming use to another nonconforming use when the extent of the second nonconforming use is found to be less detrimental to the environment than the first;**
 - (e) Permit the enlargement of a nonconforming use only when the enlargement will not prolong the life of the nonconforming use. A specific period of time for the return to conformity can be required;**
 - (f) Permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by that building; provided the reconstruction does not, in the judgment of the Board, prevent the return of the property to a**

conforming use or increase the nonconformity of a nonconforming structure;

- (g) Require the vacation and demolition of a nonconforming structure which is deemed to be obsolete, dilapidated, or substandard; and**
- (h) Permit variance of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking, or off-street loading regulations where the literal enforcement of the provisions of this chapter would result in an unnecessary hardship, and where the variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such a restricted area, shape, or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district. A modification of the standard established by this chapter shall not be granted to relieve a self-created or personal hardship, nor for financial reason only, nor shall a modification be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in the same zoning district.**

(I) *ENFORCEMENT; PENALTY; REMEDIES.*

- (1) The governing body of the City of Parker has adopted ordinances to enforce Local Government Code chapter 211, and/or Subchapter A of that Chapter, or any ordinance or regulation adopted under Chapter 211, subchapter A, including the Comprehensive Zoning Ordinance (Chapter 156 of the Parker Municipal Code) of the City of Parker.**
- (2) A person commits an offense if the person violates Local Government Code Chapter 211, subchapter A., or an ordinance or regulation adopted under that subchapter. An offense under this ordinance is a Class C misdemeanor, punishable by fine.**
- (3) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this**

ordinance or regulation adopted under LGC 21 1.A, the City, in addition to other remedies, may institute appropriate action to:

- (a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;**
- (b) restrain, correct, or abate the violation;**
- (c) prevent the occupancy of the building, structure, or land; or**
- (d) prevent any illegal act, conduct, business, or use on or about the premises.**

Penalty, see § [156.99](#)

 § 156.68 APPEALS; BOARD AND COUNCIL RESPONSIBILITIES.

Under this Section, the City Council shall have only the following duties:

- (1) Considering and adopting or rejecting proposed amendments or the repeal of this Section, as provided by law;**
- (2) Establishing a schedule of fees and charges as stated in § [156.69](#) below;**
- (3) Appointing members of a Board; and**
- (4) Hearing appeals on and approving or rejecting special use permits.**

(Ord. 483, passed 6-6-2000)

 § 156.69 FEES, CHARGES, AND EXPENSES; ESTABLISHMENT.

(A) The City Council shall establish from time to time by resolution or ordinance a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of compliance, appeals, and other such matters pertaining to this Section. The Parker Fee Schedule shall be posted in the office of the City Secretary and may be altered or amended only by the City Council.

(B) Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

(Ord. 483, passed 6-6-2000)