

**OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL
WORK SESSION AND
JOINT PLANNING AND ZONING COMMISSION MEETING**

August 12, 2008
6:00 P.M. – Town Hall
5300 Belt Line Road
Living Room

Council Members Present:

Mayor Chow, Councilmembers Braun, Meier, Mellow and Niemann

Absent: Councilmembers Hirsch and Kraft

Planning and Zoning Commission Members Present:

Chairman Wood, Members Bernstein, Daseke, Gaines, Jandura, Lay

Absent: Member Hewitt

Work Session

Item #WS1 - Joint Meeting with City Council and Planning and Zoning Commission to discuss a Sustainability Program for Commercial Development within the Town.

Carmen Moran led the discussion regarding a Sustainability Program for Commercial Development within the Town.

Alan Wood made comments on behalf of the Planning and Zoning Commission.

There was no action taken.

Mayor-Joe Chow

Attest:

City Secretary-Mario Canizares

**OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL
REGULAR SESSION**

August 12, 2008
7:30 P.M. – Town Hall
5300 Belt Line Road
Council Chambers

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Absent: None

Regular Session

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: Max Steadham with the Fire Department, Marshall Lewis, Jr. with the Addison Conference and Theatre Centre and Stephen Olinski with the Parks Department.

Item #R2 - Consent Agenda.

#2a - Approval of the Minutes for:

July 08, 2008, Regular City Council Meeting and Work Session
August 2, 2008, Special Meeting and Work Session
August 4, 2008, Special Meeting and Work Session

The Minutes for August 4, 2008, Special Meeting and Work Session, were approved as written.

The Minutes for July 12, 2008, Regular City Council Meeting and Work Session, were approved with the following deletion from Item #R3: “Kelvin Keith and Roy Stockard led the discussion.”

The Minutes for August 2, 2008, Special Meeting and Work Session, were approved with the first sentence of Item #S1 to read as follows, “Passion Hayes, Chris Hartung with Waters Consulting and Joe Newton with TMRS led this discussion.”

Mayor Chow moved to duly approve Item #2a with the foregoing changes.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann
Voting Nay: None

Absent: None

The following Item was heard before Item #R3.

Item #R20 - Discussion by Mr. Brian Cleveland regarding his concerns about the Addison Police Department and traffic enforcement.

Mr. Cleveland made comments to Council regarding his concerns about the Addison Police Department and traffic enforcement.

No action was taken.

Item #R3 - Presentation by the Metrocrest Chamber of Commerce Chairman, Mike Shost, of a plaque to the Town in recognition of Addison's support of the Chamber as one of their Major Investors.

Kimberly Lay presented the plaque to the Mayor and Council in recognition of Addison's support of the Chamber as one of their Major Investors.

Item #R4 - **PUBLIC HEARING** Case 1559-SUP/Soka Gakkai, International. Public hearing on and consideration of approval of an ordinance approving a Special Use Permit for a religious institution in a Planned Development District, located in the Gateway Center at 4821-A Keller Springs Road, on application from Soka Gakkai, International, represented by Mr. Dale Mowrer.

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on July 24, 2008, voted to recommend approval of the request for a Special Use Permit for a religious institution, on application from Soka Gakkai, International, subject to no conditions.

Mayor Chow opened the meeting as a public hearing. No one spoke. Mayor Chow closed the meeting as a public hearing.

Councilmember Niemann moved to duly approve Ordinance 008-025, approving a Special Use Permit for a religious institution in a Planned Development District, located in the Gateway Center at 4821-A Keller Springs Road, on application from Soka Gakkai, International, represented by Mr. Dale Mowrer, subject to no conditions.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Councilmember Niemann recused himself for Item #R5 and left Council Chambers.

Item #R5 - **PUBLIC HEARING** Case 1560-Z/SNK Realty. Public hearing on and consideration of approval of an ordinance approving a concept plan for multi-family project of 135 units, located in the UC – Commercial sub-district, on a 1.231-acre tract in Addison Circle, at the northwest corner of the intersection of Dallas Parkway and Spruill Avenue, on application from SNK Realty, represented by Mr. Derrick Turnbull.

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on July 24, 2008, voted to recommend approval of a concept plan for a multi-family project of 135 units, subject to no conditions, on application from SNK Realty, represented by Mr. Derrick Turnbull.

Mayor Chow opened the meeting as a public hearing.

- Derrick Turnbull spoke on behalf the project.
- Al Watson, owner of SNK Realty, spoke.
- Jeff Parnell, 4038 Rive, Addison, spoke.

Mayor Chow closed the meeting as a public hearing.

Councilmember Meier moved to deny approval of an ordinance approving a concept plan for multi-family project of 135 units, located in the UC – Commercial sub-district, on a 1.231-acre tract in Addison Circle, at the northwest corner of the intersection of Dallas Parkway and Spruill Avenue, on application from SNK Realty, represented by Mr. Derrick Turnbull.

Councilmember Braun seconded the motion to deny. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Abstaining: Niemann

Councilmember Niemann returned to Council Chambers.

Item #R6 - Discussion and consideration of approval of a resolution re-appointing John Murphy, Councilmember, City of Richardson, as the Town's representative to the Regional Transportation Council.

Councilmember Meier moved to duly approve Resolution R08-015 re-appointing John Murphy, Councilmember, City of Richardson, as the Town's representative to the Regional Transportation Council.

Councilmember Hirsch seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Item #R7 - Discussion and consideration and approval of an ordinance to add Ryan Adams, Finance Director, as a designated representative to transact business with TexPOOL.

Councilmember Niemann moved to approve Ordinance 008-026 to add Ryan Adams, Finance Director, as a designated representative to transact business with TexPOOL.

Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Councilmember Niemann recused himself for Item #R8 and left Council Chambers.

Item #R8 - Discussion and consideration of approval of an Ordinance of the Town of Addison, Texas, amending the existing gas franchise between the Town and Atmos Energy Corporation by increasing the consideration paid by Atmos Energy Corporation to the Town for the rights and privileges granted to Atmos Energy Corporation under the franchise from four percent (4%) to five percent (5%) of Gross Revenues as defined in the franchise ordinance; providing for acceptance of the Ordinance by Atmos Energy; providing an effective date and for other related matters.

Councilmember Kraft moved to duly approve Ordinance 008-027 of the Town of Addison, Texas, amending the existing gas franchise between the Town and Atmos Energy Corporation by increasing the consideration paid by Atmos Energy Corporation to the Town for the rights and privileges granted to Atmos Energy Corporation under the franchise from four percent (4%) to five percent (5%) of Gross Revenues as defined in the franchise ordinance; providing for acceptance of the Ordinance by Atmos Energy; providing an effective date and for other related matters.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier and Mellow

Voting Nay: None

Absent: None

Abstaining: Niemann

Councilmember Niemann returned to Council Chambers.

Item #R9 - Discussion and consideration of approval of a 9-1-1 billing agreement with the following communication carrier which has received a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission: BullsEye Telecom, Inc.

Councilmember Niemann moved to duly approve a 9-1-1 billing agreement with the following communication carrier which has received a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission: BullsEye Telecom, Inc.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Item #R10 - Discussion and consideration of approval of an amendment to the lease between Concourse Plaza, as landlord, and the Town, as tenant, of certain office space located at 16051 Addison Road, Suite 220 for Airport management office purposes, providing for, among other things, an extension of the term of the lease for an additional twenty-five (25) months.

Councilmember Kraft moved to duly approve an amendment to the lease between Concourse Plaza, as landlord, and the Town, as tenant, of certain office space located at 16051 Addison Road, Suite 220 for Airport management office purposes, providing for, among other things, an extension of the term of the lease for an additional twenty-five (25) months.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Item # R11 - Consideration and approval of the following in connection with a Ground Lease at Addison Airport of property located generally at 15841 Addison Road and a Hangar Lease of certain hangar facilities at Addison Airport located on property adjacent to 15841 Addison Road:

(a) Consent to Assignment of Ground Lease from the C.E. Wagley Children's Trust dated January 17, 1992, Dee Dee Planas, Trustee (successor in interest to Charles E. Wagley) to Victory Jet, Inc., a Texas corporation;

(b) Consent to Assignment of Hangar Lease from the C.E. Wagley Children's Trust dated January 17, 1992, Dee Dee Planas, Trustee (successor in interest to Charles E. Wagley) to Victory Jet, Inc., a Texas corporation;

(c) Amendment to Ground Lease by and between the Town of Addison, Texas, as Landlord and Victory Jet, Inc., a Texas corporation, as Tenant; and

(d) Amendment to Hangar Lease by and between the Town of Addison, Texas, as Landlord and Victory Jet, Inc., a Texas corporation, as Tenant; and

(e) Memorandum of Ground Lease and Hangar Lease by and between the Town of Addison, Texas, as Landlord, the C.E. Wagley Children's Trust (dated January 17, 1992), Dee Dee Planas, Trustee as Assignor and Victory Jet, Inc., a Texas corporation, as Assignee.

Councilmember Kraft moved to duly approve the following in connection with a Ground Lease at Addison Airport of property located generally at 15841 Addison Road and a Hangar Lease of certain hangar facilities at Addison Airport located on property adjacent to 15841 Addison Road:

(i) consent to an Assignment of Ground Lease and an Assignment of Hangar Lease from the C.E. Wagley Children's Trust dated January 17, 1992, Dee Dee Planas, Trustee (successor in interest to Charles E. Wagley) to Victory Jet, Inc., a Texas corporation, and

(ii) pursuant to the said Assignments:

(a) approve an Amendment to Ground Lease and an Amendment to Hangar Lease by and between the Town of Addison, Texas, as Landlord and Victory Jet, Inc., a Texas corporation, as Tenant, and

(b) approve a Memorandum of Ground Lease and Hangar Lease by and between the Town of Addison, Texas, as Landlord, the C.E. Wagley Children's Trust (dated January 17, 1992), Dee Dee Planas, Trustee as Assignor and Victory Jet, Inc., a Texas corporation, as Assignee.

Provided, however, that the said motion and the Town of Addison's consent to each of the said Assignment of Ground Lease and Assignment of Hangar Lease, and approval of each of the said Amendment to Ground Lease, Amendment to Hangar Lease, and Memorandum of Ground Lease and Hangar Lease as referenced in the motion are expressly conditioned and made contingent upon:

(1) the completion and final closing of the sale and conveyance of the interest of the C.E. Wagley Children's Trust dated January 17, 1992, Dee Dee Planas, Trustee (successor in interest to Charles E. Wagley) in the Ground Lease (referenced in the Assignment of Ground Lease) and the Hangar Lease (referenced in the Assignment of Hangar Lease) to Victory Jet, Inc., a Texas corporation on or before August 22, 2008 at 5:00 p.m., and

(2) the delivery of all documents and records by that date and time (including fully executed originals of each of the documents described above) together with all proceeds of sale due and payable to the Town of Addison pursuant to the Settlement Agreement (and otherwise due and payable to the Town in connection with the assignment) to Mr. William Dyer at the Addison Airport Manager office (16051 Addison Rd., Suite 220, Addison, Texas 75001) which establish and clearly show that the said sale and closing has finally occurred and been fully completed by August 22, 2008 at 6:00 p.m.

If the said completion and final closing and conveyance referenced above has not occurred on or before August 22, 2008 at 6:00 p.m., and if all such documents, records and proceeds (of sale and otherwise) pertaining to the final closing and conveyance have not been delivered to Mr. William Dyer by August 22, 2008 at 5:00 p.m., the Town of Addison's consent to the Assignment of Ground Lease and to the Assignment of Hangar Lease, and the Town of Addison's approval of the Amendment to Ground Lease, the Amendment to Hangar Lease, and the Memorandum of Ground Lease and Hangar Lease, shall have expired and shall be deemed null and void for all purposes as if the motion and the consent and approval had not been given.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Item #R12 - Discussion and consideration of approval of an Easement for Utility Facilities on the Addison Airport.

Councilmember Kraft moved to duly approve an Easement for Utility Facilities on the Addison Airport.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Voting Nay: None

Absent: None

Item #R13 - Discussion and consideration of approval authorizing the City Manager to execute a Master Services Agreement with HNTB Corporation for engineering design of the Belt Line Road re-design.

Councilmember Niemann moved to duly authorize the City Manager to execute a Master Services Agreement with HNTB Corporation for engineering design of the Belt Line Road re-design, subject to City Manager and City Attorney review..

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R14 - Discussion and consideration of approval of purchasing one hundred and forty (140) water meters from Hersey Meter Company in an amount not to exceed \$43,422.40.

Councilmember Braun moved to duly approve purchasing one hundred and forty (140) water meters from Hersey Meter Company in an amount not to exceed \$43,422.40.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R15 - Discussion and consideration of and approval of awarding a contract for rehabilitation of the sanitary sewer line serving customers along Addison Road from Addison Circle Drive to Airport Parkway and the sanitary sewer line serving customers along Wright Brothers Road.

Councilmember Kraft moved to duly approve a contract for rehabilitation of the sanitary sewer line serving customers along Addison Road from Addison Circle Drive to Airport Parkway and the sanitary sewer line serving customers along Wright Brothers Road.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R16 - Discussion and consideration of approval of Change Order No. 1, in the amount of \$5,000, for various items and approval of final payment to N.G. Painting, L.P., in the amount of \$81,000.00, for the painting of the two ground storage reservoirs.

Councilmember Braun moved to duly approve Change Order No. 1, in the amount of \$5,000, for various items and approval of final payment to N.G. Painting, L.P., in the amount of \$81,000.00, for the painting of the two ground storage reservoirs.

Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R17 - Discussion and consideration of approval of Appointment(s) to the Metrocrest Chamber of Commerce's Leadership Metrocrest.
Councilmember Meier moved to duly approve ten appointment(s) to the Metrocrest Chamber of Commerce's Leadership Metrocrest.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R18 - Discussion of the Cavanaugh Flight Museum.

Jimmy Niemann led the discussion regarding the Cavanaugh Flight Museum.

There was no action taken.

At 10:37 P.M., Mayor Chow announced that Council would convene into Executive Session to discuss the following Items:

Item #ES1- Closed (executive) session of the Addison City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) to seek the advice of its attorney(s) about pending litigation, to wit: **City of San Antonio, Texas, on Behalf of Itself and All other Similarly Situated Texas Cities v. Hotels.com, et al.**; Case No. SA-06-CA-0381-OG; pending in the United States District Court for the Western District of Texas-San Antonio Division.

The Council came out of Executive Session at 10:58 P.M.

Item #R19 - Discussion and consideration of approval of any action regarding certain pending litigation, to wit: **City of San Antonio, Texas, on Behalf of Itself and All other Similarly Situated Texas Cities v. Hotels.com, et al.**; Case No. SA-06-CA-0381-OG; pending in the United States District Court for the Western District of Texas-San Antonio Division.

There was no action taken.

There being no further business before the Council, the meeting was adjourned.

Mayor-Joe Chow

Attest:

City Secretary-Mario Canizares