

STATE OF TEXAS
COUNTY OF DENTON
TOWN OF DOUBLE OAK

The Double Oak Town Council met in regular session at 7:00 p.m. October 17, 2016 at the Double Oak Town Hall, located at 320 Waketon Road with the following members present to-wit:

Mike Donnelly	Mayor
Steve Durbin	Mayor Pro-Tem
Ted Gruenloh	Deputy Mayor Pro-Tem
Ara Minassian	Council Member
Anita Nelson	Council Member
Andrew Wills	Council Member

Also in attendance were Town Attorney David Berman, Police Chief Derrick Watson, Public Works Director Charlie Wright, Town Secretary Charlotte Allen and Assistant Town Secretary Eileen Kennedy.

Mayor Donnelly called the meeting to order at 7:00 p.m.

Mayor Pro-Tem Durbin gave the invocation.

Council Member Wills led the pledge of allegiance to the American and Texas flags

Mayor Donnelly asked the audience to remain standing to observe a moment of silence in memory of Deputy Town Treasurer Bob Schram

Council Member Wills introduced his wife Lisa and his parents who were in the audience.

II. CONSENT AGENDA

1. CONSIDERATION AND ACTION ON THE MINUTES OF SEPTEMBER 19, 2016
2. CONSIDERATION AND ACTION ON THE MINUTES OF OCTOBER 3, 2016
3. CONSIDERATION AND ACTION ON PAYMENT TO 1-2 TREE, LLC FOR TREE REMOVAL AND STUMP GRINDING IN THE AMOUNT OF \$1,100

Durbin motion, Wills second to approve the Consent Agenda

AYE: Minassian, Nelson, Wills, Durbin, Gruenloh
NAY: None

MOTION CARRIED UNANIMOUSLY

III. CITIZENS COMMENTS

No citizens came forward.

IV. MAYOR, COUNCIL MEMBERS AND STAFF REPORTS

4. Mayor and Council

No reports were given.

5. Public Works and Code Enforcement

Director of Public Works Charlie Wright reported:

- Road sign hardware had been received which would enable him to begin replacing signs
- He was driving Double Oak roads and sending Code Enforcement letters as required

6. Administration

Town Secretary Charlotte Allen reported early voting for the November 8 election would be held at Town Hall beginning on Monday, October 24

7. Public Safety

Police Chief Derrick Watson reported the Police call report would be presented at the next Council meeting

IV. NEW BUSINESS AGENDA (CONSIDERATION AND ACTION):

Mayor Donnelly moved agenda items 9, 10 and 11 forward in the agenda order

9. DISCUSSION, CONSIDERATION AND ACTION ON THE PURCHASE OF A 2016 DODGE POLICE CHARGER FROM DODGE CITY MCKINNEY IN THE AMOUNT OF \$23,795

Police Lieutenant Ruben Rivas reported:

- This was actually a 2017 model vehicle
- A portion of the \$23,795 could be reduced with the sale of a current Police vehicle

Minassian motion, Nelson to approve the purchase of a 2017 Dodge Police Charger for \$23,795

AYE: Durbin, Wills, Gruenloh, Minassian, Nelson

NAY: None

MOTION CARRIED UNANIMOUSLY

10. DISCUSSION, CONSIDERATION AND ACTION ON THE PURCHASE OF POLICE CAR EQUIPMENT AND INSTALLATION FROM DEFENDER SUPPLY IN THE AMOUNT OF \$11,106

Minassian motion, Gruenloh second to approve the purchase of Police car equipment in the amount of \$11,106

AYE: Gruenloh, Minassian, Nelson, Wills, Durbin
NAY: None

MOTION CARRIED UNANIMOUSLY

11. DISCUSSION, CONSIDERATION AND ACTION ON QUOTE FROM GRAFIX SHOPPE FOR REFLECTIVE FULL GRAPHICS CUSTOM BADGE FOR 2017 DODGE CHARGER IN THE AMOUNT OF \$396

Minassian motion, Wills second to approve the purchase of graphics custom badge for the 2017 Dodge Charger in the amount of \$396

AYE: Minassian, Nelson, Wills, Durbin, Gruenloh
NAY: None

MOTION CARRIED UNANIMOUSLY

8. DISCUSSION, CONSIDERATION AND ACTION ON AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO RENEW AND EXTEND A SPECIFIC USE PERMIT FOR PART OF LOT 5, BLOCK A, CROSSROADS BIBLE CHURCH ADDITION, BEING LOCATED AT 8301 JUSTIN ROAD, ALLOWING THE USE OF THE PROPERTY FOR SEASONAL RETAIL SALES

Ms. Lisa Hildinger, 8451 Justin Road, the petitioner, stated she was asking for a renewal of her Specific Use Permit

Dr. John Gomez, 8501 Justin Road, stated:

- he was concerned about the SUP
- he did not feel this was a fit with the capital structures of other business owners
- it was not congruent with what the Town had in mind long term
- when did a temporary business become permanent
- his second concern was Code Enforcement and the period in between seasons
- the current temporary structures, for the most part, had stayed up
- there were deed restrictions in place and he felt those should be enforced
- based on these things, he was voicing his opposition

Deputy Mayor Pro-Tem Gruenloh asked Dr. Gomez to explain his statement about deed restrictions

Dr. Gomez responded:

- when he purchased his property the deed restrictions were only changeable by unanimous consent of the property owners
- Lisa's Flowers rented the property from Mike McDaniel
- currently the business was in violation of those deed restrictions
- this summer a new Board of Directors was elected
- he was not speaking for the business owners – he was speaking as an individual

Ms. Hildinger responded:

- the SUP specifically states seasonal retail sales which could be renewed each year at the Council's discretion
- this past year, she was allowed to keep the structures up when they were working through other permitting requests
- in December those the structures would be removed
- as a tenant, she had not been informed of anything from the Business Owners Association
- the church had specifically said they had no issues with her operating her business
- the deed restrictions are attached to land, separate from the Business Owners Association
- she was not violating the church's deed restrictions.

Mr. Jared Rosckes, 125 Chinn Chapel, stated:

- the challenge or the issue that he had was 2-fold
- the first challenge was how long to allow a temporary or seasonal business there that isn't required to pay the fees/allocations like the rest of the development versus someone who wanted to build a permanent structure for a permanent business there
- he was not speaking in terms of the Business Property Owners Association
- there was a document with two separate addendums filed with the County in 2003 listing the deed restrictions
- it appears the Association selectively enforces those when it is beneficial to certain people
- at some point the Association would start enforcement as they should have since day 1
- he personally could say it was detrimentally enforced against him
- Lisa's a tenant but when the landlord is not playing by the same rules, it's a challenge

Mr. Charlie Ridenour, 8101 Justin Road, representing Crossroads Bible Church, stated:

- the church supported Lisa's Flowers wholeheartedly
- the church would like to see capital investment similar to other business owners on the block

Ms. Hildinger responded:

- as a seasonal business, capital improvements were not possible
- a Business Owners Association was new to her
- when the new shopping center came in with new tenants, were they going to be handled the same way
- she was following her ordinance and had not been told of anything she was not maintaining properly
- there would be no further improvement until the owner chose to put it up for sale and that could be a long time
- she was very confused about what violations that could be
- she had been approved by the church all this time

Dr. John Gomez:

- she had been operating under a waiver granted by the Business Owners Association prior President Mike McDaniel

Mayor Donnelly asked Mr. Ridenour if the church had given or not given approval, for Lisa's Flowers?

Mr. Ridenour responded;

- he was not aware of any approval that the church had given or not given
- he did not think they were approached in that – that was between her and her landlord

Ms. Hildinger stated:

- she had a transcript of the December 7 Council meeting where Ian Cook had said “When we were approached by Lisa and asked if we had an issue with the sale of seasonal flowers; we said no and we still don't have an issue”

Mayor Donnelly stated:

- looking at the original ordinance the only thing that had been removed was item 3 about the left hand turn because the median went in
- reading from 11-09, #2 “The Specific Use Permit granted herein is for a temporary business and shall be treated as such.” It speaks to seasonal sales, pumpkins, Christmas trees, and such. “As a temporary business, all buildings and structures shall be removed from the property when the business ceases to operate for four (4) consecutive weeks or more. Buildings and structures shall not be installed or re-installed more than 2 weeks prior” and so forth... “Business operations shall be limited to no more than 40 weeks in any calendar year”
- he wanted to point out for clarification that the original ordinance did say “a temporary business”

Mayor Pro-Tem Durbin stated that he would personally like to hear from the other business owners – Dr. Wood and Mr. McDaniel as to their position before it came to a vote

Council Member Minassian stated:

- his understanding was that there was no one wanting to buy that land or it's not for sale
- other lots were for sale and other areas for business development

Council Member Nelson asked what would it hurt to wait one more month to hear what the other owners had to say

Council Member Minassian stated the Council had nothing to do with the Business Owners Association

Mayor Pro-Tem Durbin stated:

- his concern was that the other business owners had invested hundreds of thousands of dollars in their structures and their businesses
- the Council was continuing to allow a temporary business to remain there without making similar investments

Council Member Nelson stated:

- she did not know if it was their place not to grant an ordinance based on business owners' covenants or church deed restrictions

Ms. Hildinger stated:

- a delay was harmful for planning and ordering products

Town Attorney David Berman stated:

- there is a new recourse here outside of our purview
- the question is do we want to be the ones that affect Lisa's Flowers or do we want to let the other businesses figure it out

Council Member Wills stated:

- each one was notified on September 30 that this item would be discussed at this meeting
- we had 2 of them show up to express their concerns, 3 including the church
- the ones that did show up only expressed concerns regarding capital improvements
- if the businesses could not speak to exactly what their problems were then the Council could not address the issues

Mr. Jared Rosckes responded:

- selectively enforcing deed restrictions or covenants when you want to enforce them is not acceptable
- as a Business Owners Association, the business owners are trying to get together and do what should have been done since 2003 when they were filed

Council Member Wills stated:

- There were a lot of cloudy things that evidently had never been discussed or come to light in meetings where the ordinance had been passed

Mayor Donnelly asked Ms. Hildinger to provide a calendar showing exactly when the business was to be open and when it was to be closed.

Mr. Mark Rose, 308 East Carruth stated:

- The Hildingers were long-time Double Oak residents
- The business brought in sales tax funds for the Town
- He was in favor of the Specific Use Permit

Mr. Gary Garrett, 120 Trailing Oaks Drive, asked if Ms. Hildinger had plans to relocate outside Double Oak.

Council Member Minassian stated:

- Ms. Hildinger was there first
- He understood the Business Owners Association position
- He thought the Council should approve a 2-year extension on the Specific Use Permit

Deputy Mayor Pro-Tem Gruenloh stated he appreciated the businesses in Double Oak

Council Member Wills stated he understood that the permanent businesses' problem was with owner of the property being discussed.

Mayor Donnelly stated:

- The Town does not get involved with deed restrictions
- He recommended to table this item to the November 7 Council meeting
- This would allow Ms. Hildinger to provide a calendar to staff of when the business would be open and when it would be closed

Minassian motion to approve the SUP for 1 year, Ms. Hildinger to provide staff with information on when the business was to be open and when it was to be closed, and when closed not to have to remove the ground cloth, gravel and low laying barrier

MOTION DIED FOR LACK OF A SECOND

Gruenloh motion, Nelson second to table the item to the November 7 Council meeting

AYE: Wills, Durbin, Gruenloh, Nelson
NAY: Minassian

MOTION TO TABLE TO THE NOVEMBER 7 COUNCIL MEETING PASSED 4 TO 1

AGENDA ITEMS 12, 13 AND 14 WERE PASSED IN THE AGENDA ORDER

12. DISCUSSION, CONSIDERATION AND ACTION ON SELECTION OF INFORMATION TECHNOLOGY SERVICES FOR THE TOWN OF DOUBLE OAK BASED UPON COMMITTEE RECOMMENDATIONS
13. DISCUSSION AND CONSIDERATION ON TOWN AUTHORITY REGARDING HOMEOWNER ASSOCIATIONS
14. DISCUSSION, CONSIDERATION AND ACTION ON THE TOWN OF DOUBLE OAK'S PARTICIPATION IN THE TxDOT GREEN RIBBON FUND GRANT PROGRAM AND/OR LANDSCAPING AND IRRIGATION ALONG FM-407 AT DOUBLE OAK

The Council convened into the Executive Session at 8:57 p.m.

15. THE TOWN COUNCIL SHALL CONVENE IN CLOSED EXECUTIVE SESSION UNDER SECTION 551.071, TEXAS GOVERNMENT CODE, (CONSULTATION WITH ATTORNEY) TO RECEIVE LEGAL ADVICE FROM THE TOWN ATTORNEY REGARDING PROPOSALS RECEIVED FOR INFORMATION TECHNOLOGY SERVICES
16. THE TOWN COUNCIL SHALL CONVENE IN CLOSED EXECUTIVE SESSION UNDER SECTION 551.071, TEXAS GOVERNMENT CODE, (CONSULTATION WITH ATTORNEY) TO RECEIVE LEGAL ADVICE FROM THE TOWN ATTORNEY REGARDING THE SOLID WASTE COLLECTION AGREEMENT WITH WASTE MANAGEMENT OF TEXAS INCLUDING SETTLEMENTS AND AMENDMENTS
17. THE COUNCIL SHALL CONVENE IN CLOSED, EXECUTIVE SESSION UNDER SECTION 551.071, TEXAS GOVERNMENT CODE (LEGAL CONSULTATION), TO RECEIVE LEGAL ADVICE FROM THE TOWN ATTORNEY REGARDING

PENDING/CONTEMPLATED LITIGATION AND MATTERS IN WHICH DUTIES UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT CLEARLY CONFLICT WITH THE OPEN MEETINGS ACT, RELATING TO PROPERTY LOCATED AT 221 SIMMONS ROAD

18. RECONVENE INTO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION

The Council reconvened in Open Session at 9:58 p.m.

12. DISCUSSION, CONSIDERATION AND ACTION ON SELECTION OF INFORMATION TECHNOLOGY SERVICES FOR THE TOWN OF DOUBLE OAK BASED UPON COMMITTEE RECOMMENDATIONS

Police Chief Derrick Watson stated the committee was recommending Datamax.

Wills motion, Minassian second to authorize the Mayor to enter into a contract with Datamax for technology services

AYE: Durbin, Wills, Gruenloh, Minassian, Nelson
NAY: None

MOTION CARRIED UNANIMOUSLY

16. THE TOWN COUNCIL SHALL CONVENE IN CLOSED EXECUTIVE SESSION UNDER SECTION 551.071, TEXAS GOVERNMENT CODE, (CONSULTATION WITH ATTORNEY) TO RECEIVE LEGAL ADVICE FROM THE TOWN ATTORNEY REGARDING THE SOLID WASTE COLLECTION AGREEMENT WITH WASTE MANAGEMENT OF TEXAS INCLUDING SETTLEMENTS AND AMENDMENTS

Wills motion, Nelson second to accept the Waste Management recycle refund as previously restated and to authorize the Mayor to amend the current contract to allow residents access to the landfill once per month with proper Double Oak ID

AYE: Gruenloh, Minassian, Nelson, Wills, Durbin
NAY: None

MOTION CARRIED UNANIMOUSLY

17. THE COUNCIL SHALL CONVENE IN CLOSED, EXECUTIVE SESSION UNDER SECTION 551.071, TEXAS GOVERNMENT CODE (LEGAL CONSULTATION), TO RECEIVE LEGAL ADVICE FROM THE TOWN ATTORNEY REGARDING PENDING/CONTEMPLATED LITIGATION AND MATTERS IN WHICH DUTIES UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT CLEARLY CONFLICT WITH THE OPEN MEETINGS ACT, RELATING TO PROPERTY LOCATED AT 221 SIMMONS ROAD

NO ACTION WAS TAKEN ON AGENDA ITEM 17

13. DISCUSSION AND CONSIDERATION ON TOWN AUTHORITY REGARDING HOMEOWNER ASSOCIATIONS
14. DISCUSSION, CONSIDERATION AND ACTION ON THE TOWN OF DOUBLE OAK'S PARTICIPATION IN THE TxDOT GREEN RIBBON FUND GRANT PROGRAM AND/OR LANDSCAPING AND IRRIGATION ALONG FM-407 AT DOUBLE OAK

AGENDA ITEMS 13 AND 14 WERE TAKEN TOGETHER. NO ACTION WAS TAKEN

19. CITIZENS COMMENTS

No citizens came forward.

20. COUNCIL – STAFF ANNOUNCEMENTS AND COMMENTS:

- Police Chief Derrick Watson thanked everyone for the success of National Night Out
- Mayor Donnelly announced that early voting for the November 8 election will be held at Town Hall beginning on Monday, October 24 through Friday, November 4

21. ADJOURNMENT

Durbin motion, Gruenloh second to adjourn.

With no further business to come before the Council, the meeting was adjourned at 10:38 p.m.

Town Secretary

Mayor

Double Oak Town Council

October 17, 2016

Page 11

C: My Files/Council Minutes/Fiscal Year 2017/10-17-16