

REGULAR MEETING OF THE CITY COMMISSION

OF THE CITY OF DUMAS, TEXAS

AUGUST 4, 2008

6:30 P.M.

BE IT REMEMBERED THAT THERE CAME AND WAS HELD A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF DUMAS, TEXAS IN THE DUMAS NOON LIONS CLUB BUILDING, 524 S. PORTER AVENUE, OF SAID CITY:

Members Present:

Mayor Mike Milligan
Mayor Pro Tem Pat L. Sims
Commissioner John D. Harris
Commissioner Mike Salim
Commissioner James Mahaffey
City Manager Vince DiPiazza
City Attorney Tom Moore

Others Present: Due to the large number of citizens present, the signature list is attached to the minutes and is available at city hall.

Mayor Milligan called the meeting to order.

Commissioner Mahaffey asked about the following bill: Cardinal Tracking, Inc., \$1,622.50 for the police department. Finance Director Dottie Williams said this cost is a court collection module for municipal court fines and fees and the city will be reimbursed the full amount. A motion was made by Commissioner Harris, seconded by Commissioner Mahaffey, and passed unanimously to approve the July 14, 2008 Special City Commission meeting minutes; July 21, 2008 Regular City Commission meeting minutes; and paying the bills.

City Manager Vince DiPiazza said this is the first reading to approve a zoning change from agriculture to planned development. Mr. DiPiazza said this zoning request went before the planning and zoning commission in July and they declined to make a recommendation either for or against the zoning change. The Commission will consider the ordinance after the public hearing is held. Commissioner Harris said this land was in the county until the city recently annexed the property. Mayor Milligan told the public American Housing Foundation would do their presentation first, then the public could ask any questions that they have.

Mayor Milligan opened the Public Hearing.

American Housing Foundation Representative Katherine Thompson said they are only requesting a zoning change, that they are not requesting a variance with a percentage of front yard setbacks. Ms. Thompson said American Housing Foundation met approximately one year ago with a JBS Swift & Co., Moore County, Dumas Economic Development Corporation (D.E.D.C.), City of Dumas, City of Cactus, and City of Sunray. They

determined that there was a need for quality housing for working families and agreed to do a comprehensive housing study for the Moore County area. The objective of this study was to address the immediate housing needs with the long-term impact of the community. The report identified the existing housing market that was impacted by the housing needs of JBS Swift & Co. and a need for quality housing by area dairies being built and the Helmar Cheese Plant. Ms. Thompson said at the time of the housing study Valero had 488 employees that resided in Dumas. Ms. Thompson said Dumas was chosen for the development because Cactus, Texas lacked infrastructure for new development. Ms. Thompson said they identified several sites in Dumas and for the various reasons: size of the property, infrastructure, proximity to shopping and schools, 49 acres owned by Gray Johnston Trust, and an offer was made to purchase the property. Ms. Thompson said she was going to address comments made at the July planning and zoning commission meeting, articles they read in the newspaper, and heard from other sources.

1. Homes look like they are made of cardboard and taped together. Ms. Thompson said their modular homes are precision built and are not mobile homes. They are built and must pass the same code requirements as a site built home. Precision built homes have twenty to thirty percent more material than a site built home. They are set permanently on foundations and go through multiple inspections to ensure the highest level of quality.
2. This development will lower the value of our homes. Ms. Thompson assessed value of homes within 200 feet from the subject property that is appraised by the Moore County assessor from \$46,270 to \$90,450. AHF homes will cost an estimated \$122,000 each and Ms. Thompson presented a breakdown of the \$122,000.
3. We don't want those people living next door to us. Ms. Thompson said a three-bedroom two bath apartment will rent for \$711 per month and the income to qualify for those apartments are \$24,600 to \$29,520. Four-bedroom two bath apartments will rent for \$793 per month and the income to qualify for those apartments are \$31,740 to \$36,120. Ms. Thompson said the tenants are not all employed at JBS Swift & Co. The new, 48 unit apartments next to the proposed site are in a partnership with JBS Swift & Co. Out of 36 tenants, 15 are employed by JBS Swift & Co.
4. These new homes will generate crime and cause the area to be unsafe for our children. AHF does careful screening of prospective tenants. AHF has very strong on-site management that they utilize to help ensure illegal activities do not take place. If it does, AHF will deal with it swiftly and decisively. AHF does extensive criminal background checks and credit reports on all prospective tenants.
5. This development will not be maintained and devalue our neighborhood. AHF has budgeted over \$475,000 annually or \$2,400 per unit starting year one to maintain and repair the interior and exterior of the homes at Gray Ranch. Grounds will be maintained by staff and AHF will be responsible for the grounds within the boundaries of the property. AHF does have a repair and replacement program.
6. This development will create too much traffic and the neighborhood will need a traffic signal at W. 16th Street and Highway 287 (S. Dumas Avenue). AHF has contacted Texas Department of Transportation and requested that a traffic signal light be placed at 16th Street and S. Dumas Avenue. However, AHF cannot promise that it will be done.
7. The development will have employees from JBS Swift & Co. that will not be covered by health insurance and it will cause a burden on the community hospital. All members of the community that qualify will be eligible to rent the homes provided they qualify and pass the screening process that AHF has in place. AHF provides flu shots for their residents as well as, a monthly supply of vitamins. Mobile health screenings are provided twice a year and residents of services will provide classes for preventative health care.
8. All this means is the organization does not pay taxes. Ms. Thompson said there has been some negotiations since the July planning and zoning commission meeting and AHF has agreed, that which is commonly known as a pilot, is equivalent to paying the full amount of property taxes. AHF

estimates that amount will be \$120,000 to \$130,000. Ms. Thompson said this development is an economic benefit to the community. JBS Swift & Co. has 3,284 employees and they have a payroll over \$86,000,000 annually and \$36,000,000 of that payroll is to residents of Dumas. JBS Swift and Co. makes livestock payments of 1.3 billion dollars annually and they pay 2.9 million dollars in property taxes with \$500,000 going to D.I.S.D. Ms. Thompson said she would now explain who American Housing Foundation is and stated they are headquartered in Amarillo, Texas and have an office in Dallas, Texas. AHF was founded as a 501c, nonprofit organization in 1989. Nonprofit advantages include low financing rates and grants. Our communities benefit from hundreds of thousands of dollars given back to the community with educational scholarships, which is their mission. Ms. Thompson presented the master plan of the land development for the public to view. Ms. Thompson introduced land planner, David Smith. Mr. Smith said he did research on the history in the Dumas area before he did the land development master plan and this development will be built according to the city's code. Mr. Smith provided a power point presentation of the proposed courtyard, landscape concept plan, fire and trash master plan, storm water master plan, water master plan, and the sanitary sewer master plan. Mayor Milligan said he had one suggestion which was building a fence around the development. Many AHF properties have a wrought iron fence around them and asked if this could be done on this development. Mr. Smith said their plan has a vegetation type fence but yes, a fence could be part of the development. Ms. Thompson said there seems to be confusion between a modular home and a mobile home. Ms. Thompson said a mobile home is built under HUD code qualifications and a modular home is built exactly under the same code that the City of Dumas requires. Resident Diane Daniels stated this is a low income project. Robert Ames asked AHF to pay hospital and Amarillo College tax. Billy Hanna stated her son has remodeled a modular home and everything that was in the modular home was low-grade material. Viola Shipman said she would like the addresses of AHF facilities in Amarillo so she could drive by them. Ms. Shipman said ninety percent of the people attending the meeting would drive to Amarillo to see the AHF facilities. One citizen asked why this project could not be built in Cactus, Texas and said JBS Swift & Co. could pay for the infrastructure in Cactus with the money they are using for busing transportation for the plant workers. One citizen stated AHF should pay full school taxes if they wanted to be a member of the community. Genevieve Sheets asked if this development was subsidized homes. Ms. Thompson said this development is not subsidized housing. David Bonner asked if these homes would be electric or gas because Dumas has their own gas wells, and that is a major revenue source for the City of Dumas. Dr. Bonner he understands that Dumas is considered a rich district and money is sent to the state. Dr. Bonner said his school taxes continue to increase and after the recent bond election to build a new school, his school tax would increase even more. Dr. Bonner said if AHF is willing to pay county and city tax, they should consider paying the hospital, school, and junior college tax also. Mayor Milligan said AHF stated they would pay all of those taxes. C.P.A. Coy Barton said the bond money stays locally. Ms. Thompson said the homes were going to be all electric but they are exploring the combination of electric and gas. Greg Willis asked AHF if they have done a study to see how many extra police officers, fire fighters, maintenance workers the city would need after this project is built. Mr. Willis asked if the extra employees were going to be covered by the taxes AHF pays or by the citizens of Dumas. Ms. Thompson said there seems to be some confusion because AHF has agreed to pay taxes as any other resident and if the taxes increased for the residents of Dumas, AHF taxes would also increase. Gary Edwards said the city has had two traffic studies done in the past and Texas Department of Transportation has denied placing a traffic signal light at 16th Street and S. Dumas Avenue. Mr. Edwards said he would double his county and city taxes

on his business and home if he didn't have to pay school taxes. Mr. Edwards said his concern is 40 years from now, when AHF is gone, would the proposed development be the same. Mr. Edwards told the city commission that they should represent the citizens who elected them into office, not other organizations. Mistie Harper said she lived in the Astoria Apartments, owned by American Housing Foundation, for three years in Amarillo Texas. Ms. Harper said her car was broken into three times, her tires were slashed, her sons bicycle was stolen off of her back porch, police officers were called because someone was trying to break in her apartment, and there were two murders. Eva Wackler said she likes living in a small town and would like to keep it that way. Ms. Wackler said she has a petition with 717 signatures of people that are against this proposed development. Rhonnie Mayer said she has never known anyone that did not have to pay taxes that lived in the United States and if AHF does not want to pay taxes, there are several countries that do not charge taxes. Ms. Mayer stated that AHF should be required to pay one hundred percent of all taxes. Ms. Thompson said AHF is paying their taxes and she is confused because seventy percent are not paying one hundred percent of their taxes that live within two hundred feet of the proposed development. Ronnie DeShazo said he owns rental property in Dumas and he could not rent his apartments for \$711 a month including utilities. Mr. DeShazo said it seems that JBS Swift & Co. will benefit from this development, but they are trying to build something that Dumas won't benefit from. Joe DeShazo said he tried to bring in modular homes and the city has told him no, because their code states no modular homes are allowed in the city limits. Mr. DeShazo said he was concerned about this development not having any alleys and that the width of the streets are too small. Ms. Thompson said the City of Dumas requires a 60 foot right-of-way which they comply with. City Inspector Greg Tanner said the city ordinance requires 60 foot right-of-way for single-family homes. Mr. Tanner said AHF began with 50 foot right-of-way but did change to the 60 foot right-of-way. Mr. Tanner said the public is not understanding the difference between a modular home and a manufactured home. Mr. Tanner said a manufactured home is a mobile home, and a modular home is an off-site built home that is required to be built according to the city's code, just as the citizens of Dumas would be required to build a home. An area resident asked if this development was approved, when would construction begin, and Ms. Thompson said this fall. Mr. Cook said he owns Cook Properties and said his apartments are completely full. Mr. Cook said there is a huge demand for housing in Dumas but he is required to pay full taxes and AHF should pay one hundred percent of their taxes. Mr. Cook said a fence would not stop crime and agreed with Mr. Willis, that citizens would pay more for additional city employees and maintenance. Van Miller said this development is still only a housing project that will bring in crime and it will also bring resentment. Mayor Milligan said Dumas has five elementary schools and regardless of where any housing development is built, it is going to affect one out of any of the elementary schools. Vice President of JBS Swift & Co., Jack Stanley, said after the ICE raids they lost several employees and at this moment they are busing eight hundred employees from Amarillo. Molly Hutches said she lives on 18th Street and said the ICE raids were all illegal aliens that should not have been hired. Mr. Stanley said they do not hire illegal aliens, that all of the employees had identification, even though most of the people in the raid had false identification. Mr. Stanley said there have been no charges filed against JBS Swift & Co. One citizen said that AHF stated that they would do background checks on their tenants and he said the refugees that are currently in Dumas cannot even tell you when they were born and asked how a background check could be done on the refugees. Cheri Leimer said she has lived in Dumas for over 50 years and her civic teacher taught her that we are people of the government and the government is for the people. Ms. Leimer said this should come up for referendum. Sunray and Cactus, Texas pay taxes and they should also

have an open vote concerning this development. City Attorney Tom Moore said this development could go before an open vote but if we voted on every issue that came before the city council, the government and the city would cease to function. Mr. Moore said the fact is that the city is doing this under an ordinance that has existed for a long time, we have done this many times before, and the city is following the process. Mr. Moore said the comments made concerning that the city has already made a decision is not true, the city has made no decision concerning this proposed development. Mr. Moore said he would like to clarify that the city's job is not to help JBS Swift & Co. or anyone else. Mr. Moore said the city's job is to make a determination based upon an application for a zoning change and that's all this meeting is about. Again, Mr. Moore stated the commission is only here to consider rezoning of property and that is the reason they are having a public hearing. Mr. Moore said a public hearing is held only to guide the commission in a decision concerning the zoning change request. Mr. Moore said instead of castigating the city commission, the idea is to get the public's ideas across to the city commission to convince them that the public's view is important enough for them to make a decision concerning this zoning change request. Mr. Moore said he is also the city attorney for the City of Cactus, Texas and the City of Sunray, Texas and no one at this meeting can speak for those cities. Gwen Barnhart said she has lived in Cactus, Etter, and Dumas, Texas and she has worked for American Beef and for Swift. Ms. Barnhart would like to request that AHF and JBS Swift & Co. continue negotiations with the new city manager in Cactus, Texas to put this housing development on the west side of Highway 287 where people can safely get to work. Ms. Barnhart said she would like to keep JBS Swift & Co. in this area, but working together, land and infrastructure could possibly be negotiated. Teri Marion asked why a housing company has been brought into Dumas when there are local builders and developers. Commissioner Harris said some of the local builders have not been willing to step up and build over 250 units to meet the housing needs. R. M. Keeney said he is very opposed to this development and urges the commission to give a lot of study to this development before action is taken. Teresa Flint said the development rental property and for a single family home. Ms. Flint asked if several families could live in a single family home. Ms. Thompson said AHF only allows 1 1/2 person's per bedroom. A lady in the audience stood up and stated that she was one of "those people" everyone has talked about. She said she and her family need this type of housing. She is from a small town in Mississippi and moved to Dumas because it reminded her of home. She has lived in Dumas for 18 months. She said her husband and two children stayed in a hotel room when they first moved to Dumas because there was not any rental property available. She said she and her family need this type of housing. Damon Admire, a local developer, said he wanted to clarify that he is not a partner with JBS Swift & Co. Mr. Admire said he does own the apartments next to the proposed development, which is 48 units, and as of today he has 45 rented. Mr. Admire said there is a great need for housing in Dumas. There was no other public comment.

Mayor Milligan closed the Public Hearing and reopened a Formal Session.

Commissioner Harris said that Mr. Van Miller made a comment earlier concerning the political incentives the Commission receives and Commissioner Harris told the public that no one serving on the city commission is employed by JBS Swift & Co. Commissioner Harris said the commission is paid fifty dollars per month to serve the community and his term would expire in May 2009. Commissioner Harris said he was not seeking reelection and if anyone would like to run for his position, they are more than welcome to do so. A motion was made by Commissioner Harris, seconded by Mayor Pro Tem Sims, to approve

rezoning of 49.21 acres of land out of NW 4 of Section 226, Block 44, from "AG", Agriculture, to "PD", Planned Development. Mayor Milligan asked for those opposed to the zoning change request. Commissioner Mahaffey, Commissioner Salim, and Mayor Milligan voted against rezoning 49.21 acres of land out of NW 4, Section 226, Block 44, City of Dumas, Moore County, Texas from "AG", Agriculture, to "PD", Planned Development. Commissioner Salim said he voted no because the citizens in the community were opposed to the development. Mayor Pro Tem Sims said he voted for the development because Dumas needs to progress and the housing development is needed. There was not a first reading of Ord. No.1055.

A motion was made by Commissioner Harris, seconded by Commissioner Mahaffey, and passed unanimously to approve the consent agenda, which consists of the July 14, 2008 Special City Commission meeting minutes; July 21, 2008 Regular City Commission meeting minutes; paying the bills; and continuing past the 9:00 p.m. commission meeting deadline.

Keeney Hembree & Co. representative, Coy Barton presented a letter of agreement to perform the 2008 city audit services. A motion was made by Commissioner Harris, seconded by Commissioner Salim, and passed unanimously to approve the letter of agreement with Keeney Hembree & Co. to perform the cities 2008 audit services.

Wanda Brooks asked the Commission to consider a request from her and Wayne Smith to close W. 7th Street from Dumas Avenue to S. Porter Avenue and to consider filling the potholes in the alley between the Alley Cafe and Mikee's Jewelry Store. Ms. Brooks said they would like to set up games for the children and possibly sell hot dogs for the downtown block party. Ms. Brooks said they hope to bring merchants together and revitalize businesses downtown. The party would be September 18th and begin at 5:30 p.m. and end at 8:30 p.m. City Attorney Tom Moore stated that he did check on the alley property concerning the city purchasing the property for \$12,000 in exchange for that amount to be deducted from the 14th Street paving assessment cost for Powell Estate. Mr. Moore said the property does not belong to Powell Estate; it belongs to another Powell family. A motion was made by Commissioner Harris, seconded by Mayor Pro Tem Sims, and passed unanimously to approve closing W. 7th Street from Dumas Avenue to S. Porter Avenue, to fill the potholes in the alley between Alley Cafe and Mikee's Jewelry Store for a downtown revitalization block party to be held on September 18, 2008 from 5:30 p.m. to 8:30 p.m.

Dumas/Moore County Chamber of Commerce CEO Sam Cartwright presented the 2008-2009 proposed budget request. Mr. Cartwright said he has included, at the Commission's request, a detailed profit and loss form. A motion was made by Commissioner Salim, seconded by Commissioner Mahaffey, and passed unanimously to approve the Dumas/Moore County Chamber of Commerce and visitors center 2008-2009 proposed budget request for \$142,160.

Carolyn Stallwitz presented the 2008-2009 proposed budget request for the Moore County Art Association. A motion was made by Commissioner Salim, seconded by Mayor Pro Tem Sims, and passed unanimously to approve the 2008-2009 proposed budget request for Moore County Art Association for \$79,996.

Kurt Stallwitz presented the 2008-2009 proposed budget request for the Moore County Historical Museum. Mayor Milligan told all of the entity's that if they had extra

money that they should spend the money, because it is hotel/motel tax money that should be used to promote Dumas. A motion was made by Commissioner Mahaffey, seconded by Commissioner Salim, and passed unanimously to approve the 2008-2009 proposed budget request for Moore County Historical Museum for \$84,100.

City Manager Vince DiPiazza presented a resolution to set the August natural gas rate. Mr. DiPiazza said the rate for August is \$8.28. Mr. DiPiazza said the November and December gas rate is under \$10. Commissioner Harris said that Mr. DiPiazza should lock in a rate, at his discretion, if the natural gas rate declines. A motion was made by Mayor Pro Tem Sims, seconded by Commissioner Harris, and passed unanimously to approve Resolution No. 08-16 setting the August natural gas rate at \$8.28, plus \$2.50 adder fee, totaling \$10.78.

City Manager Vince DiPiazza presented the second and final reading of an ordinance to allow Dumas Economic Development Corporation (D.E.D.C.) to participate in the city retirement plan. A motion was made by Commissioner Mahaffey, seconded by Mayor Pro Tem Sims, and passed unanimously to approve the Second & Final Reading of Ordinance No. 1052 allowing the D.E.D.C. to participate in the city retirement plan.

City Manager Vince DiPiazza presented an ordinance authorizing restrictive prior service credit to city and Dumas Economic Development Corporation (D.E.D.C.) employees. A motion was made by Commissioner Harris, seconded by Mayor Pro Tem Sims, and passed unanimously to approve the Second & Final Reading of Ordinance No. 1053 authorizing restrictive prior service credit to city and D.E.D.C. employees.

Finance Director Dottie Williams presented an ordinance for collection services on fines and fees for municipal court. A motion was made by Mayor Pro Tem Sims, seconded by Commissioner Mahaffey, and passed unanimously to approve the Second & Final Reading of Ordinance No. 1054 for collection services on fines and fees for municipal court.

Purchasing Agent Dolores Montoya said no bids were received for the Fire Department personal protective clothing. Ms. Montoya said she would have to rebid. There was no action taken.

Purchasing Agent Dolores Montoya presented bids for the warehouse shop addition. There was one bid received from in N.T.W. Construction for \$174,238.22. Public Works Director Tommy Raper said he would like the commission to consider rejecting the bid. Mr. Raper said he would like to rebid the warehouse shop addition. The budgeted amount was \$80,000 and Mr. Raper felt the bid received was too high. A motion was made by Commissioner Harris, seconded by Commissioner Mahaffey, and all opposed awarding the warehouse shop addition to N.T.W. Construction.

Purchasing Agent Dolores Montoya presented the bids for the concrete slab for the bulk water station. There were three bids received from Bice Construction for \$10,676, six inch and \$11,586, eight inch; Top Line Concrete for \$5,525, six inch and \$6,375, eight inch; and N.T.W. Construction for \$15,662.58, six inch and \$17,830.76, eight inch. A motion was made by Mayor Pro Tem Sims, seconded by Commissioner Harris, and passed unanimously to award the concrete slab for the bulk water station to Top Line Concrete, six inch, for \$5,525.

Purchasing agent Dolores Montoya presented the bids for the construction of the road to the bulk water station. There were two bids received from Lewis Construction for \$52,441.67 and L. A. Fuller & Sons for \$43,610. Public Works Director Tommy Raper said the bids received were over the budgeted amount and asked the Commission to consider rejecting the bids and. A motion was made by Commissioner Mahaffey, seconded by Commissioner Harris, and all opposed bids received for the construction of the road to the bulk water station.

City Manager Vince DiPiazza told the commission the city has received a change order on the 14th Street paving project, which hasn't been started. Mr. DiPiazza said the contractor would like an additional \$17,000 because costs have increased since the bid was awarded. A motion was made by Commissioner Harris, seconded by Mayor Pro Tem Sims, and passed unanimously to approve the \$17,000 change order for L. A. Fuller & Sons for the 14th Street paving project.

Meeting adjourned.

Mike Milligan, Mayor

ATTEST:

Vince DiPiazza, City Manager