

**WORK SESSION MEETING OF THE IRVING CITY COUNCIL
MEETING MINUTES
March 2, 2011**

The Irving City Council met in work session March 2, 2011 at 11:07 a.m. The following members were present/absent:

Attendee Name	Organization	Title	Status	Arrived
Herbert Gears	Irving City Council	Mayor	Present	
Allan Meagher	Irving City Council	Councilman	Present	
Lewis Patrick	Irving City Council	Councilman	Present	
Rick Stopfer	Irving City Council	Councilman	Present	
Gerald Farris	Irving City Council	Councilman	Present	
Joe Philipp	Irving City Council	Councilman	Present	
Rose Cannaday	Irving City Council	Councilwoman	Present	
Roy Santoscoy	Irving City Council	Councilman	Present	
Mike Gallaway	Irving City Council	Councilman	Present	

DISCUSSION TOPIC

1 Digital Cities Award Presentation

Brett Smith with McAfee presented the City of Irving with the Digital Cities Award on behalf of the Center for Digital Government for ranking in the top 10 cities in operational efficiencies and strategic intentions.

2 Review of Regular Agenda

7 Resolution -- Approving the City of Irving Annual Investment Policy

Brad Duff, Assistant Chief Financial Officer, gave an overview of the City's investment policy.

There will be no changes to the general investment policy that has been presented. He provided a brief presentation of the investment portfolio for Irving.

8 Resolution -- Approving an Addendum to the Agreement for Legal Services with Lynn, Pham & Ross, L.L.P.

The Council requested performance information from this firm and possible postponement of this item pending the performance information.

16 Ordinance -- Amending Section 35 - Subdivisions of Part IV City of Irving Land Development Code to Require Utilities to be Installed Underground with New Development (Postponed from January 13, 2011)

Steven Reed, Planning & Development Manager, stated that this ordinance requires all new utilities be installed underground, noting that this requirement has already been established in the Heritage District and the SH 183 Overlay.

ZONING CASES AND COMPANION ITEMS

- 17 Ordinance -- Zoning Case #ZC10-0053 - Granting S-P-1 (Detailed Site Plan) for P-O (Professional Office) Uses - Approximately 0.7 Acres Located at 609 and 615 North MacArthur Boulevard - Othman Hindieh, Applicant/Owner

Ken Bloom, Chief Planner, presented the applicant's request. Staff recommends approval of this item.

- 18 Ordinance -- Zoning Case #ZC11-0001 - Amending Comprehensive Zoning Ordinance No. 1144 of the City of Irving, Texas, By Amending Section 52-35e. Nondepository Financial Institutions and Repealing Chapter 38 Entitled "Business Registration" of The Code of Civil and Criminal Ordinances of the City of Irving, Texas - City of Irving, Applicant

Ken Bloom, Chief Planner, stated that it is requested that Council postpone this item to the March 24 Council meeting.

3 Green Advisory Committee Update

This item is being postponed.

4 Green Fleet Initiatives

This item is being postponed.

5 West Irving Library Environmental Initiatives

This item is being postponed.

6 Volunteers in Policing

This item is being postponed.

8 Personnel – Chief, Irving Fire Department

Chief Molina's legal representation requested that this item be held in open session.

Chief Molina briefed the Council on the cases he has been asked to review.

The first case involved a complaint made by a captain regarding age discrimination comments and an investigation of the complaint was conducted by the city's Professional Standards Division. Chief Molina received the investigation report, presented the contents of that investigation to that accused party and took actions accordingly. He noted in this case, his determination was to indefinitely suspend the battalion chief.

The second investigation involved an assistant chief that was aware of the age discrimination and had discussions with the battalion chief regarding planned comments to be made to the captain about his age and recommending he retire. He noted that the investigation found that the assistant chief made no effort to stop the discrimination or discuss the situation with his supervisor. Chief Molina received the investigation report, presented the contents of that investigation to that accused party to provide feedback. He noted in this case, his recommendation is for demotion which will be determined by the Civil Service Commission.

The third case involved a personnel issue in October 2009. There was a murder suicide in the Irving community. One of the fire members at the crime scene used his cell phone to take pictures of the scene of the crime and shared those pictures with friends, family and colleagues. According to Chief Molina, this is in violation of department, city, HIPPA, and federal policies. As a result, the case was investigated and the determination was for the employee to be terminated. When Chief Molina presented the letter of termination, the employee instead asked if he could resign and Chief Molina allowed him to do so.

Chief Molina described the investigation process involving the Professional Standards Division conducting the investigation and consultation with the City Attorney's Office before a decision is made. He noted that in the cases involving age discrimination, the City Attorney's Office also consulted with outside legal counsel.

Councilman Philipp asked if Chief Molina felt any political influence when coming to his decisions in these cases.

Chief Molina clarified that no political influence was placed when making his determinations; however, he has received communication for certain Council members afterward in hopes of changing his decisions for the "greater good".

Mayor Gears clarified that Chief Molina's performance should be reviewed by Tommy Gonzalez, City Manager, but as it is on the agenda, Council will evaluate Chief Molina. He noted the need to treat all employees fairly and discussed his concern with severe punishment which is causing Fire Department employees to not feel supported under Chief Molina's leadership. Mayor Gears questioned the determination of terminating an employee versus demotion or other discipline that may fit the employee's infraction.

Chief Molina confirmed that his review of the case and the policies that were violated resulted in his determination for indefinite suspension.

Mr. Anderson confirmed that when a civil service employee is disciplined they have the option to appeal to the independent hearing examiner or the Civil Service Commission and then the district court.

Mayor Gears closed the discussion noting his concern that one infraction from the battalion chief did not constitute him incompetent to hold any position within the fire department and that termination was too harsh a punishment.

Council recessed at approximately 1:26 p.m.
Council reconvened at approximately 2:15 p.m.

EXECUTIVE SESSION

Council convened into executive session pursuant to Section 551.071 and Section 551.074 of the Texas Local Government Code at approximately 2:15 p.m.

- 7 Legal Advice - Donald Wayne Good v. the City of Irving, Texas, Irving Police Department, Chief of Police for the City of Irving, Individually and in His Official Capacity, and Fred Curtis, Individually and in His Official Capacity
Texas Open Meetings Act § 551.071
- 9 Personnel - City Manager Contract Review (requested by Mayor Gears)
Texas Open Meetings Act § 551.074

Council reconvened from executive session at approximately 4:15 p.m.
Council adjourned at 4:15 p.m.

Herbert A. Gears, Mayor

ATTEST:

Shanae Jennings, TRMC
City Secretary