

## **CITY COUNCIL REGULAR MEETING**

**MAY 18, 2010**

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on May 18, 2010 at 5:30 p.m.

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

Staff Present: Deputy City Manager Rick Chaffin; Deputy City Manager Jim Parrish; City Secretary Sandy Hart; Fire Chief Mark Wallace; Human Resources Director Tadd Phillips; Police Sergeant Roger Thornhill; Human Resources Manager Jennifer Askenazi; Director of Engineering Jack Carr; Planning Director Jennifer Cox; Senior Planner Kevin Spath; Finance Director Jennifer Fung; Community Development Block Grant Administrator Shirletta Best; Communications and Marketing - CoCo Good and Anna Folmsbee; Executive Director of Development Services John Kessel; Grants Coordinator Janay Tieken; Chief of Police Doug Kowalski; Assistant to the City Manager Aretha Harvey; and Parks, Recreation, and Open Space Director Lemuel Randolph.

There were approximately 70 guests present.

Mayor Loughmiller called the meeting to order at 5:33 p.m. after determining a quorum was present. Invocation was given by Reverend Brad Banks of Faith Bible Church. Mayor Loughmiller led the Pledge of Allegiance.

### **INFORMATION SHARING**

- 10-216** Recognition of the Human Resources Manager (Jennifer Askenazi)
- 10-217** Presentation of Certificate of Recognition to Michael Dauterive of McKinney Boyd High School
- 10-218** Presentation of Certificates of Recognition to McKinney Boyd High School Bailadoras Dance Team
- 10-219** Proclamation for June, 2010 as McKinney First! Be Vocal, Buy Local Month

Mayor Loughmiller called for Citizen Comments.

The following individuals spoke in favor of the Heard Natural Science Museum Resolution

Mr. John Valencia, 2626 Welborn Street, Dallas

Ms. Juanita Horne, 31919 Medical Center, McKinney

Mr. Paul Sheldon, 2417 Kitty Hawk Drive, Plano

Ms. Meg Latham, 461 Kentucky Lane, Fairview

Ms. Beth Barton, 504 Heard, McKinney

The following individuals did not wish to speak, but wanted their support of the Heard Natural Science Museum Resolution recorded into the record.

Ms. Carie Figueroa, 1409 Meadowbrook, McKinney

Ms. Brandi Hart, 1300 Eldorado Parkway, Apt. 715, McKinney

Ms. Sally Cameron, 1204 Kristen Court, McKinney, spoke about the lack of a fence that was promised by the City around the Carey Cox Park.

Council unanimously approved the motion by Council member Kever, seconded by Council member Ussery, to approve the following items:

- 10-220** Minutes of the City Council Work Session of May 4, 2010
- 10-221** Minutes of the City Council Regular Meeting of May 4, 2010
- 10-222** Minutes of the Historic Preservation Advisory Board Meeting of April 1, 2010
- 10-223** Minutes of the McKinney Community Development Corporation Board Meeting of March 25, 2010
- 10-224** Minutes of the McKinney Community Development Corporation Special Board Meeting of March 30, 2010
- 10-225** Minutes of the McKinney Community Development Corporation Special Board Meeting of April 12, 2010
- 10-226** Minutes of the McKinney Economic Development Corporation Board Meeting of March 23, 2010
- 10-227** Minutes of the McKinney Housing Authority Board Meeting of March 4, 2010
- 10-228** Minutes of the McKinney Housing Authority Board Meeting of April 13, 2010
- 10-229** Minutes of the McKinney Housing Finance Corporation Meeting of

January 8, 2010

**10-230** Minutes of the Regular Planning and Zoning Commission Meeting of April 27, 2010

**10-208** Consider/Discuss/Act on an Ordinance Amending Certain Sections of the City Code of Ordinances to Include Certain Sections of Chapter 74 (Parks and Recreation). Caption reads as follows:

ORDINANCE NO. 2010-05-012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 74 AND APPENDIX A, ENTITLED "SCHEDULE OF FEES", OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, RELATING TO FEES, BY AMENDING SECTION 74-76 RELATIVE TO PARKS AND RECREATION FEES; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

**10-209** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Accept a Selective Traffic Enforcement Program (STEP) Click It or Ticket Grant from the Texas Department of Transportation. Caption reads as follows:

RESOLUTION NO. 2010-05-061 (R)

A RESOLUTION AUTHORIZING THE CITY MANAGER TO CITY MANAGER ACCEPT A STEP (SELECTIVE TRAFFIC ENFORCEMENT PROGRAM) CLICK IT OR TICKET GRANT FROM THE TEXAS DEPARTMENT OF TRANSPORTATION

**10-210** Consider/Discuss/Act on Resolution Authorizing the City Manager to Execute an Agreement with Terry Lacore to Provide Sanitary Sewer Service to properties at 522, 671, 673 and 677 Lacore Lane in McKinney's Extraterritorial Jurisdiction. Caption reads as follows:

RESOLUTION NO. 2010-05-062 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TERRY LACORE TO PROVIDE SANITARY SEWER SERVICE TO CERTAIN PROPERTIES SITUATED AT 522, 671, 673 AND 677 LACORE LANE IN THE MCKINNEY EXTRA-TERRITORIAL JURISDICTION

**10-213** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Apply for and Accept, if Funded, Urban Area Security Initiative (UASI)

Program funding from the Department of Homeland Security through the North Central Texas Council of Governments (NCTCOG) for an Negotiations Vehicle. Caption reads as follows:

RESOLUTION NO. 2010-05-063 (R)

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT URBAN AREA SECURITY INITIATIVE (UASI) PROGRAM FUNDING FOR A NEGOTIATIONS VEHICLE

- 10-212** Consider/Discuss/Act on a Resolution Authorizing a Change Order to the Contract for the Construction of the Airport Sewer Project. Caption reads as follows:

RESOLUTION NO. 2010-05-064 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO THE CONTRACT FOR THE CONSTRUCTION OF THE AIRPORT SEWER PROJECT

- 10-211** Consider/Discuss/Act on a Resolution Authorizing a Contract for the Community Development Block Grant 2011-2015 Consolidated Plan. Caption reads as follows:

RESOLUTION NO. 2010-05-065 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BBC RESEARCH AND CONSULTING TO PREPARE THE CDBG 2011-2015 CONSOLIDATED PLAN

- 10-232** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Submit a Proposal in Response to the Brownfields Area-Wide Planning Pilot Program Request for Proposals from the Environmental Protection Agency (EPA). Caption reads as follows:

RESOLUTION NO. 2010-05-066 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A PROPOSAL IN RESPONSE TO THE BROWNFIELDS AREA-WIDE PLANNING PILOT PROGRAM REQUEST FOR PROPOSALS FROM THE ENVIRONMENTAL PROTECTION AGENCY

- 10-233** Consider/Discuss/Act on a Resolution Authorizing the City Manager to

Apply for and Accept, if Funded, an Assistance to Firefighters Grant, through the Department of Homeland Security, to Purchase Interactive Fire Simulation and Incident Response Training Software. Caption reads as follows:

RESOLUTION NO. 2010-05-067 (R)

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT AN ASSISTANCE TO FIREFIGHTERS GRANT, THROUGH THE DEPARTMENT OF HOMELAND SECURITY, TO PURCHASE INTERACTIVE FIRE SIMULATION AND INCIDENT RESPONSE TRAINING SOFTWARE

- 10-234** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute an Amended Professional Services Contract with Gateway Planning Group in Support of the Collin County Regional Airport and Environs TIF Analysis and Implementation. Caption reads as follows:

RESOLUTION NO. 2010-05-068 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, COLLIN COUNTY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED PROFESSIONAL SERVICES CONTRACT WITH GATEWAY PLANNING GROUP ASSOCIATED WITH PROFESSIONAL SERVICES IN SUPPORT OF THE COLLIN COUNTY REGIONAL AIRPORT AND ENVIRONS TAX INCREMENT FINANCING ANALYSIS AND IMPLEMENTATION; PROVIDING AN EFFECTIVE DATE

- 10-235** Consider/Discuss/Act on Resolution Authorizing Participation in TexPool/TexPool Prime and Designating Authorized Representatives. Caption reads as follows:

RESOLUTION NO. 2010-05-069 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING PARTICIPATION IN TEXPOOL/TEXPOOL PRIME AND DESIGNATING AUTHORIZED REPRESENTATIVES

- 10-231** Mayor Loughmiller called for Consideration/Discussion/Action on an Ordinance of the City Council of the City of McKinney, Texas, Certifying the Election Results for the May 8, 2010 Special Election. Council member Kever requested that this item be pulled down for discussion. Ms. Kever expressed her appreciation to the Bond Committee for the

time and effort they contributed to the successful bond election. Ms. Kever thanked the voters of McKinney for their support during these trying economic times. Council unanimously approved the motion by Council member Brooks, seconded by Council member Kever, to approved the Ordinance of the City Council of the City of McKinney, Texas, Certifying the Election Results for the May 8, 2010 Special Election. Mayor Loughmiller stated that all 6 bond propositions passed and these items will go on to the Capital Improvements Plan. Caption reads as follows:

ORDINANCE NO. 2010-05-013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS FOR THE MAY 8, 2010 SPECIAL BOND ELECTION; AND PROVIDING AN EFFECTIVE DATE

- 10-214** Mayor Loughmiller called for Consideration/Discussion/Action on Filling the Vacant Position on the McKinney Housing Finance Corporation. Council member Brooks stated that the Council committee interviewed the candidates for this board last July and he would like to recommend appointing Alan Chapin to fill the unexpired term. Council unanimously approved the motion by Council member Brooks, seconded by Council member Ussery, to appoint Alan Chapin to fill the unexpired term, ending September 30, 2011, on the McKinney Housing Finance Corporation.
- 10-236** Consider/Discuss/Act on a Resolution in Support of Utilizing Accepted Wildlife Mitigation Practices by the North Texas Municipal Water District ("NTMWD") on the Heard Natural Wildlife Sanctuary ("Heard") Property to Preserve the Character of the Wildlife Sanctuary, the Species thereon, and the Environment in Conjunction with its Construction of a Sewer Line. Council member Ricchi requested that the Council approve the Resolution that urges the North Texas Municipal Water District to use their best efforts to put the Heard Natural Science Museum prairie lands and wetlands back in the condition that they found it. Mayor Loughmiller stated that the City's representatives on the North Texas Municipal Water

District Board supported mitigating these issues and that they previously suggested that they would do that. Mr. Loughmiller stated that the North Texas Municipal Water District had authority to pursue this route through condemnation without coming to the City Council and requesting some action on our part. This resolution that we have before us essentially is designed to show that we support and understand that we rely on the Water District to provide necessary services and that we also understand that we have a strong sense of what our Unique by Nature brand is and the fact that we value our natural wildlife environment. Council unanimously approved the motion by Ray Ricchi, seconded by Brian Loughmiller, to Approved Resolution in Support of Utilizing Accepted Wildlife Mitigation Practices by the North Texas Municipal Water District ("NTMWD") on the Heard Natural Wildlife Sanctuary ("Heard") Property to Preserve the Character of the Wildlife Sanctuary, the Species thereon, and the Environment in Conjunction with its Construction of a Sewer Line. Caption reads as follows:

RESOLUTION NO. 2010-05-070 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, IN SUPPORT OF UTILIZING ACCEPTED WILDLIFE PRACTICES BY THE NORTH TEXAS MUNICIPAL WATER DISTRICT ("NTMWD") ON THE HEARD NATURAL WILDLIFE SANTUARY ("HEARD") PROPERTY TO PRESERVE THE CHARACTER OF THE WILDLIFE SANCTUARY, THE SPECIES THEREON, AND THE NATURAL ENVIRONMENT IN CONJUNCTION WITH ITS CONSTRUCTION OF A SEWER LINE ON SAID PROPERTY IN MCKINNEY, TEXAS AND PROVIDING FOR AN EFFECTIVE DATE

- 10-237** Conduct a Public Hearing to Consider/Discuss/Act on an Ordinance Nominating Raytheon Company to the Office of the Governor, Economic Development Bank as a Texas Enterprise Project. Finance Director Jennifer Fung presented the application for the Raytheon Company to be designated as a Texas Enterprise project. Ms. Fung stated that Raytheon meets the criteria for tax relief and other incentives adopted by the City on the grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and

stability. Ms. Fung stated that an Enterprise Zone is intended to encourage job creation and retention as well as capital investment in the community. Special incentives are available through the State of Texas for new and expanded business in the Enterprise Zone. The state can designate up to 105 enterprise projects every two years. To be an enterprise project, the business must create or maintain permanent full time jobs, make a capital investment at the site, hire at least 25 percent of new hires from enterprise zone residents or from economically disadvantage individuals and maintain this level of employment for its designated period. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Ricchi, seconded by Council member Kever, to close the public hearing and approve the Ordinance Nominating Raytheon Company to the Office of the Governor, Economic Development Bank as a Texas Enterprise Project. Caption reads as follows:

ORDINANCE NO. 2010-05-014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY OF MCKINNEY TO PARTICIPATE IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH THE INTERESTED PARTIES, AND NOMINATING RAYTHEON COMPANY TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM (OOGEDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK) AS A TEXAS ENTERPRISE PROJECT (PROJECT)

**10-015Z** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by AutoZone Texas, L.P., on Behalf of ASG Eldorado Pavilion, Ltd., for Approval of a Request to Rezone Approximately 1.36 Acres from "PD" - Planned Development District to "PD" - Planned Development District, to Allow Neighborhood Business Uses, Located on the West Side of Ridge Road and Approximately 350 Feet South of Eldorado Parkway, and Accompanying Ordinance. Planning Director Jennifer Cox stated that the applicant is



proposing to rezone approximately 1.36 acres of land, located on the west side of Ridge Road and approximately 350 feet south of Eldorado Parkway from "PD" - Planned Development District to "PD" - Planned Development District, to allow for neighborhood business uses. The subject property is currently zoned for office uses. The applicant has submitted an associated site plan which proposes an AutoZone on the subject property. Ms. Cox stated that when the nearby residential subdivision to the south was built, the zoning designating the subject property for office uses was already in place so the residents purchased their homes with the expectation that the subject property would be developed for office uses. Ms. Cox stated that staff is recommending denial. Applicant, Mr. Bob Roeder, 1700 Redbud Trail, McKinney, representing AutoZone, stated that the application passing the zoning test except for two criteria. It passes the test by conforming to the plans and goals test and does not cause any adverse impact on infrastructure or public facilities or city services, it does not constitute an over concentration of uses and exceeds the test in that it has a higher positive return to the City than an office building will be. It fails the test in that it is not shown on your Future Land Use Plan as retail. Mr. Roeder stated that they are requesting a neighborhood business use. Mr. Roeder stated that the current zoning would allow for a Child Care facility, indoor movie theater, bowling alleys, and large event centers that are allowed as a matter of right. Mr. Roeder stated that his client is willing to table this item for a few weeks to give them an opportunity to meet with the neighbors. Mayor Loughmiller called for public comments.

The following individuals spoke against the rezoning request:

Mr. Terry Gaddis, 6316 Baltic Avenue, McKinney

Mr. Barrett Crane, 3213 Illinois Avenue, McKinney

Ms. Nadine Winterroud, 3309 St. James Place, McKinney

Ms. Christine Jenkins, 3100 New York Avenue, McKinney

The following individual did not wish to speak but requested that their opposition be entered into the record:

Mr. Joe Stewart, 3101 New York Avenue, McKinney

Council member Brooks stated that he is opposed to this item. The residents, in a few days, were able to obtain over 70% of the residents signatures on a petition opposing this item. Council member Day is in support of this rezoning and for increasing the retail business in McKinney for the City and school district tax base. Mr. Day stated that a retail space will generate 5 times more taxes than an office building. Council member Brooks made a motion to deny the rezoning request. Mr. Brooks withdrew his motion. Mr. Brooks stated that he is very supportive of economic development but the answer is not to zone every piece of property in the community to retail development. Council unanimously approved the motion by Council member Kever, seconded by Council member Ussery, to close the public hearing and table this item until the June 1, 2010 meeting.

Mayor Loughmiller called for Council and Manager Comments:

Council member Ricchi invited everyone to the Oak Hollow Club House ribbon cutting on May 27<sup>th</sup> at noon with a golf tournament to follow. The Carey Cox Memorial Park dedication and grand opening will be held on May 26<sup>th</sup>. Mr. Ricchi stated that the construction of Ridge Road ahead of schedule and is predicted to be completed in time for the opening of McClure Elementary School. Mr. Ricchi wished Mayor Pro-Tem Huff a speeding recovery. Mr. Ricchi stated that the Leadership McKinney class held a Ping Pong Paluzza last week that has over 85 people participating and they raised over \$4,000 for McKinney Independent School District. Mr. Ricchi encouraged everyone to not only buy in McKinney but also to play and stay in McKinney. Mr. Ricchi announced that our newest La Quinta Hotel on 121 will be opening soon.

Council member Day wished Mayor Pro-Tem Huff a speedy recovery from his stay in the hospital. Mr. Day also wished City Manager Ragan a speedy recovery from

his stay in the hospital. Mr. Day invited everyone to attend the Art Walk in downtown McKinney this coming weekend.

Council member Kever echoed the well wishes to Mr. Huff and Mr. Ragan. Ms. Kever addressed the growing issue among the young people with K2 that is an herbal incense laced with Tetrahydrocannabinol which is the primary psychogenic in marijuana. It is legal to purchase it as incense, but when it is smoked, it has the same effect as marijuana. There are 13 countries and several states that have passed legislation to ban K2. Ms. Kever stated that she has contacted Senator Shapiro's office and she will be drafting a bill that will be sent to the City Council for our review.

Council member Brooks stated that he shares his colleague's concerns for Mr. Huff and Mr. Ragan and for their speedy recovery. Mr. Brooks stated that he supports Ms. Kever passion and efforts on the K2 issue.

Council member Ussery expressed best wishes to Mayor Pro-Tem Huff and City Manager Ragan. Mr. Ussery thanked staff for all that they do. Mr. Ussery thanked Council member Ricchi for allowing him to lead a Kids Council.

Mayor Loughmiller wished Mayor Pro-Tem Huff a speedy recovery so he can have the pleasure of rejoining the Council. Mayor Loughmiller wished City Manager Ragan a speedy recovery from his appendectomy. Mr. Loughmiller stated the Police Department, City Attorney's office and others have been working on the K2 issue. When this issue came to our attention, Staff immediately started investigating to see what could be done. "What came out of the investigation was that it needs to be addressed at the State level, and I support that legislation." Mr. Loughmiller announced that his 8<sup>th</sup> Grade Mock Trial team at Dowell Middle School won the Mock Trial competition this past weekend for Collin County Bar Association. Over 30 teams participated. This is the first time in the 15 year history of the competition that any McKinney school has won. "Congratulations to the 8th graders at Dowell Middle School for a great competition and look forward to next year."

Mayor Loughmiller called for Citizen Comments.

Ms. Juanita Horne, 3191 Medical Center Drive, #17106, McKinney, spoke about her concerns for the lack of development at US75 and Highway 121.

Mr. Terry Gaddis, 6316 Baltic Avenue, McKinney, stated that the Auto Zone request will create more traffic for the subdivision. Mr. Gaddis stated that there is no room on that site for a movie theater, bowling alley, or large entertainment venue.

Ms. Gilda Garza, 1208 Garcia Street, McKinney, spoke in support of the Heard Natural Science Museum and the McKinney Community Development Corporation Application for MaineGait. Ms. Garza requested that the City needs to be concerned about the residents around Old Settler's Recreation Facility when scheduling a Drum Festival for 11 hours. Next time put them out at Erwin Park or another Park west of US 75.

Mr. Nadine Winterroud, 3309 St. James Place, McKinney, spoke about maintaining the home values for the residents.

Council unanimously approved the motion by Council member Ussery, seconded by Council member Ricchi, to adjourn. Mayor Loughmiller adjourned the meeting at 7:25 p.m.

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BRIAN LOUGHMILLER, Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary