

**REGULAR MEETING OF THE IRVING CITY COUNCIL**  
**May 3, 2007**

The City Council met in regular session in the Council Chambers of the City Hall Complex on May 3, 2007, at 7:00 P.M. The following members were present:

**Councilmembers**

James Dickens  
Beth Van Duyne  
Allan E. Meagher  
Lewis Patrick  
Lowell Cannaday  
Rick Stopfer  
Sam Smith  
Joe Philipp

Mayor Herbert A. Gears was not in attendance.

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**ORGANIZATIONAL SERVICE ANNOUNCEMENTS**

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Betty Yarbrough, 204 W. 7<sup>th</sup> Street, announced that the Animal Shelter would be holding its first Adopt-a-Thon on Friday and Saturday, May 4 and 5, 2007 from 9 a.m. until 9 p.m.

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**INVOCATION**

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The invocation was delivered by Pastor John Eastman, New Beginning Fellowship Church of the City of Irving, Texas.

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**PLEDGE OF ALLEGIANCE**

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Councilman Patrick led those present in the pledge.

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**PROCLAMATIONS AND ANNOUNCEMENTS**

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Mayor Pro Tem Smith presented the High Spirited Citizen Award to Debbie Fusco.

Mayor Pro Tem Smith also presented a Proclamation in honor of "Drinking Water Week;" it was accepted by Director of Public Works/Traffic and Transportation Jim Cline.

Certificates of Appreciation were presented to the winners of the Water Utilities Department's Poster and Photo Art Contest: Jessica Chun, Soojeong Seo, Zara Maranan, Lisa Ward, Bianca Ybarra, Patricia Cave, Anette Villalvazo, Wendy McCoy, Chris Cardena, Ingrid Laubauch, Clinton Lynes.

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**CONSENT AGENDA**

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The consent agenda, items #1 through #29, were considered for approval. Mayor Pro Tem Smith asked if anyone wished to pull an item from the consent agenda for individual consideration. Councilman Philipp requested that Item No. 3 be pulled from the consent agenda. **Councilman Philipp moved to approve the consent agenda, items #1 through #29, excluding Item No. 3. Seconded by Councilman Dickens the motion was approved by a vote of 8-0.**

- 1 **Resolution No. 5-3-07-160** -- Approving The City Council Work Session Minutes Of April 18, 2007, And The City Council Meeting Minutes Of April 19, 2007
- 2 **Resolution No. 5-3-07-161** -- Authorizing The Destruction Of Obsolete Records In Accordance With The City Of Irving's Records Management Policy
- 4 **Resolution No. 5-3-07-163** -- Authorizing The Mayor To Apply For The 2007 Assistance To Firefighters Grant From The U. S. Department Of Homeland Security Federal Emergency Management Agency (Assistance To Firefighters Grant Programs) For The Purchase Of Powered/Mechanical Extrication Tools And Equipment
- 5 **Resolution No. 5-3-07-164** -- Authorizing Staff To Negotiate A Professional Services Contract With MESA For Design Of Irving's Veterans Memorial Park
- 6 **Resolution No. 5-3-07-165** -- Approving The Renaming Of West Park Recreation Center To Georgia Farrow Recreation Center - West Park
- 7 **Resolution No. 5-3-07-166** -- Awarding A Bid To J. C. Commercial, In The Net Amount Of \$3,500,749.00 For The Construction Of The Cimarron Family Aquatic Center
- 8 **Resolution No. 5-3-07-167** -- Approving Effective Fund Balance Policy For The General Fund, The Water And Sewer System Fund, Irving Arts Center Fund, And The Irving Convention And Visitors Bureau Fund
- 9 **Resolution No. 5-3-07-168** -- Approving Change Order No. 3 To Workman Commercial Construction Services, Ltd. In The Amount Of \$49,237.11 For The Construction Of The Valley Ranch Branch Library
- 10 **Resolution No. 5-3-07-169** -- Authorizing The Transfer Of City Owned Properties To The Irving Housing Finance Corporation To Provide Affordable Housing
- 11 **Resolution No. 5-3-07-170** -- Authorizing The Mayor To Execute A Municipal Maintenance Agreement Between The City Of Irving And The Texas Department Of Transportation
- 12 **Resolution No. 5-3-07-171** -- Approving An Amendment To An Interlocal Agreement Between The City Of Irving And The Texas Department Of Transportation For Furnishing, Installing, Operation And Maintenance Of Cameras On State Right-Of-Way To Monitor Compliance With Traffic Control Signals
- 13 **Resolution No.5-3-07-172** -- Approving An Interlocal Agreement Between The City Of Irving And Texas Department Of Transportation In The Amount Of \$149,130.00

For Advance Funding For Congestion Mitigation Air Quality Improvements Project  
For Furnishing And Installing Intelligent Transportation Communications Equipment  
For Traffic Signals

**14 Resolution No. 5-3-07-173 -- Purchases Funded In The 2006-2007 Budget**

- (A) Award -- Approving Award To B & C Body Co. For The Purchase Of Roll-Off Containers Through The Interlocal Agreement For Cooperative Purchasing With Houston-Galveston Area Council Of Governments (H-GAC) In The Net Amount Of \$61,137.51 To Be Used By The Solid Waste Services Department
- (B) Award -- Award Of Bid To The Gilbert Construction Group, Inc. For The Construction And Building Renovation At 128 North Briery Road In The Net Amount Of \$516,700.00 For The Equipment And Building Services Department
- (C) Bids -- Renewal Of Bid With Design Electric For Electrical Services For Water Utilities In The Net Estimated Amount Of \$7,550.00 For The Period Of August 1, 2007, Through September 30, 2007, And \$37,750.00 For The Period Of October 1, 2007, Through July 31, 2008, Subject To Funds Being Appropriated In Fiscal Year 2007-2008, To Be Used By The Public Works Department/Water Utilities Division
- (D) Bids -- Renewal Of Bid With Metro Valve & Pipe For Fiberglass Manholes In The Net Estimated Amount Of \$5,059.25 For The Period Of August 1, 2007, Through September 30, 2007, And \$25,296.25 For The Period Of October 1, 2007, Through July 31, 2008, Subject To Funds Being Appropriated In Fiscal Year 2007-2008, To Be Used By The Public Works Department/Water Utilities Division

**15 Ordinance No. 8803 -- Budget Adjustment To The 2005-2006 Fiscal Year Budget**

- I. DART Fund
- II. Library Grant Fund
- III. Emergency Management Grant Fund
- IV. Non-Bond CIP Fund
- V. Equipment Replacement Fund

- 16 **Ordinance No. 8797** -- Second Reading -- Granting A Franchise To Maredi Corporation, dba United Cab Company, To Operate A Taxicab Service In The City of Irving, Texas
- 17 **Ordinance No. 8796** -- Final Reading -- Amending Chapter 52 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Substituting Public Works Director For Water Utilities Director And Deputy City Manager In Regard To Computing Data And Water Meter Matters In Sections 52-3, 52-5, 52-6 And 52-7 Of Said Chapter; Substituting Public Works Department's Water Utilities Division For Water Utilities Department Where Used In Section 52-8 Of Said Chapter; Limiting Waiver Of Deposits To Applicants Who Have Not Had Payments Returned Due To Insufficient Funds In Section 52-7 Of Said Chapter; Extending Waiver Of Deposit For New Single-Family Residential Customers Sixty Five (65) Years Of Age And Over To Those Not Delinquent With Other Utility Companies In Section 52-7 Of Said Chapter; Providing For An Adjustment To The Deposit To Four Times The Average Utility Bill For Master-Metered Service Locations Discontinued Due To Nonpayment In Section 52-7 Of Said Chapter; Providing Clarification Of Fees Charged For The Discontinuation Of Services Due To Nonpayment In Section 52-8 Of Said Chapter; Providing For Additional Charges Related To The Collection Of Outstanding Charges And Penalties In Section 52-8 Of Said Chapter; And Providing For Interest On Payment Agreements In Section 52-15 Of Said Chapter
- 18 **Ordinance No. 8784** -- Final Reading -- Granting A Franchise To Allied Waste North America, Inc. dba Allied Waste Services For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 19 **Ordinance No. 8785** -- Final Reading -- Granting A Franchise Renewal To Bluebonnet Waste Control, Inc. For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 20 **Ordinance No. 8786** -- Final Reading -- Granting A Franchise Renewal To Champion Waste Services, LTD For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 21 **Ordinance No. 8787** -- Final Reading -- Granting A Franchise Renewal To Community Waste Disposal, L.P. For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 22 **Ordinance No. 8788** -- Final Reading -- Granting A Franchise Renewal To Empire Disposal, LTD For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas

- 23 **Ordinance No. 8789** -- Final Reading -- Granting A Franchise Renewal To Hurricane Waste Systems For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 24 **Ordinance No. 8790** -- Final Reading -- Granting A Franchise Renewal To IESI Corporation For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 25 **Ordinance No. 8791** -- Final Reading -- Granting A Franchise Renewal To Moore Disposal Corp. For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 26 **Ordinance No. 8792**-- Final Reading -- Granting A Franchise Renewal To Republic Services Of TX., LTD, dba Duncan Disposal For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 27 **Ordinance No. 8793** -- Final Reading -- Granting A Franchise Renewal To Malio And Raquel Lozano dba S & H Waste Disposal Service For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 28 **Ordinance No. 8794** -- Final Reading -- Granting A Franchise Renewal To Standard Waste Systems, LTD For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas
- 29 **Ordinance No. 8795** -- Final Reading -- Granting A Franchise Renewal To Waste Management of TX For Solid Waste Collection Services Pursuant To Chapter 33 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas

This concludes the consent agenda items 1-29, excluding Item No. 3.

- 3 **Resolution No. 5-3-07-162** -- Approving An Employment Agreement With The City Manager

Mayor Pro Tem Smith announced that the Council would be going into Executive Session to discuss this item at the end of the meeting.

### **INDIVIDUAL CONSIDERATION**

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- 30 **Resolution No. 5-3-07-174** -- Temporary Use Permit #G0704-0067 -- To Allow The Extension Of Alcoholic Beverage Service Area Into A Tent On The Parking Lot At On The Border Restaurant Located At 1220 Market Place Boulevard -- Christopher Nelms, Applicant

Mayor Pro Tem Smith introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

**Councilman Patrick moved to approve the resolution as presented. Seconded by Councilman Cannaday, the motion was approved by a vote of 8-0.**

- 31 Resolution No. 5-3-07-175** -- Public Hearing -- Failure Of Tio Carlos Mexican Restaurant (Hereinafter Referred To As "Tio Carlos") To Meet The Requirements Of Section 52-49 Of Ordinance No. 1144 "Restaurant With Attendant Accessory Use Of The Sale Of Alcoholic Beverages For On-Premises Consumption"

Mayor Pro Tem Smith introduced the item and asked in anyone wished to speak in favor or opposition.

Senior Assistant City Attorney Cathy Cunningham reported that she went to Tio Carlos Mexican Restaurant and spoke to Mr. Benitez, and he produced the RAB reports. Mr. Benitez said that he faxed the reports, but they were not received by the city. Ms. Cunningham stated that the reports are still not in compliance but the restaurant is less then 1% off on food sales, a new resolution has been prepared that will continue the hearing for another three months, but if the next report shows that it is over 60% it will allow the staff to just cancel the hearing without coming back before the Council.

Mr. Carolos Benitez spoke and showed his reports and stated that he will continue to improve.

**Councilman Dickens moved to approve the resolution to continue the hearing for three months. Seconded by Councilman Stopfer, the motion was approved by a vote of 8-0.**

## APPOINTMENTS AND REPORTS

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- 32 Resolution No. 5-3-07-176** -- Appointments To Boards And Commissions -- Housing And Human Services, Place 6 - Unexpired Term, Expiring November 2008

Mayor Pro Tem Smith introduced the item.

**Councilman Dickens moved to appoint Suzanne Beeman to Place 6 on the Housing and Human Services Board unexpired term expiring November 2008. Seconded by Councilman Philipp, the motion was approved by a vote of 8-0.**

- 32A Resolution No. 5-3-07-177** -- Approving The Dallas County Utility And Reclamation District (DCURD) Issuance Of Service 2007 Refunding Bonds

Mayor Pro Tem Smith introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Managing Director David Leininger explained this refunding opportunity that has come available to DCURD and noted that it requires City approval.

**Councilman Cannaday moved to approve the resolution as presented. Seconded by Councilwoman Van Duyne, the motion was approved by a vote of 8-0.**

**33** City Manager's Report

- Economic Development – Atmel sold and 1,000 new employees will be coming to Irving, there will be a formal announcement; a press release has been issued by the Chamber of Commerce.
- The Fire Department came up with a really ingenious way to come up with additional dollars to buy a platform for ladders and given the fact that the city has high rises, the city was able to finance in a different way, the city was giving the company 45% instead of 90% and by virtue of the fact that they did not have to carry the interest it saved them about \$50,000.00 so they then gave the city the money and the city was able to buy the platform.
- Red Light Enforcement period began on May 1, 2007
- North Lake Ranch Park dedication will be held on May 17, 2007, followed by Lively Pointe Skate Park at 4:00 p.m. on May 24, 2007.

**34** Mayor's Report

- Mayor Pro Tem Smith stated that Mayor Gears is out of the country.
- He announced that very soon a partnership will be announced between the City Of Irving and Smithsonian Institution in Washington D.C.
- Irving Convention and Visitors Bureau met with site selectors to look at the City as a potential site for organizations and businesses.

**35** Committee And Liaison Report/Meetings

- Councilwoman Van Duyne gave an update on the Billingsley North Lake Project.
- Councilman Meagher announced that a Fishing Tournament will take place on Sunday morning from 8-11 a.m., May 6, 2007. It is to benefit Irving Cares, and Bass Pro Shop is sponsoring this event.
- Mayor Pro Tem Smith announced that legislation was recently passed to assure the continuance of hotel/motel tax funding for the Irving Art Center.

**3** **Resolution No. 5-3-07-162** -- Approving An Employment Agreement With The City Manager

Acting City Attorney Charles Anderson read Mayor Pro Tem and Council into Executive Session at 7:40 p.m.

Acting City Attorney Charles Anderson read the Council into Open Session at 9:17 p.m.

Mayor Pro Tem Smith introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

**Councilman Philipp moved to approve the resolution with one amendment that an incentive payment clause be created in the contract and the Council be charged with defining that incentive program for this contract. Seconded by Councilman Cannaday, the motion was approved by a vote of 8-0.**

**36** The meeting adjourned 9:20 p.m.

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### CITIZEN FORUM

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Sharon Barbosa-Crain, 2601 Alan-a-Dale, thanked the Council for renaming the West Park Recreation Center to Georgia Farrow Recreation Center at West Park. She also thanked Managing Director of Community Services Paul Gooch for all his hard work on this.

Freda Boatright, 1702 Waldrop, was not present to speak.

ATTEST:

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Herbert A. Gears, Mayor

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Janice Carroll, TRMC  
City Secretary