

CITY COUNCIL REGULAR MEETING

OCTOBER 5, 2010

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on October 5, 2010 at 6:00 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; Assistant to the City Manager Aretha Harvey; Chief of Police Doug Kowalski; Police Department – Paul Gade, Jose Quiles, Ana Navarro, John Harris, Roger Thornhill, Ronnie Butler, and Cathy Lennox; Fire Chief Mark Wallace; Assistant Fire Chief Frank Roma; Fire Department – Don McKinney, Greg Cox, Matt Ball, Kevin McGuyer, Dan Frey, David Herron, Jim Floyd, Mike Stokes, Barney Tucker, Joel Hutson, and Mark Douglas; Executive Director of Development Services John Kessel; Grants Administrator Janay Tieken; Executive Assistant to the Mayor and Council Mona Robinson; Records and Information Coordinator Sonya Paul; Planning Director Jennifer Cox; Information Technology Director Don Grammar; and Communications and Media Manager Anna Folmsbee.

Mayor Loughmiller called the meeting to order at 6:05 p.m. after determining a quorum was present. Invocation was given by Sergeant Carl Ungurait, Salvation Army.

The Police and Fire Color Guard presented the colors. Mayor Loughmiller led the Pledge of Allegiance.

10-446 Mayor Loughmiller presented a Gold Star Flag to Terri & Brian Bury in honor of their son, Brandon Bury

Mayor Loughmiller called for Citizen Comments: The following individuals requested the City of McKinney display Share the Road signage in McKinney to promote motorcycle awareness:

Mr. Russell Neis, 705 Braxton Court, McKinney

Mr. Thomas Osburn, 2322 N. Ridge Road, McKinney

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

- 10-447** Minutes of the City Council Work Session of September 21, 2010
- 10-448** Minutes of the City Council Regular Meeting of September 21, 2010
- 10-449** Minutes of the McKinney Convention & Visitors Bureau Board Meeting of August 23, 2010
- 10-450** Minutes of the McKinney Economic Development Corporation Board Meeting of August 17, 2010
- 10-452** Consider/Discuss/Act on a Resolution Authorizing Additional Funding for Dal-Ec Construction, Ltd. to Complete the University Pump Station Generator Phase 1 Project. Caption reads as follows:

RESOLUTION NO. 2010-10-126 (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 UNIVERSITY PUMP STATION GENERATOR PHASE 1 PROJECT

- 10-453** Consider/Discuss/Act on a Resolution Approving the Interlocal Agreement with McKinney Independent School District to Utilize Strands of Fiber on the City's Fiber Optic Wide Area Network for the Purpose of Providing Communications Services Including, but not Limited to, McClure Elementary School. Caption reads as follows:

RESOLUTION NO. 2010-10-127 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH MCKINNEY INDEPENDENT SCHOOL DISTRICT TO UTILIZE STRANDS OF FIBER ON THE CITY'S FIBER OPTIC WIDE AREA NETWORK FOR THE PURPOSE OF PROVIDING COMMUNICATIONS SERVICES INCLUDING BUT NOT LIMITED TO MCCLURE ELEMENTARY SCHOOL

- 10-454** Consider/Discuss/Act on a Resolution Approving the Recommendations of the Arts Commission for Awarding Grants for Funding of the Arts. Caption reads as follows:

RESOLUTION 2010-10-128 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, FUNDING ART GROUPS FROM THE GENERAL FUND IN AN AMOUNT NOT TO EXCEED \$190,000.00; AND PROVIDING FOR AN EFFECTIVE DATE

10-451 Mayor Loughmiller called for Consideration/Discussion/Action on an Ordinance of the City Council of the City of McKinney Amending Chapter 90, "Streets and Sidewalks" of the Code of Ordinances, by Adding a new Article VI, "Horse Drawn Vehicle". Council unanimously approved the motion by Council member Kever, seconded by Mayor Pro-Tem Huff, to table this item indefinitely.

10-455 Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Appointing Eight (8) Members to the Tax Increment Reinvestment Zone Number One Board of Directors. City Attorney Mark Houser presented the Resolution appointing eight members to the Reinvestment Zone Number One. Council unanimously approved the motion by Council member Ussery, seconded by Council member Kever, to approve the Resolution appointing eight (8) members to the Tax Increment Reinvestment Zone Number One Board of Directors which would include the Mayor and six Council members and the Chairman of the Planning and Zoning Commission. Council unanimously approved the motion by Council member Kever, seconded by Council member Ussery, to appoint Council members District 2, District 4, and At Large (2) to one year terms ending September 30, 2011, and to appoint Mayor, Council members District 1, District 3, At Large (1), and Planning and Zoning Commission Chairman to two year terms ending September 30, 2012. Caption reads as follows:

RESOLUTION NO. 2010-10-129 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, APPOINTING EIGHT (8) MEMBERS TO THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER ONE, CITY OF MCKINNEY; PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE

10-456 Consider/Discuss/Act on a Resolution Appointing Eight (8) Members to the Tax Increment Reinvestment Zone Number Two Board of Directors. City Attorney Mark Houser presented the Resolution for appointment of the members to the Reinvestment Zone, Number Two. Council

unanimously approved the motion by Council member Day, seconded by Mayor Pro-Tem Huff to approve the Resolution appointment the Mayor, six Council members, and McKinney Airport Development Corporation representative Fritz Mowery to the Reinvestment Zone, Number Two. Council unanimously approved the motion by Council member Kever, seconded by Council member Ussery, to appoint Council members District 2, District 4, and At Large (2) to one year terms ending September 30, 2011, and to appoint Mayor, Council members District 1, District 3, At Large (1), and McKinney Airport Development Corporation representative Fritz Mowery to two year terms ending September 30, 2012. Caption reads as follows:

RESOLUTION NO. 2010-10-130 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, APPOINTING EIGHT (8) MEMBERS TO THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER TWO, CITY OF MCKINNEY; PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE

Council member Kever stepped down from the dais for the next item.

10-091Z Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Robert H. Roeder, on Behalf of Seeds For The Future, L.P., Baylor Health Care System, and Franklin Family Partnership for Approval of a Request to Rezone Approximately 27.90 Acres, from "PD" - Planned Development District (Mixed Uses) to "O" - Office District and "BG" - General Business District; and to Rezone Approximately 156.51 Acres, from "AG" - Agricultural District to "RS 72" - Single Family Residence District, "C" - Planned Center District, and "BG" - General Business District, Generally Located on the Southeast Corner of FM 1461 (Lake Forest Drive) and Geren Trail, and Accompanying Ordinance. Planning Director Jennifer Cox stated that the applicant is requesting to rezone approximately 27.90 acres of land, located on the south side of Geren Trail and approximately 2,000 feet east of F.M. 1461 (Lake Forest Drive), from "PD" - Planned

Development District to "O" - Office District and "BG" - General Business District; and to rezone approximately 156.52 acres, from "AG" - Agricultural District to "C" - Planned Center District, "BG" - General Business District, and "RS 72" - Single Family Residence District. No immediate development plans have been proposed for the zoning tracts. Staff is recommending approval with the special ordinance provisions. Applicant, Mr. Bob Roeder, 1700 Redbud, Suite 300, McKinney was available to answer questions from Council. Mayor Loughmiller called for public comment. The following individual spoke in favor: Mr. Bill Gross, 4879 Geren Trail, McKinney. Council unanimously approved the motion by Council member Ussery, seconded by Council member Ricchi, to approved the ordinance rezoning approximately 27.90 acres, from "PD" - Planned Development District (Mixed Uses) to "O" - Office District and "BG" - General Business District; and to rezone approximately 156.51 acres, from "AG" - Agricultural District to "RS 72" - Single Family Residence District, "C" - Planned Center District, and "BG" - General Business District, generally located on the southeast corner of FM 1461 (Lake Forest Drive) and Geren Trail, with the following special ordinance provisions: The use and development of 97.24 acres of the subject property, as shown on the proposed Zoning Exhibit (Exhibit C), shall develop in accordance with the "RS 72" - Single Family Residence District regulations of the Zoning Ordinance; the use and development of 24.05 acres of the subject property, as shown on the proposed Zoning Exhibit (Exhibit C), shall develop in accordance with the "O" - Office District regulations of the Zoning Ordinance; the use and development of 50.00 acres of the subject property, as shown on the proposed Zoning Exhibit (Exhibit C), shall develop in accordance with the "C" - Planned Center District regulations of the Zoning Ordinance; and the use and development of 3.70 acres of the subject property, as shown on the proposed Zoning Exhibit (Exhibit C), shall develop in accordance with the

“BG” - General Business District regulations of the Zoning Ordinance.

Caption reads as follows:

ORDINANCE NO. 2010-10-039

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING ORDINANCE NO. 1703 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 27.90 ACRE PROPERTY, LOCATED ON THE SOUTH SIDE OF GEREN TRAIL AND APPROXIMATELY 2,000 FEET EAST OF F.M. 1461 (LAKE FOREST DRIVE), IS REZONED FROM “PD” – PLANNED DEVELOPMENT DISTRICT TO “O” – OFFICE DISTRICT AND “BG” – GENERAL BUSINESS DISTRICT; AND AMENDING ORDINANCE NO. 1270 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 156.51 ACRE PROPERTY, LOCATED ON THE SOUTHEAST CORNER OF GEREN TRAIL AND FM 1461 (LAKE FOREST DRIVE), IS REZONED FROM “AG” – AGRICULTURAL DISTRICT TO “C” – PLANNED CENTER DISTRICT, “BG” – GENERAL BUSINESS DISTRICT, AND “RS 72” – SINGLE FAMILY RESIDENCE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INJUNCTIVE RELIEF, PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

Council member Kever returned to the dais.

10-060Z Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Nash Group Real Estate, on Behalf of Reyburn Anderson, Wanda Perry Anderson, and Kimberly Anderson Mayer, for Approval of a Request to Rezone Approximately 37.67 Acres, from "AG" - Agricultural District and "REC" - Regional Employment Center Overlay District to "PD" - Planned Development District and "REC" - Regional Employment Center Overlay District, Generally to Modify the Development Standards, Located on the East Side of Custer Road and Approximately 500 Feet South of Synergy Drive, and Accompanying Ordinance. Planning Director Jennifer Cox stated that the applicant is requesting to rezone approximately 37.67 acres of land, located on the east side of Custer Road and approximately 500 feet south of Synergy Drive from “AG” - Agricultural District and “REC” - Regional Employment Center Overlay District to “PD” - Planned Development District and “REC” - Regional Employment Center Overlay

District, generally to allow "BN" Neighborhood Business uses and "O-1" Neighborhood Office uses. The applicant has not yet indicted any future plans for development of the subject property. Staff is recommending approval. Applicant, Mr. Jack Harvard, 5559 Lago Vista, Frisco, stated that he is representing the Anderson Family that owns the property. There are no plans at this time to use it for anything else other than agricultural. Mayor Loughmiller called for public comment and there were none. Council unanimously approved the motion by Council member Brooks, seconded by Council member Kever, to approve the Ordinance rezoning approximately 37.67 acres, from "AG" - Agricultural District and "REC" - Regional Employment Center Overlay District to "PD" - Planned Development District and "REC" - Regional Employment Center Overlay District, generally to modify the development standards, located on the east side of Custer Road and approximately 500 feet south of Synergy Drive, with the following special ordinance provisions: Use and development of the subject property (37.67 acres), more fully depicted on proposed Zoning Exhibit B, shall conform to the following regulations: Tract 1 (17.82 acres) shall be developed in accordance with Section 146-84 "BN" - Neighborhood Business District of the City of McKinney Zoning Ordinance and "REC" - Regional Employment Center Overlay District, except as follows: Restaurant or cafeteria (including drive-through window) shall be allowed by right without a specific use permit (SUP), Tract 2 (19.85 acres) shall be developed in accordance with Section 146-87 "O-1" - Neighborhood Office District the City of McKinney Zoning Ordinance and "REC" - Regional Employment Center Overlay District, except as follows: the incidental retail sale of food, beverages, and other convenience items or services is permitted to the occupants, employees, and guests, as long as these items are not advertised nor offered for sale to the general public, an open space buffer shall be provided along the eastern property line of the subject property. The width of the buffer must

be a minimum of 50 feet and must extend at least 15 feet west of the Erosion Hazard Setback Easement, whichever is greater; a development plan, per the requirements of the “REC” - Regional Employment Center Overlay District’s third (III) section (General Development Plan Requirements), shall be required prior to the approval of any site plan or plat for the subject property, subject to the review and approval by the Planning and Zoning Commission provided that the plan also meets the following special requirements: mutual access shall be provided in the northwest corner of the subject property to the adjacent property to the north, which is more fully depicted in the clouded area on the proposed zoning exhibit, access to the subject property from Custer Road shall be provided at existing median openings, more fully depicted on the proposed zoning exhibit. Additional access points may be allowed in accordance with the requirements of the City of McKinney’s Street Design Manual, and a Hike and Bike Trail shall be provided on the subject property, and its alignment and location shall be finalized with the development plan in accordance with the Parks, Recreation and Open Space Master Plan then in effect. Caption reads as follows:

ORDINANCE NO. 2010-10-040

AN ORDINANCE AMENDING ORDINANCE NO. 1270, OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 37.67 ACRE PROPERTY, LOCATED ON THE EAST SIDE OF CUSTER ROAD AND APPROXIMATELY 500 FEET SOUTH OF SYNERGY DRIVE, IS REZONED FROM “AG” – AGRICULTURAL DISTRICT TO “PD” – PLANNED DEVELOPMENT DISTRICT, GENERALLY TO MODIFY THE DEVELOPMENT STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INJUNCTIVE RELIEF, PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

Mayor Loughmiller called for Council and Manager Comments

Council member Brooks stated that the Mayor did a good job tonight recognizing the Bury family. There are many families across the country that have lost loved ones.

Mr. Brooks invited everyone to attend the Veterans' Day Ceremony on November 13th at the location of the Veteran's Memorial at Craig Ranch.

Council member Ussery expressed his thanks to staff for all that they do that does not go unnoticed. Mr. Ussery thanked Mayor Loughmiller for all that he does to promote McKinney. Mr. Ussery thanked all those that serve our country in harms way every day.

Mayor Pro-Tem Huff thanked Cathy Lennox for the work she does on Blue Star and Gold Star Flag program. Mr. Huff expressed his deepest sympathies to the Bury family for their loss. Mr. Huff stated that he was in Austin twice last week. One visit was for "Cities of Service" program. The program covers cities that come up with projects they want to see done. The Volunteer McKinney Center is taking the lead here and it will be a vehicle to tie volunteer groups together and get great things done for our City. Mr. Huff stated that his other trip to Austin was for a TxDOT Commissioners meeting, where he was reappointed for 3 years to serve on the Aviation Advisory Committee.

Council member Ricchi attended the McKinney Community Development Corporation meeting where the Samaritan Inn was given a \$40,000 grant and the Parks, Recreation and Open Space Department was granted \$99,000 for equipment. CASA held their golf event and raised \$50,000. Mr. Ricchi stated that the Fire Department has a program that installs 200 smoke alarms for residence in need. Mr. Ricchi announced that next year's Smiles Concert will raise money to build a home for a war veteran.

Council member Day did not have any comments.

Council member Kever stated that the Dallas Regional Mobility Collation serves as a subset of Regional Transportation Council. Last week we began a discussion to put projects on the table to prioritize. McKinney is hoping to get funding for the Highway 5 corridor, FM 546, and the US 380 interchange.

Mayor Loughmiller expressed his sympathies to the Bury family. "Recognitions like this cause us to pause and think of how lucky we are. The Mayor thanked the Fire and Police department for the work they do for the city. Reminded everyone to keep their eyes on the calendars with lots of events coming: Dickens of a Christmas. Support your local businesses. Mayor Loughmiller expressed his appreciation for the

work of the City Council and all we are trying to accomplish. Mr. Loughmiller announced the Council Retreat that will be held this Thursday and Friday at 8:30 a.m. at the Collin College Higher Education Center.

Mayor Loughmiller called for Action on Executive Session Items.

Council unanimously approved the motion by Council member Brooks, seconded by Mayor Pro-Tem Huff, to approve the settlement agreement in the *City of McKinney, Texas v. Texas United Excavators, LLC, and Interstate Fire & Casualty Company; Cause No. 366-02531-2010; 366th District Court, Collin County, Texas* lawsuit wherein the City will receive \$30,000, the entirety of its original claim against the Defendant, plus costs.

Mayor Loughmiller called for Citizen Comments and there were none.

Council unanimously approved the motion by Council member Ussery, seconded by Council member Ricchi, to adjourn. Mayor Loughmiller adjourned the meeting at 7:05 p.m.

BRIAN LOUGHMILLER
Mayor

ATTEST:

SANDY HART, TRMC, MMC
City Secretary