



**REGULAR CITY COUNCIL MEETING
FRISCO CITY HALL
GEORGE A. PUREFOY MUNICIPAL CENTER
COUNCIL CHAMBERS
6101 FRISCO SQUARE BLVD.
FRISCO, TEXAS 75034**

5:30 PM

TUESDAY, MAY 05, 2009

MINUTES

Mayor	Maher Maso	Present
Mayor Pro Tem	Tony Felker	Present
Deputy Mayor Pro Tem	Joy West	Present
Council Member	Scott Johnson	Present
Council Member	Jeff Cheney	Present
Council Member	David Prince	Present
Council Member	Bart Crowder	Present

CALL TO ORDER

1. ROLL CALL

Representing staff were City Manager, George Purefoy; Deputy City Manager, Henry Hill; Assistant City Manager, Nell Lange; Assistant City Manager, Ron Patterson; Assistant Director of Engineering Services, Brian Moen; Parks and Recreation Director, Rick Wieland; Director of Library Services, Shelley Holley; Director of Planning & Development, John Lettelleir; Development Coordinator, Scott Ingalls; City Attorney, Richard Abernathy, and City Secretary, Jenny Page

CLOSED SESSION

2. Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code, to wit;

Jeff Cheney moved to Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code, to wit; at 5:34 p.m. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

- A. Section 551.071. Meeting with City Attorney regarding a matter(s) in which the duty of the City Attorney under the Texas Disciplinary rules of Professional Conduct of the State Bar of Texas conflicts with the Open Meetings Act regarding:
 - i. Legal advice and issues regarding converting public streets to private streets.
 - ii. Legal advice and issues regarding noise on Preston Road north of Eldorado Parkway.
 - iii. Legal advice regarding Civil Action #4:09-CV-49 pending in the United States District Court for the Eastern District of Texas in the case styled Francis Key v. Babe's – Frisco, LLC, Paul Vinyard, and City of Frisco, Texas.
 - B. Section 551.072. To deliberate the purchase, exchange, lease or value or real property located:
 - i. South of US 380, North of The Colony city limits, East of FM 423, and West of Hillcrest Road.
 - C. Section 551.087. Deliberation regarding commercial or financial information that the City has received from a business prospect and to deliberate the offer or other incentives to a business prospect.
 - D. Section 551.074. Deliberation regarding the annual evaluation of Richard Abernathy (City Attorney).
3. Reconvene into Regular Session and take any action necessary as a result of the Closed Session.

David Prince moved to Reconvene into Regular Session at 6:48 p.m. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

Mayor Maso announced there was no action taken as a result of Executive Session.

INVOCATION

David Prince led the invocation.

PLEDGE OF ALLEGIANCE

Sean Corcoran led the audience in the Pledge of Allegiance and the Texas Pledge of Allegiance. Sean is a 7th grader at Pioneer Heritage Middle School and is attending tonight's meeting to earn a merit badge in communications.

PROCLAMATIONS

4. Travel and Tourism Week

Mayor Maso proclaimed May 9 - 17, 2009 as "Frisco Texas Travel and Tourism Week" for the Frisco CVB continuing to support Travel & Tourism through advertising, memberships, incentive programs and partnerships with current and incoming business and attractions. Frisco CVB Director Marla Roe and staff accepted the proclamation.

REPORTS

5. Library Report on usage and programming activities

Library Services Director, Shelley Holley reported on summer programming activities and commented that the Heritage Museum one year anniversary was a success.

6. Parks & Recreation Monthly Report regarding Park & Trail Development, Facilities, Special Events and Youth Development.

Parks and Recreation Director Rick Wieland highlighted events scheduled for May and June such as the Battle of the Bands, Frisco Grooves Concert Series and the Fusion Event.

7. Engineering Services Monthly Report on Roads, Water, Sewer, Traffic Updates.

Assistant Director of Engineering Services, Brian Moen reported on the projects status of World Cup Way, All Star Ave (CR 712), Eldorado Pkwy, Intersection Improvements, Crossing Guard Pedestrian Counts, Bike Routes, and Special Event Traffic Control.

CITIZEN INPUT (to begin approximately at 7:30 p.m.)

Former Mayor Mike Simpson, 5617 Widgeon Way, Frisco, Texas, thanked Joy West and Tony Felker for their dedication and commitment for many years.

Dr. Jim Joyner, 9950 Little Horn Cr, Frisco, Tx 75035 also thanked Joy West and Tony Felker for their sacrifice and experience. He commented that the City will miss them.

CONSENT AGENDA

(Items placed on the Consent Agenda are considered routine in nature and are considered non-controversial. The Consent Agenda can be acted upon in one motion. A majority of the Council is required to remove any item for discussion and separate action. Council members may vote nay on any single item without comment and may submit written comments as part of the official record.)

Joy West moved to approve the Consent Agenda as submitted. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

8. Consider and act upon approval of the Minutes from the April 21, 2009 Regular City Council Meeting.
9. Consider and act upon a Resolution authorizing the City Manager to execute a Release of Water Easement granted by Frisco Independent School District. (Engineering/JM)

Resolution No. 09-05-80R

10. Consider and act upon a Resolution authorizing the City Manager to execute Special Warranty Deeds, conveying right of way and easements for FM 2478 to the Texas Department of Transportation. (Engineering/JM)

Resolution No. 09-05-81R

11. Consider and act upon approval of First Southwest Asset Management, Inc. for Investment Advisory Services and adopt a resolution authorizing the City Manager to renew the agreement

Resolution No. 09-05-82R

12. Consider and act upon a Resolution Authorizing the City Manager to execute an Agreement for Arbitrage Rebate Compliance Services with First Southwest Asset Management, Inc.

Resolution No. 09-05-83R

13. Consider and Act Upon a Resolution to Renew the Current Bank Depository

Contract with JP Morgan Chase Bank

Resolution No. 09-05-84R

14. Consider and Act upon a Resolution to Renew the Credit Card Merchant Bank Depository Services

Resolution No. 09-05-85R

15. Review and Accept the Quarterly Investment Report
16. Consider and act upon authorization for the City Manager to execute Change Order Number 5 to the Standard Form Agreement for Construction Services by and between the City of Frisco and S. J. Louis Construction of Texas, Ltd. for additional services related to the construction of the Rolater Road 42-inch Water Transmission Main (Preston Road to Coit Road) (Engineering/AH)
17. Consider and act upon adoption of a Resolution authorizing the City Manager to execute an Impact Fee and Development Agreement by and between the City of Frisco and the Roman Catholic Diocese of Dallas, Texas relating to the St. Francis of Assisi Parish Property (Engineering / JE)

Resolution No. 09-05-86R

18. Consider and act upon approval of a purchase order to Motorola for the purchase of Motorola radio communication equipment for the Frisco command truck. (Fire Dept./TJ)
19. Consider and act upon approval of a purchase order to Portable Computer Systems, Inc. for the purchase of twelve-(12) Panasonic Toughbook computers with accessories, through the State of Texas Department of Information Resources (DIR) contract. (Fire Dept./TJ)
20. Consider and act upon adoption of a Resolution authorizing the City Manager to execute an Agreement for Landscape Architectural and Engineering Design Services by and between the City of Frisco and Jacobs Engineering Group, Inc. for renovations and improvements of Youth Center Park. (PR/JD)

Resolution No. 09-05-87R

21. Consider and act upon adoption of a Resolution authorizing the City Manager to execute Change Order Number 4 to the Construction Manager at Risk Agreement by and between the City of Frisco and Balfour-Beatty Construction, LLC for the Frisco Stars Center Arena expansion and construction of an additional parking garage facility (Engineering Services / JE)

Resolution No. 09-05-88R

22. Consider and act upon adoption of a Resolution authorizing the City Manager to execute Amendment Number One to the Professional Services Agreement by and between the City of Frisco and Alliance Geotechnical Group for Construction Materials Testing and Engineering Inspections Services for the Frisco Stars Center Arena Expansion and construction of an additional parking garage facility (Engineering Services / JE)

Resolution No. 09-05-89R

23. Consider and act upon award of RFP#0901-016, RFP for an Electronic Ticketing System, to Brazos Technology Corp., and approval of a resolution authorizing the City Manager to execute an agreement for these services. (Municipal Court/TJ)

Resolution No. 09-05-90R

24. Consider and act upon approval of a Resolution authorizing the City Manager to execute Amendment Number Five to the Professional Services Agreement by and between the City of Frisco and Wier and Associates, Inc. to perform additional services for the design of Eldorado Parkway Paving, Drainage and Bridge Improvements, Phase 1 and Phase 2 (Dallas North Tollway to Preston Road). (Engineering/JB)

Resolution No. 09-05-91R

25. Consider and act upon authorization for the City Manager to execute Change Order Number 2 to the Standard Form Agreement for Construction Services by and between the City of Frisco and North Texas Contracting, Inc., for the construction of World Cup Way (Main Street to Frisco Square Blvd) (Engineering/JB).
26. Consider and act upon award of bid to Roadway Solutions, Inc., and adoption of a Resolution authorizing the City Manager to execute a Standard Form of Agreement for Construction Services for Traffic Signals at Legacy Drive and Allen Elementary School driveway (Bid No. 0903-029) (Engineering/BM)

Resolution No. 09-05-92R

LEGISLATIVE AGENDA

(These items may legally require Council Action, but by Council Policy should be the City Manager's responsibility. The Legislative Agenda can be acted upon in one motion. The concurrence of two council members is required to remove any item for separate discussion and action. Council members may vote nay on any single item without comment and may submit written comments as part of the official record.)

27. Consider and act upon an Ordinance repealing Ordinance 96-01-04 and amending Chapter 42 (Flood Prevention), Article II (Flood Damage Prevention) of the Frisco Code of Ordinances regarding Flood Damage Prevention (Engineering/AS).

Joy West moved to approve **Ordinance 09-05-26** repealing Ordinance 96-01-04 and amending Chapter 42 (Flood Prevention), Article II (Flood Damage Prevention) of the Frisco Code of Ordinances regarding Flood Damage Prevention. Scott Johnson seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

REGULAR AGENDA

28. Public Hearing: Zoning Case Z09-0001, A request to amend Planned Development-79 development standards regarding secondary access requirements for Tract 2 (Chapel Creek) and consider and act to direct staff to prepare an Ordinance of the same. The property contains 22.4± acres and is located on the north side of (proposed) Brookhollow Boulevard, 800± feet west of Preston Road. Zoned Planned Development-79-Single Family-5. Neighborhood #23. (Planning & Development Services) Tabled 03/17/09, 4/7/09.

Planning and Development Services Director, John Lettelleir was present to address the Council regarding Zoning Case ZA09-0001 and recommended to continue the tabling and the Public Hearing until the June 02, 2009 Regular CC Meeting.

Scott Johnson moved to continue Public Hearing: Zoning Case Z09-0001, A request to amend Planned Development-79 development standards regarding secondary access requirements for Tract 2 (Chapel Creek) and consider and act to direct staff to prepare an Ordinance of the same. The property contains 22.4± acres and is located on the north side of (proposed) Brookhollow Boulevard, 800± feet west of Preston Road. Zoned Planned Development-79-Single Family-5. Neighborhood #23. David Prince seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

29. Discussion and give Staff direction on a potential amendment to Section 54-24 of the Code of Ordinances to provide an exemption to the prohibition of smoking

to allow for a cigar bar. (Planning & Development Services)

Steve Covington was present with new information in regard to the proposed Cigar Bar and was available for questions.

Mr. William Wilkerson who resides at 4935 Cape Coral Dr., Dallas, Texas, spoke in favor of approval of the item. Mr. Wilkerson asked several representatives to stand that were also in favor.

Those present who spoke in favor:

BJ Accuardi who resides at 12412 Littlefield Dr., Frisco, Texas.

David Gunderson who resides at 1738 Arbourn Drive, Carrollton, Texas.

John D. Accuardi who resides at 12412 Littlefield Dr., Frisco, Texas.

Greg Stewart who resides at 1468 Rockshire Dr., Plano, Texas.

Nigel Zeto who resides at 4307 Briargrove Lane, Dallas, Texas.

Those in favor not wishing to speak:

Rodney Mason who resides at 5228 Stone Brooke Crossing, McKinney, Texas

Ron Davis who resides at 13330 Noel Road, Dallas, Texas

Merle Hittle Jr. who resides at 4121 Oxlea Dr., Frisco, Texas

No action was taken.

30. Consider and Act upon approval of settlement agreement in Civil Action #4:09-CV-49 pending in the United States District Court for the Eastern District of Texas in the case styled Francis Key v. Babe's – Frisco, LLC, Paul Vinyard, and City of Frisco, Texas and to authorize the City Manager to execute all documents necessary.

Henry Hill presented Attorney Trent Nichols of Messer Campbell & Brady LLC, and both were available for questions.

Joy West moved to approve the settlement agreement in Civil Action #4:09-CV-49 pending in the United States District Court for the Eastern District of Texas in the case styled Francis Key v. Babe's – Frisco, LLC, Paul Vinyard, and City of Frisco, Texas and to authorize the City Manager to execute all documents necessary. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

31. Agreements with the Museum of the American Railroad. (CMO/HH)
A. Consider and act upon adoption of a Resolution authorizing the City Manager to execute a Development Agreement for the Museum of the

American Railroad.

Henry Hill presented Mr. Robert La Prella, who resides at 2213 Canyon Creek Plaza, Richardson, Texas, who addressed Council and presented the Board of Trustees of the Museum of the American Railroad. Mr. La Prella gave a presentation of the Museum, past, present, and future. Dr. Jim Joyner, who resides at 9950 Little Horn Cr., Frisco Texas and is a Trustee of the Museum of the American Railroad, acknowledged the excitement from the Board to relocate in Frisco and thanked the Council for the foresight to make Frisco a destination location.

David Prince moved to approve adoption of **Resolution No. 09-05-93R** authorizing the City Manager to execute a Development Agreement for the Museum of the American Railroad. Jeff Cheney seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

B. Consider and act upon adoption of a Resolution authorizing the City Manager to execute a Lease Agreement with the Museum of the American Railroad.

Bart Crowder moved to approve the adoption of **Resolution No. 09-05-94R** authorizing the City Manager to execute a Lease Agreement with the Museum of the American Railroad. Scott Johnson seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince

Against: (None)

32. Consider and act upon formation of a Charter Review Committee. (CC/MM)

City Secretary Jenny Page presented information in regard to the requirements for creating a Charter Review Committee. Mayor Maso expressed his desire to form a committee of blue ribbon applicants and directed staff to summarize the job description, time commitment, and responsibility of the committee members and start the application process. No action was taken.

Scott Johnson moved to Recess for a short break at 9:02 p.m. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

Jeff Cheney moved to reconvene into Regular Session at 9:10 p.m. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

33. Consider and act upon approval of amendments to the solid waste and recycling service contracts with Community Waste Disposal, LP, IESI TX Corporation and Champion Waste Services, LTD. (Environmental Service/HH/TJ)

Henry Hill presented information on the amendment to the solid waste and recycling service contracts and recommended approval.

David Prince moved to approve **Resolution No. 09-05-95R** for amendments to the solid waste and recycling service contracts with Community Waste Disposal, LP, IESI TX Corporation and Champion Waste Services, LTD. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David Prince;

Against: (None)

34. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the City Council to Planning and Development Services, pursuant to Article IV, Section 1.07(C) of the Comprehensive Zoning Ordinance and/or Section 4.05 of the Subdivision Regulation Ordinance, regarding action taken by the Planning and Zoning Commission on any site plan or plat. Any written notice of appeal must be submitted to Planning and Development Services. (Planning and Development Services)

No appeals.

Mayor Maso asked for a motion to recess back into Closed Session to discuss GC 551.074 annual evaluation of City Attorney Richard Abernathy.

David Prince moved to return to Executive Session at 9:25 p.m. Bart Crowder seconded the motion.

Passed

Vote: 6 - 0

For: Joy West, Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder,
David Prince;
Against: (None)

David Prince moved to reconvene into Regular Session at 10:17 p.m. Bart Crowder seconded the motion.

Passed

Vote: 5 - 0

For: Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David
Prince;
Against: (None)

Mayor Maso announced that as a result of Executive Session there was no action to take. Joy West left before Executive Session for personal business.

35. City Council discussion with City Staff concerning any actions required by City Staff as a result of any item on tonight's agenda.

Charter Committee appointment contacts with a one page summary of job description.

36. Discussion on Governance Monitoring of present City Council Meeting.

Mayor Pro Tem Felker gave Council an A -.

ADJOURN

Jeff Cheney moved to adjourn at 10:19 p.m. Scott Johnson seconded the motion.

Passed

Vote: 5 - 0

For: Tony Felker, Scott Johnson, Jeff Cheney, Bart Crowder, David
Prince;
Against: (None)

(Please note these are preliminary meeting minutes and are not official until approved by the City Council at the next regular scheduled meeting.)

Maher Maso, Mayor

ATTEST:

City Secretary