

CITY COUNCIL REGULAR MEETING

AUGUST 23, 2010

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on August 23, 2010 at 5:30 p.m.

Council Present: Mayor Brian Loughmiller, Mayor Pro-Tem Pete Huff, Council members: David Brooks, Travis Ussery, Geralyn Kever, Don Day, and Ray Ricchi

Staff Present: Interim City Manager Rick Chaffin; Deputy City Manager Jim Parrish; City Attorney Mark Houser; City Secretary Sandy Hart; Airport Director Ken Wiegand; Executive Director of Development Services John Kessel; Police Sergeant Russell May; Parks, Recreation, and Open Space Director Lemuel Randolph; Director of Engineering Jack Carr; Assistant Chief of Police Randy Roland; Communications and Media Manager Anna Folmsbee; Assistant Director of Development Services Rob Daake; and Assistant to the City Manager Aretha Harvey.

There were 30 guests present.

Mayor Loughmiller called the meeting to order at 5:32 p.m. after determining a quorum was present. Invocation was given by Paster Doak Taylor, Lifepointe Fellowship Church. Mayor Loughmiller led the Pledge of Allegiance

INFORMATION SHARING

10-367 Presentation of a Grant for the Construction of the Veteran's Memorial Park

Mayor Loughmiller called for Citizen Comments.

Mr. Peter Bailey, 2003 Skyline Drive, McKinney, spoke in opposition to agenda item 10-381.

Ms. Vicki Day, 2106 Fairway Vista, McKinney, spoke about the North Texas History Center.

Mr. Barney Flores, 1207 E. Louisiana, McKinney, introduced the medal winning boxers in attendance at the meeting who represented Barney and Me in a competition.

Council unanimously approved the motion by Council member Ussery, seconded by Mayor Pro-Tem Huff, to approve the following items:

10-369 Minutes from the City Council Work Session of July 20, 2010

10-370 Minutes of the City Council Regular Meeting of July 20, 2010

- 10-371** Minutes of the City Council Special Meeting of July 26, 2010
- 10-372** Minutes of the City Council and McKinney Community Development Corporation Joint Meeting of July 26, 2010
- 10-373** Minutes of the City Council Work Session of August 2, 2010
- 10-374** Minutes of the City Council Work Session of August 6, 2010
- 10-375** Minutes of the Historic Preservation Advisory Board Meeting of June 3, 2010
- 10-376** Minutes of the McKinney Arts Commission Meeting of April 15, 2010
- 10-377** Minutes of the McKinney Community Development Corporation Meeting of June 24, 2010
- 10-378** Minutes of the Regular Planning and Zoning Commission Meeting of June 8, 2010
- 10-379** Minutes of the Regular Planning and Zoning Commission Meeting of July 13, 2010
- 10-380** Consider/ Discuss/ Act on an Ordinance to Revise Crosswalks and School Zone for Mooneyham Elementary School to Reflect the Changes within the School Attendance Boundaries. Caption reads as follows:

ORDINANCE NO. 2010-08-028

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS REVISING THE CROSSWALKS AND SCHOOL ZONE FOR MOONEYHAM ELEMENTARY SCHOOL TO REFLECT CHANGES IN THE ATTENDANCE BOUNDARIES

- 10-381** Consider/Discuss/Act an Ordinance an of the City Council of the City of McKinney Amending Chapter 70 of the Code of Ordinances Relating to Miscellaneous Offenses, by Adding a Section 70-220, Entitled "Residency Requirements of Sex Offenders". Caption reads as follows:

ORDINANCE NO. 2010-08-029

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, RELATING TO MISCELLANEOUS OFFENSES, BY ADDING A SECTION 70-220, ENTITLED "RESIDENCY REQUIREMENTS OF SEX OFFENDERS"; PROHIBITING REGISTERED SEX OFFENDERS FROM RESIDING WITHIN TWO THOUSAND (2000) FEET OF PUBLIC PARKS, PUBLIC PLAYGROUNDS, PRIVATE OR PUBLIC

SCHOOLS, LIBRARIES, PUBLIC SWIMMING POOLS, PUBLIC OR PRIVATE YOUTH CENTERS, AND CHILD DAY CARE CENTERS; PROVIDING FOR THE MEASURING OF DISTANCE REQUIREMENTS; PROVIDING FOR THE MAINTAINING AND UPDATING OF CITY MAP; DISPENSING WITH A CULPABLE MENTAL STATE; PROVIDING AFFIRMATIVE DEFENSES TO THE RESIDENCY REQUIREMENTS; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE EFFECT FROM AND AFTER ITS DATE OF PUBLICATION

- 10-384** Consider/Discuss/Act on a Resolution Authorizing a Contract for Material Testing Services Related to the Construction of the US 380 Water Main - 850 Pressure Plane Connection - East Project. Caption reads as follows:

RESOLUTION NO. 2010-08-110 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR MATERIAL TESTING SERVICES ON THE US 380 WATER MAIN – 850 PRESSURE PLANE CONNECTION – EAST PROJECT

- 10-385** Consider/Discuss/Act on a Resolution Readopting the City of McKinney Comprehensive Policy Statement on Economic Development and Community Redevelopment Incentives (Tax Abatement Policy). Caption reads as follows:

RESOLUTION NO. 2010-08-111 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ADOPTING THE AMENDED CITY GUIDELINES AND CRITERIA REGARDING TAX ABATEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE

- 10-386** Consider/Discuss/Act on a Resolution Approving an Airport Participation Agreement with Texas Department of Transportation (TxDOT). Caption reads as follows:

RESOLUTION NO. 2010-08-112 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AIRPORT PARTICIPATION AGREEMENT BETWEEN THE TEXAS DEPARTMENT OF TRANSPORTATION AND THE CITY OF MCKINNEY TO CONDUCT AN AIRPORT LAYOUT PLAN UPDATE FOR COLLIN COUNTY REGIONAL AIRPORT

- 10-387** Consider/Discuss/Act on a Resolution Authorizing Additional Funding for

North Texas Contracting, Inc, to Complete the Custer Road Utility Relocation Project. Caption reads as follows:

RESOLUTION NO. 2010-08-113 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE A CHANGE ORDER TO THE CONSTRUCTION CONTRACT FOR THE CUSTER ROAD UTILITY RELOCATION PROJECT

- 10-389** Consider/Discuss/Act on a Resolution Nominating Encore Wire to the Office of the Governor, Economic Development Bank as a Texas Enterprise Project. Caption reads as follows:

RESOLUTION NO. 2010-08-114 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, NOMINATING ENCORE WIRE AS AN ENTERPRISE PROJECT AND DESIGNATING ENCORE WIRE AS A QUALIFIED BUSINESS; AND PROVIDING AN EFFECTIVE DATE AND TERMINATION DATE

- 10-351** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on an Ordinance Granting Grayson-Collin Electric Cooperative, Inc., a Non-Exclusive Franchise to Use Public Rights-of-Way for the Purpose of Constructing and Operating an Electric Distribution System. Finance Director Jennifer Fung stated that this is the third public hearing to grant Grayson-Collin Electric Cooperative a non-exclusive franchise to maintain a distribution system in the public rights-of-way. This franchise agreement includes a 4% franchise fee and will expire in August 2015. Council unanimously approved the motion by Council member Brooks, seconded by Council member Ussery, to close the public hearing and approve the Ordinance granting Grayson-Collin Electric Cooperative, Inc. non-exclusive franchise to use public rights-of-way for the purpose of constructing and operating an electric distribution system. Caption reads as follows:

ORDINANCE NO. 2010-08-030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, GRANTING TO GRAYSON-COLLIN ELECTRIC COOPERATIVE, INC., A TEXAS ELECTRIC COOPERATIVE CORPORATION, ITS SUCCESSORS AND

ASSIGNS, A NON-EXCLUSIVE FRANCHISE TO USE PUBLIC RIGHTS-OF-WAY OF THE CITY OF MCKINNEY, TEXAS FOR THE PURPOSES OF CONSTRUCTING AND OPERATING AN ELECTRIC DISTRIBUTION SYSTEM; SETTING FORTH TERMS AND CONDITIONS TO GOVERN THE FRANCHISE; PROVIDING A REPEALING CLAUSE, A SAVINGS CLAUSE AND AN EFFECTIVE DATE

- 10-390** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on an Ordinance Granting to Denton County Electric Cooperative, Inc., D/B/A CoServ Electric, a Non-Exclusive Franchise to Use and Occupy Public Rights-of-Way Within the City of McKinney for the Constructing and Operating of an Electric transmission and Distribution System. Finance Director Jennifer Fung presented the request for the first of three public hearings on the Ordinance granting Denton County Electric permission to operate and maintain a distribution within the City of McKinney. The proposed franchise Ordinance would expire December 31, 2014. Ms. Fung stated that staff is working with other cities to come up with a mutually acceptable agreement. Council member Kever stated that she wanted it noted that she would like something added to the agreement that addresses the unsightly transmission lines and substations. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Mayor Pro-Tem Huff, seconded by Council member Ussery, to close the public hearing and approve the first reading of the Ordinance granting Denton County Electric Cooperative, Inc., dba CoServ Electric, a non-exclusive franchise to use and occupy public rights-of-way within the City of McKinney for the constructing and operating of an electric transmission and distribution system.

Mayor Loughmiller called for Council and Manager Comments:

Council Member Ricchi stated that he attended the North Central Texas Emergency Preparedness Planning Council (NCTEPPC) and the Tex 21 in Arlington last week with the Mayor. In 2008 through the Texas Motor Vehicle Fuel Tax, Texas has to pay the Federal Government and Texas receives 95% of that money back. The

5% that Texas loses is \$728 million in highway funds. The Tex 21 is getting involved with a lot of transportation related legislation. Mr. Ricchi stated that he is proud of our city, the Police Department, and the Chief of Police for the steps taken tonight with the passage of the Sex Offender Registration Ordinance. After the incident last week at the Public Safety building - "We have some of the best trained, biggest hearts, most qualified folks who work and live in the City that protect our citizens. Thank you all, we are very blessed to have you here."

Council member Day stated that he is very proud of our Police Department we are blessed with one of the best Police Departments in the State of Texas. "I am very proud of them."

Council member Kever stated that she is thankful for our Police Department and Officers along with the Fire Department that responded professionally, timely, and there was no loss of life among them. Ms. Kever stated that the Region Transportation Council (RTC) met on August 12th to discuss some regional transportation concerns. The North Texas area continues to build toll roads due to the growth and lack of Federal funds. The toll roads are a burden to our citizens with the cost of riding on them. The toll roads are taken off the State system which equates to not receiving State dollars to maintain them. During the next Legislative session the RTC will be appealing to the municipalities to appeal to our legislators to keep the tax payers from being penalized for the initiative we have taken to keep up with our roadways. The McKinney Arts Commission will have 20 grant applicants making presentations this Friday and Saturday.

Council member Brooks stated that he appreciates Collin County for the \$300,000 grant that was presented tonight for the Veterans Memorial that will be built in McKinney. The plan is to begin construction the first of next year with a completion scheduled for a November 11, 2011 Veterans Day celebration. Mr. Brooks gave a shout out to all the students and teachers that started school today.

Council member Ussery thanked Staff for what they do each day to make this the 5th best place to live in the Country. Mr. Ussery thanked the Fire and Police Departments for making him proud to say he is a native of this great city.

Mayor Pro-tem Huff remembered when the Council debated spending \$18 million to build the Public Safety building. The building stood the test of battle last week. The Police Department handled the situation professionally and makes us proud to be citizens of McKinney. The Veterans Memorial is an amazing project that will be the Center of Collin County as a monument to the fallen veterans of Collin County. The final cost of \$1.2 million was reached tonight with the donation from Collin County. TxDOT Aviation Division has just been through the CIP for the next fiscal year. Good news is that the funding has gone up 4 to 5% over the next few years and McKinney will be asking for our share of the funding. McKinney Community Development Corporation received 15 or more applicants for \$50,000 in small grant funding for marketing and promotion. Mr. Huff stated that anyone who has been out to the Airport lately you will notice the new 80 foot tower and it is to be completed by end of the year. Mr. Huff stated that last Monday night the Council appointed new Board and Commission members that completed a 3-4 month transparent process.

Mayor Loughmiller stated that during the next month the Council will be voting on and passing our Budget. Last week's event was an important reminder of the need to provide public safety as a core function in City government. Mr. Loughmiller stated that the Citizens need to realize that as the City Council works through the budget process, our job is to look at the core functions first - transportation and Public Safety. Last month, the City Manager, Council members and the Mayor appeared in front of Collin County Commissioners Court presenting our TIF districts related to the Airport and the Highway 5 corridor. We will return in October to ask the County for their 50% participation, after the Council has had an opportunity to pass an Ordinance approving those districts. Mr. Loughmiller requested that an item be placed on a future Work Session to discuss regional transportation boards and the possibility of rejoining the Dallas Regional Mobility Coalition. Mr. Loughmiller stated that he attended an event last Saturday at Pizza Hut Park celebrating Collin County and Community Schools in Frisco, Plano, Allen and McKinney. This project is not costing the taxpayers any money with the goal to motivate the private sector to come together and go see a FC Dallas game with a portion of the money to go back to their respective school districts. The

Mayor is encouraging everyone to attend the game in October and \$3.00 of the ticket price will be given to the school associated with the purchaser.

Interim City Manager Chaffin stated that he sent an email to Mayor and Council at 2:21 p.m. last Tuesday that summarized the events that occurred on Tuesday morning at the Public Safety building. "Our Police and Fire employees - sworn and civilian have conducted themselves with an incredible display of courage and professionalism throughout the events of this morning. This is a sincere and true test of their character, training and leadership - a job well done. Our Public Information Office and others have also conducted themselves with incredible professionalism and responsiveness - another job well done. We should be proud." Mr. Chaffin stated that his hat is off not only to the police and fire but the rest of the City employees who also rose to the occasion. We have a great group of employees that care and we have a very caring community.

Mayor Loughmiller called for Citizen Comments and there were none.

Mayor Loughmiller recessed the meeting into executive session at 6:13 p.m. per Texas Government Code Section 551.071 (2) – Consultation with City Attorney on any Work Session, Special or Regular Session agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said items (as needed), Section 551.071 (1) (A) – Litigation / Anticipated Litigation, Section 551.074 Personnel Matters, and Section 551.072 Discuss Real Property, as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 6:50 p.m.

Mayor Loughmiller called for Action from Executive Session. Council unanimously approved the motion by Mayor Pro-Tem Huff, seconded by Council member Ussery, to approve the recommended settlement agreement in the case City of McKinney v. SLC McKinney Partners, L.P., Nos. 006-2139-2009 and 006-2142-2009, County Court at Law No. 6, Collin County, Texas as discussed in closed session.

Mayor Loughmiller recessed the meeting into executive session at 7:00 p.m. per Texas Government Code Section 551.071 (2) – Consultation with City Attorney on any Work Session, Special or Regular Session agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said items (as needed), Section 551.071 (1) (A) – Litigation / Anticipated Litigation, Section 551.074

Personnel Matters, and Section 551.072 Discuss Real Property, as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 7:20 p.m.

Council unanimously approved the motion by Council member Ussery, seconded by Council member Ricchi to adjourn the meeting. Mayor Loughmiller adjourned the meeting at 7:21 p.m.

BRIAN LOUGHMILLER
Mayor

ATTEST:

SANDY HART, TRMC, MMC
City Secretary