

**REGULAR MEETING OF THE IRVING CITY COUNCIL
MEETING MINUTES
May 28, 2009**

The City Council met in regular session in the Council Conference room due to a power outage at the City Hall Complex on Thursday, May 28, 2009. The following members were present / absent:

| Attendee Name | Organization | Title | Status | Arrived |
|----------------------|---------------------|--------------|---------------|----------------|
| Herbert Gears | Irving City Council | Mayor | Present | |
| Beth Van Duynes | Irving City Council | Councilwoman | Present | |
| Allan Meagher | Irving City Council | Councilman | Present | |
| Lewis Patrick | Irving City Council | Councilman | Present | |
| Rick Stopfer | Irving City Council | Councilman | Present | |
| Sam Smith | Irving City Council | Councilman | Present | |
| Joe Philipp | Irving City Council | Councilman | Present | |
| Rose Cannaday | Irving City Council | Councilwoman | Present | |
| Thomas Spink | Irving City Council | Councilman | Present | |

ORGANIZATIONAL SERVICE ANNOUNCEMENTS

There were no organizational or service announcements made.

INVOCATION

The invocation was delivered by Reverend Deborah R. Jones, First Christian Church in the City Of Irving, Texas.

PLEDGE OF ALLEGIANCE

Councilman Patrick led those present in the pledge.

OATH OF OFFICE

Mayor Gears introduced Judge Timothy Whisler, Presiding Municipal Court Judge for the city of Irving, to administer the Oath of Office to the incumbents: Councilman Lewis Patrick, Place Four; Councilman Rick Stopfer, Place Six, and Council Joe Philipp, Place Eight, Mayor Gears also announced that following Proclamations and Announcements, there would be a brief reception.

PROCLAMATIONS AND ANNOUNCEMENTS

High Spirited Citizen Award:

Mayor Gears presented Mrs. Carolyn Singley with the High Spirited Citizen Award honoring her husband, Jack Singley. Mr. Singley served as the Superintendent of the Irving Independent School District since October of 1988. Mayor Gears also presented Mrs. Singley with the Mayor's "Unbridled Spirit" award in honor of his forty-four year career with the Irving Independent School District.

Public Hearing

- 1 Public Hearing No. (ID # 2633) -- Public Input on the 2009-2010 City of Irving Fiscal Year Budget**

Mayor Gears stated that citizens are invited to comment upon City operations and to express their views as to how funds should be expended.

Jerry W. Wicker, Retiree of the City of Irving, spoke in support of House Bill 1358; this bill has to do with cost of living adjustments for retirees. He asked that the City Council provide funding in the 2009-2010 Fiscal Year Budget to provide for the reinstatement of the cost of living adjustment for city retirees.

CITY COUNCIL AGENDA

- 2 City Manager's Strategic Plan Update**

City Manager Tommy Gonzalez announced that a video would be shown on the Strategic Plan Update.

CONSENT AGENDA

The consent agenda items 3-31 were considered for approval. Mayor Gears stated that no action would be taken on item #20, and that Councilwoman Beth Van Duyne will be voting against Item #15. **Councilman Philipp moved to approve the consent agenda items 3-31, excluding item #20. Seconded by Councilman Patrick, the motion was approved by a vote of 9-0.**

- 3 Approving Minutes for Wednesday, May 13, 2009**

- 4 Approving Minutes for Thursday, May 14, 2009**

- 5 Approving Minutes for Wednesday, May 20, 2009**

- 6 Resolution No. RES-2009-217 -- Supporting "The Potential Economic and Fiscal Impacts of Transit-Oriented Development along the DART Orange Line" Report Findings**

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|------------------|---|
| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 7 **Resolution No. RES-2009-218** -- Approving a Temporary Use Permit #G0905-0111 - to Allow a Temporary Mobile Unit in the Parking Lot of the Las Colinas Cancer Center / PET/CT of Las Colinas Located at 7415 Las Colinas Boulevard - Kevin Currans, Applicant

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 8 **Resolution No. RES-2009-219** -- Amending Resolution No. 9-22-83-573 Relating to the Designation of Appointed Members of the Administrative Board of the City of Irving Supplemental Benefit Plan

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 9 **Resolution No. RES-2009-220** -- Approving an Engineering Design Services and Construction Administration Agreement with Glenn Engineering Corporation for Phase I Undergrounding of Existing Aerial Utilities at Various Locations in Las Colinas

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 10 **Resolution No. RES-2009-221** -- Approving Amendment No. 1 to the Escrow Agreement Between the City of Irving and the Cottonwood Valley Homeowner's Association for the Reconstruction of Street and Drainage Improvements within Cottonwood Valley

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 11 **Resolution No. RES-2009-222** -- Awarding a Contract to McMahon Contracting, LP, for the Cottonwood Valley Utility Improvements, Section I and Cottonwood Valley Pavement Reconstruction, Phase I Project

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Lewis Patrick, Councilman |
| SECONDER: | Joe Philipp, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 12 **Resolution No. RES-2009-165** -- Awarding a Contract to MACVAL Associates, LLC, for the 2008 Sanitary Sewer Main Replacement, Section IV Project

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 13 Resolution No. RES-2009-223 --** Ratifying and Approving Change Order No. 1 to Canary Construction, Inc., for the 2008 Sanitary Sewer Main Replacement, Section III Project

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 14 Resolution No. RES-2009-224 --** Approving an Addendum to an Agreement Between the City of Irving and American Traffic Solutions for Automated Red Light Program and Right of Way Use

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 15 Resolution No. RES-2009-225 --** Authorizing the Mayor to Execute a Parking Lease Agreement Between SP Millennium Center, L.P. and the City of Irving to Provide Additional Parking for the Entertainment Venue

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| RESULT: | ADOPTED [8 TO 1] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |
| NAYS: | Beth Van Duyne |

- 16 Resolution No. RES-2009-226 -- Approving Amendment No. 1 to the Master Development Agreement - Water Street**

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 17 Resolution No. RES-2009-227 -- Awarding an Engineering Services Agreement with Freese and Nichols, Inc., for Improvements to the Hackberry and Northgate Pump Stations**

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 18 Resolution No. RES-2009-228 -- Approving Addendum No. 1 with Westin Engineering, Inc., for Development of the Cityworks Asset Maintenance Management System (AMMS)**

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 19 Resolution No. RES-2009-229 --** Approving Addendum No. 1 to the Agreement with Chiang, Patel & Yerby, Inc., to Update the Supervisory Control and Data Acquisition (SCADA) System

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 20 Resolution No. RES-2009-230 --** Request for Approval to Apply for and Accept Neighborhood Stabilization Program (2) Funding in the Amount of \$5,000,000.00

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| RESULT: | POSTPONED NO VOTE Next: 6/25/2009 7:00 PM |
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- 21 Resolution No. RES-2009-231 --** Authorization to Submit a Substantial Amendment to the 2004-2008 Consolidated Plan and the 2008 Action Plan to the U.S. Department of Housing and Urban Development for the Use of Community Development Block Grant - Recovery (CDBG-R) Funds in the Amount of \$608,703.00

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 22 Resolution No. RES-2009-232 -- Approving Reallocation of Community Development Block Grant Funds to Irving Cares in the Amount of \$2,000.00**

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 23 Resolution No. RES-2009-233 -- Renewing Annual Contract with Huguley Assessment Center for Health and Fitness Services for the Irving Fire and Police Departments**

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 24 Resolution No. RES-2009-234 -- Renewing the Annual Contract with Speedy Janitorial Service, Inc., for Custodial Maintenance Service for the Valley View Municipal Complex**

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 25 Resolution No. RES-2009-235 -- Renewing the Annual Contract with K & L Supply, Inc., for Sewer Chemicals, Degreasers, and Deodorants**

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 26 Resolution No. RES-2009-236** -- Approving Purchase from Holt Cat for an Articulating Dump Truck through the State of Texas Local Government Statewide Cooperative Purchasing Program Administered by the Texas Association of School Boards (the BuyBoard Program)

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 27 Resolution No. RES-2009-237** -- Rejecting Bids for an Animal Incinerator/Crematory System

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 28 Resolution No. RES-2009-238** -- Approving and Accepting the Bids of Holt Texas, LTD., dba Holt Cat; Landmark Equipment Co., Inc.; Conley Lott Nichols of Texas, Inc.; and Stewart & Stevenson LLC, for Annual Contracts to provide Heavy Equipment Maintenance

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 29 Resolution No. RES-2009-239** -- Approving and Accepting the Proposals of Green Planet, Inc., Eagle Construction & Environmental Services, LLC, and W. Two Plus, Inc., for Annual Contracts to Provide Regulated Environmental Risk Services

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 30 Ordinance No. ORD-2009-9076** -- Consider and Take Action on an Ordinance Authorizing the Issuance of City of Irving, Texas, General Obligation Refunding and Improvement Bonds, Series 2009, in an Aggregate Principal Amount Not to Exceed \$53,615,000; Providing for the Award of the Sale Thereof in Accordance with Specified Parameters; Authorizing the Execution and Delivery of a Purchase Contract Relating to Said Bonds; Authorizing the Execution and Delivery of a Paying Agent/Registrar Agreement, an Escrow Agreement and a Disclosure Counsel Engagement Letter; Approving the Official Statement; and Enacting Other Provisions Incident and Relating to the Subject and Purposes of This Ordinance

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 31 Ordinance No. ORD-2009-9077** -- Consider and Take Action on Ordinance Providing for the Issuance of City of Irving, Texas, Waterworks and Sewer System New Lien Revenue Refunding and Improvement Bonds, Series 2009, in

an Aggregate Principal Amount Not to Exceed \$30,000,000; Providing for the Award of the Sale Thereof in Accordance with Specified Parameters; Authorizing the Execution and Delivery of Bond Purchase Agreement Relating to Such Bonds; Authorizing the Execution and Delivery of a Paying Agent/Registrar Agreement, a Disclosure Counsel Engagement Letter and an Escrow Agreement; Approving the Official Statement and Enacting Other Provisions Incident and Relating to the Subject and Purposes of This Ordinance

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Lewis Patrick, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

INDIVIDUAL CONSIDERATION

32 Resolution No. RES-2009-240 -- Settlement of a Lawsuit with Shin Ho "Sam" Kim D/B/A Texas Lunch Box

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

The following registered to speak in favor of this settlement.

The applicant, Sam Kim, 1401 Elm Street #200, Dallas, Texas 75201, gave a presentation on this item.

Ryan Cosgrove, the applicant's attorney 6035 Kenwood Avenue, Dallas, Texas 75206, gave a presentation on this item.

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| RESULT: | DENIED [UNANIMOUS] |
| MOVER: | Joe Philipp, Councilman |
| SECONDER: | Sam Smith, Councilman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

ZONING CASES AND COMPANION ITEMS

- 33 Ordinance No. ORD-2009-9078** -- Zoning Case #ZC09-0010 - Granting S-P-2 (Generalized Site Plan) for ML-20a (Light Industrial) Uses - Approximately 10.68 Acres Located at 9000-9010 North Royal Lane - FreedomPark, LP, Applicant - ProLogis, Inc., Owner

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

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Rick Stopfer, Councilman |
| SECONDER: | Rose Cannaday, Councilwoman |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 34 Ordinance No. ORD-2009-9079** -- Zoning Case #ZC09-0011 - Granting S-P-1 (Detailed Site Plan) for Telecommunications Tower and Equipment Building - Approximately 1,200 Square Feet Located at 409 North Briery Road - Zone Systems, Inc., Applicant - Dessert Dreams, Inc., Owner

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

Peter Kavanagh, 1620 Hanley Drive, Suite A, Dallas, Texas 75208 representing the applicant, presented the case.

Mayor Gears noted that this item required a $\frac{3}{4}$ vote of the entire City Council.

Mayor Gears asked the Mr. Kavanagh if this property would have a flag pole.

Mr. Kavanagh stated that it would not have a flag pole.

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Rick Stopfer, Councilman |
| SECONDER: | Lewis Patrick, Joe Philipp |
| AYES: | Gears, Van Duyne, Meagher, Patrick, Stopfer, Smith, Philipp, Cannaday, Spink |

- 35 Ordinance No. ORD-2009-9080** -- Zoning Case #ZC09-0022 - Granting S-P-2 (Generalized Site Plan) for R-7.5 (Single Family) Uses - Approximately 0.49

Acres Located at 1510 and 1518 Jody Lane (North Side of Jody Lane at Sunnybrook Drive) - JDJR Engineers, Applicant - Bueal and Phyllis George, Owners

Mayor Gears introduced the item.

Director of Real Estate and Development Brenda McDonald stated that this item was withdrawn at the request of the applicant and that no action by the Council is required.

RESULT:

WITHDRAWN NO VOTE

APPOINTMENTS AND REPORTS

36 Adjournment

The meeting adjourned at 8:15p.m.

Citizens' Forum

Holly Niederhaus, Glenbrook Drive, Chair of the Animal Services Committee, addressed the Mayor and Council regarding the animal shelter operations and the ongoing "Six Sigma" process. She asked for a copy of the Six Sigma document.

Clare Morris, 8605 Forest Glen Drive, 8605 Forest Glen Drive, also addressed the Animal Shelter. She expressed her concerns about the operation of the shelter.

Betty Yarbrough, 204 W. 7th Street, also addressed the Animal Shelter's operations and the lack of funding to improve the operations.

Herbert A Gears, Mayor

ATTEST:

Janice Carroll, TRMC
City Secretary