

**STATE OF TEXAS  
COUNTY OF DENTON  
TOWN OF HICKORY CREEK**

The town council of the Town of Hickory Creek, Texas convened in a regular session on March 21, 2017 at 6:30 p.m. in the council chambers, located at 1075 Ronald Reagan Avenue. Notice of the meeting was posted as required by Title 5, Chapter 551 of the Texas Government Code. The following members were present and constituted a quorum of members:

Lynn Clark, Mayor  
Tracee Elrod, Councilmember Place 1  
Richard DuPree, Councilmember Place 2  
Chris Gordon, Councilmember Place 3  
Paul Kenney, Mayor Pro Tem  
Ian Theodore, Councilmember Place 5, arrived at 6:35 p.m.

Also in attendance were:

John M. Smith, Jr., Town Administrator  
Kristi K. Rogers, Town Secretary  
William Scazzero, Town Attorney

Mayor Clark called the meeting to order at 6:30 p.m.

Councilmember Kenney gave the invocation.

Mayor Clark led the Pledge of Allegiance to the U.S. and Texas Flags.

**Items of Community Interest**

Kids and Tail Waggers, an event benefiting the Boys & Girls Clubs of North Central Texas, will be held on March 25, 2017 at Sycamore Bend Park.

The 66<sup>th</sup> Annual National Day of Prayer will be held Thursday, May 4, 2017 at the Denton County Courthouse on the Square.

The Senator Jane Nelson Leadership Award was presented to Lynn Yeargain of Hickory Creek at the Denton Lincoln Reagan Dinner.

Katie Landaverde, a teacher at Lake Dallas Elementary School, was presented the 2017 Rather Prize for the best idea to improve education in Texas.

**Public Comment**

Brenda Carpenter, 1500 Turbeville Road, stated she relocated to Texas from Ohio to be closer to family. 1500 Turbeville Road is a multicultural, positive, safe place to live with people from diverse professions. She is proud to live in Hickory Creek.

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Mary Beth Harris, 1500 Turbeville Road, represents Hickory Creek Development Partners, as a commercial development associate of Mr. Ron Furtick. There has been no response from the Mayor or town council since she stated on January 17, 2017 the council needed to move forward with an amendment to the zoning ordinance and partake in entitlement negotiations to create a walkable downtown area or Mr. Furtick will be forced to ground lease the southernmost portion of the property to a third-party development firm which he feels would be a major underutilization of the land which has such a tremendous potential for high quality development. He has resisted ground leasing due to the potential of high quality development and the existence of a small mobile home park on the northern edge portion of the property.

Ron Furtick, 1500 Turbeville Road, stated he is compelled to speak to defend himself against a pervasive pattern of harassment and injustice he feels has been inflicted on him, his business and his family for two decades. Throughout the years, a fence was constructed hindering mobile home park tenants access to walkable shopping, code enforcement harassment and a frivolous lawsuit was filed. The proposed ordinance regarding non-conforming uses would specially target Mr. Furtick and the mobile home park in his opinion. State leaders in Austin, passed a law which allows if a land owner provides evidence of a pattern of harassment, the courts will strip municipal immunity from the Mayor and town council members allowing the landowner to sue the Mayor and council members personally.

### **Item B - Public Hearing**

**B (1) Public Hearing: To hear public opinion regarding a request for a replat of Lots 1R and 2R, Block A of Hickory Heights Subdivision, being 2.136 acres in the J. Hicks Survey A-567 and the M.E.P. &P.R.R. Co. Survey A-915, Town of Hickory Creek, Denton County, Texas. The property is located in the 3000 block of Maynard Road.**

Mayor Clark called the public hearing to order at 6:48 p.m. With no one wishing to speak, the public hearing was closed at 6:48 p.m.

**B (2) Public Hearing: To hear public opinion regarding a request for a replat of Lake Cities Polaris Addition, Lots 1, 2, and 3 Block A, 5.01 acres out of the Lowry Cobb Survey, Abstract No. 284, Town of Hickory Creek, Denton County, Texas. The property is located at 6060 North Stemmons Freeway.**

Mayor Clark called the public hearing to order at 6:48 p.m. With no one wishing to speak, the public hearing was closed at 6:48p.m.

**B (3) Public Hearing: To hear public opinion regarding an ordinance of the Town of Hickory Creek, Texas amending the Town's Code of Ordinances, Chapter 14: Zoning, Exhibit A Zoning Ordinance, Article XXIII Nonconforming Uses and Structures to provide an amortization process for legal nonconforming uses.**

Mayor Clark called the public hearing to order at 6:49 p.m.

Ron Furtick, 1500 Turbeville Road stated any council member who votes for amending the nonconforming uses and structure ordinance or any further ordinance with the intent of continuing harassment against him, will have their immunity striped and he will sue them in court for the last twenty years of damages he has accrued. He urged the council to be very cautious. Extended court battles can become extraordinarily expensive and extremely hard on the town council's personal finances and their families.

With no one else wishing to speak, the public hearing was closed at 6:51 p.m.

**B (4) Public Hearing: To hear public opinion regarding an ordinance of the Town of Hickory Creek, Texas amending the Town's Code of Ordinances, Chapter 14: Zoning, Exhibit A Zoning Ordinance, Article III: Definitions and Article XXIV: Vehicle Parking Regulations.**

Mayor Clark called the public hearing to order at 6:52 p.m. With no one wishing to speak, the public hearing was closed at 6:52 p.m.

**Item C – Consent Agenda Items**

1. February 2017 Council Meeting Minutes
2. February 2017 Financial Statements

**Motion:** made by Councilmember DuPree to approve consent agenda Items C1 and C2 as presented. Motion seconded by Councilmember Elrod.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**Item D – Regular Agenda Items**

**D (1) - Consider and act on a final plat of Lots 1R and 2R, Block A of Hickory Heights Subdivision, being 2.136 acres in the J. Hicks Survey A-567 and the M.E.P. & P.R.R. Co. Survey A-915, Town of Hickory Creek, Denton County, Texas.**

**Motion:** made by Councilmember Elrod to approve Item D (1) as presented. Motion seconded by Councilmember Gordon.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (2) - Consider and act on a resolution of the Town of Hickory Creek, Texas authorizing the issuance of a water well drilling permit for 3014 Maynard Road, Hickory Creek, Texas.**

**Motion:** made by Councilmember Gordon to approve a resolution of the Town of Hickory Creek, Texas authorizing the issuance of a water well drilling permit for 3014 Maynard Road, Hickory Creek, Texas. Motion seconded by Councilmember Elrod.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (3) - Consider and act on a replat of Lake Cities Polaris Addition, Lots 1, 2, and 3 Block A, 5.01 acres out of the Lowry Cobb Survey, Abstract No. 284, Town of Hickory Creek, Denton County, Texas. The property is located at 6060 North Stemmons Freeway.**

**Motion:** made by Councilmember Gordon to approve a replat of Lake Cities Polaris Addition, Lots 1, 2, and 3 Block A, 5.01 acres out of the Lowry Cobb Survey, Abstract No. 284, Town of Hickory Creek, Denton County, Texas as presented. Motion seconded by Councilmember DuPree.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (4) - Consider and act on an appointment to the Economic Development Corporation.**

The town council interviewed Nate Prevost for the Economic Development Corporation.

**Motion:** made by Councilmember Gordon to appoint Nate Prevost to Place 2 of the Economic Development with a term expiring December 2018. Motion seconded by Councilmember Elrod.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (5) - Consider and act on an ordinance of the Town Council of the Town of Hickory Creek, Texas amending the Town's Code of Ordinances, Chapter 14: Zoning, Exhibit A Zoning Ordinance, Article XXIII Nonconforming Uses and Structures to provide an amortization process for legal nonconforming uses.**

On the advice of the town attorney, town council will discuss Item D (5) when they convene into executive session. Upon reconvening into open session, the following motion was made.

**Motion:** made by Councilmember Gordon to approve the ordinance as presented. Motion seconded by Councilmember Theodore.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (6) - Consider and act on an ordinance of the Town Council of the Town of Hickory Creek, Texas amending the Town's Code of Ordinances, Chapter 14: Zoning, Exhibit A Zoning Ordinance, Article III: Definitions and Article XXIV: Vehicle Parking Regulations.**

**Motion:** made by Councilmember Kenney to approve Ordinance 2017-03-760 as presented. Motion seconded by Councilmember Elrod.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (7) - Consider and act on an ordinance cancelling the May 6, 2017 General Election.**

**Motion:** made by Councilmember Gordon to approve an ordinance cancelling the May 6, 2017 General Election. Motion seconded by Councilmember Theodore.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (8) - Consider and act on nomination of the 2016 Hickory Creek Business of the Year.**

**Motion:** made by Councilmember Theodore to recognize Rice Pot as the 2016 Hickory Creek Business of the Year. Motion seconded by Councilmember Elrod.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (9) - Consider and act on nomination of the 2016 Hickory Creek Citizen of the Year.**

**Motion:** made by Councilmember Theodore to recognize Susan Irwin as the 2016 Hickory Creek Citizen of the Year. Motion seconded by Councilmember Kenney.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (10) - Consider and act on nomination of the 2016 Hickory Creek Scholar of the Year.**

**Motion:** made by Councilmember Gordon to recognize Corina Marin and Andrea Peters as the 2016 Hickory Creek Scholar of the Year. Motion seconded by Councilmember Kenney.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (11) - Consider and act on nomination of the 2016 Hickory Creek Sportsman of the Year.**

**Motion:** made by Councilmember DuPree to recognize Amy Howard and Garren Schantz as the 2016 Hickory Creek Sportsman of the Year. Motion seconded by Councilmember Elrod.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (12) - Consider and act on the First Amendment of Development Agreement by and among the Town of Hickory Creek, Texas, Alan H. Goldfield and Shirley M. Abernathy successors in interest to AS Gold LP, and CTMGT Turbeville, LLC.**

**Motion:** made by Councilmember Gordon to approve the First Amendment of Development Agreement by and among the Town of Hickory Creek, Texas, Alan H. Goldfield and Shirley M. Abernathy successors in interest to AS Gold LP, and CTMGT Turbeville, LLC. Motion seconded by Councilmember Theodore.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (13) - Consider and act on a resolution of the Town of Hickory Creek, Texas approving amendments to the Town of Hickory Creek Personnel Policy Manual.**

**Motion:** made by Councilmember Gordon to approve a resolution of the Town of Hickory Creek, Texas approving amendments to the Town of Hickory Creek Personnel Policy Manual. Motion seconded by Councilmember DuPree.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**D (14) - Discussion regarding possible annexation and related financing issues pertaining to Hickory Creek Public Improvement District No. 1 and No. 2.**

John Smith, town administrator, provided an overview to council regarding possible annexation and related financing issues pertaining to Hickory Creek Public Improvement District No. 1 and No. 2.

**D (15) - Consider and act on SPAN Transit Services.**

Roger Muckiel, Denton County Span Mobility Manager, provided information to council regarding services provided and related costs.

**Motion:** made by Councilmember Gordon to authorize the town administrator to explore a potential partnership with Span, Inc. including an interlocal agreement with Lake Cities participants; including the following restrictions; medical necessity only, \$6.00 user fee each way with a maximum budget allocation of \$5,000.00. Motion seconded by Councilmember Theodore.

**Ayes:** Councilmember Elrod, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** Councilmember DuPree

**MOTION PASSED**

**D (16) - Discussion regarding current road and sidewalk projects.**

John Smith, town administrator, provided an overview to council regarding current road and sidewalk projects.

**Item E - Executive Session: The Town Council convened into executive session at 8:17 p.m. pursuant to Chapter 551 of the Texas Government Code Section 551.071, Consultation with City Attorney and other legal counsel on matters in which the duty of the attorney(s) to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, or on matters pertaining to pending or contemplated litigation.**

1. Discussion regarding an Off-Site Facilities Agreement between the Town of Hickory Creek, LCMUA, Westwood Residential and the Brown family for development of infrastructure to serve a 24.56-acre tract of land within the Town's extraterritorial jurisdiction.

**Motion:** made by Councilmember Elrod to take action as directed in executive session. Motion seconded by Councilmember DuPree.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

**Nays:** None

**MOTION PASSED UNANIMOUSLY**

**Item F - Reconvene into Open Session: The Town Council reconvened into open session at 9:41 p.m.**

**Item G – Adjournment**

**Motion:** made by Councilmember Gordon to adjourn the meeting. Motion seconded by Councilmember Elrod.

**Ayes:** Councilmember Elrod, Councilmember DuPree, Councilmember Gordon, Councilmember Kenney and Councilmember Theodore.

The meeting did then stand adjourned at 9:43 p.m.

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Approved:

Attest:

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Lynn C. Clark, Mayor  
Town of Hickory Creek

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Kristi K. Rogers, Town Secretary  
Town of Hickory Creek