

## **CITY COUNCIL REGULAR MEETING**

**NOVEMBER 15, 2011**

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on November 15, 2011 at 6:00 p.m.

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

Staff Present: City Manager Jason Gray; Deputy City Manager Joe Williams; City Attorney Mark Houser; City Secretary Sandy Hart; Executive Director of Development Services Rob Daake; Deputy Police Chief Kim Malolepszy; Police Sergeant Roger Thornhill; Planning Director Jennifer Cox; Senior Planner Brandon Opiela; Engineering Development Manager Corey Nesbit; Assistant Planning Director Kevin Spath; Assistant to the City Manager Aretha Harvey; Municipal Court – Mary Jane Grubbs, Sheila Mullins, and Stephen Fagan; Fire Chief Danny Kistner; and Communications and Media Manager Anna Clark.

There were approximately 80 guests present.

Mayor Loughmiller called the meeting to order at 6:05 p.m. after determining a quorum was present. Invocation was given by Pastor Len McLaughlin. Boy Scout Troop 531 led the Pledge of Allegiance.

**11-531** Mayor Loughmiller presented the Boy Scouts of America Heroism Award to Noah Satele.

**11-532** Mayor Loughmiller presented a Proclamation for Teacher of the Year to Karen Morman Day.

**11-533** Steve Bell presented the CASA Mayors' Cup Challenge to Mayor Loughmiller and his team.

Mayor Loughmiller called for Citizen Comments.

Mr. Peter Bailey, 2003 Skyline Drive, McKinney, spoke about the 2011 Believe Run to be held on November 26, 2011

Mr. Byron Hardin, 265 Holder Trail, McKinney, spoke about the reduction in service for CCART.

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

- 11-534** Minutes of the City Council Work Session of November 1, 2011
- 11-535** Minutes of the City Council Regular Meeting of November 1, 2011
- 11-494** Minutes of the McKinney Arts Commission Work Session of August 26, 2011
- 11-495** Minutes of the McKinney Arts Commission Regular Meeting of August 26, 2011
- 11-496** Minutes of the McKinney Arts Commission Work Session of August 27, 2011
- 11-497** Minutes of the McKinney Arts Commission Special Meeting of August 27, 2011
- 11-536** Minutes of the McKinney Community Development Corporation Meeting of September 22, 2011
- 11-537** Minutes of the McKinney Convention & Visitors Bureau Board Meeting of August 22, 2011
- 11-538** Minutes of the McKinney Housing Authority Meeting of June 24, 2011
- 11-539** Minutes of the McKinney Housing Authority Meeting of June 28, 2011
- 11-540** Minutes of the McKinney Housing Authority Meeting of August 23, 2011
- 11-505** Minutes for the Planning and Zoning Commission Regular Meeting of October 11, 2011
- 11-527** Consider/Discuss/Act on a Resolution Adopting Guidelines for Juvenile Case Manager. Caption reads as follows:

RESOLUTION NO. 2011-11-114 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
McKINNEY, TEXAS, AUTHORIZING THE ADOPTION OF A CODE  
OF ETHICS AND MINIMUM TRAINING STANDARDS FOR  
JUVENILE CASE MANAGERS EMPLOYED BY THE CITY OF  
MCKINNEY, PROVIDING IMPLEMENTATION OF THE SAME,  
AND PROVIDING FOR PERIODIC REVIEW TO ENSURE  
IMPLEMENTATION OF THESE STANDARDS

END OF CONSENT

**11-484** Mayor Loughmiller called 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. Assistant to the City Manager Aretha Harvey stated that staff is requesting that this item be tabled due to the charter requirements that the final approval must be at least 30 days from the first reading which was held on October 18, 2011. Council unanimously approved the motion by Council member Kever, seconded by Council member Harris, to table this item until the December 6, 2011 meeting.

**11-541** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Casting Votes for the Board of Directors for the Central Appraisal District of Collin County. Council unanimously approved the motion by Council member Kever, seconded by Council member Brooks, to approve the Resolution casting 100 votes for Wayne Mayo and 100 votes for Dr. Leo Fitzgerald for the Board of Directors for the Central Appraisal District of Collin County. Caption reads as follows:

RESOLUTION NO. 2011-11-115 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, CASTING 100 VOTES FOR WAYNE MAYO AND CASTING 100 VOTES FOR DR. LEO FITZGERALD, CANDIDATES FOR THE BOARD OF DIRECTORS FOR THE CENTRAL APPRAISAL DISTRICT OF COLLIN COUNTY, AND PROVIDING FOR AN EFFECTIVE DATE

**11-136M2** Mayor Loughmiller called for Consideration/Discussion/Action on an Appeal to Chapter 130 of the Code of Ordinances Regarding Roadway Impact Fees Associated with the Louisiana Street Grill, Located on the South Side of Louisiana Street and East of McDonald Street. Assistant Planning Director Kevin Spath- stated that Staff recommends tabling this item until the December 6, 2011 City Council meeting. Council unanimously approved the motion by Council member Brooks, seconded

by Mayo Pro-Tem Ussery, to table this item until the December 6, 2011 meeting.

**11-524** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on an Ordinance Vacating Approximately 0.285 Acres Located on the West Side of Lake Forest Drive South of US 380 in Exchange for the Dedication of Two Tracts of ROW Along US 380 and Lake Forest Drive, and Accompanying Ordinance. Engineering Development Manager Corey Nesbit stated that this acquisition is for right-of-way necessary for the construction of Lake Forest Drive south of US 380 for additional turn lanes. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Harris, to close the public hearing and approve the Ordinance vacating approximately 0.285 acres located on the west side of Lake Forest Drive south of US 380 in Exchange for the dedication of two tracts of ROW along US 380 and Lake Forest Drive. Caption reads as follows:

ORDINANCE NO. 2011-11-068

AN ORDINANCE VACATING A NORTH/SOUTH RIGHT-OF-WAY, LAKE FOREST DRIVE, APPROXIMATELY 0.285 ACRES, LOCATED ON THE WEST SIDE OF LAKE FOREST DRIVE NEAR THE INTERSECTION OF US 380, PROVIDING FOR AN EFFECTIVE DATE HEREOF

**11-137SU3** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Cross Engineering Consultants, Inc., on Behalf of LINFER Properties, L.L.C., for Approval of a Site Plan and Specific Use Permit for a Restaurant with Drive Through Window and an Additional Retail/Restaurant Building, Approximately 1.19 Acres, Located on the Southeast Corner of McDonald Street and Anthony Street, and Accompanying Ordinance. Senior Planner Brandon Opiela stated that the applicant is requesting a specific use permit to construct a 3,000 square foot restaurant with drive through window (Pollo

Regio) and a 3,100 square foot retail/restaurant building on 1.19 acres, located on the southeast corner of McDonald Street and Anthony Street. Mr. Opiela stated that Staff recommends approval. Applicant, Mr. Jon David Cross, 131 S. Tennessee Street, McKinney stated that he is in agreement with Staff's recommendations. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Harris, seconded by Council member Day, to close the public hearing and approve the Ordinance approving a Site Plan and Specific Use Permit for a restaurant with drive through window and an additional retail/restaurant building, approximately 1.19 acres, located on the southeast corner of McDonald Street and Anthony Street, with the following special ordinance provisions: Restaurant with drive-through window shall be an allowed use; the site shall generally develop in accordance with the attached site plan and landscape plan exhibits, approval of the specific use permit for shall also constitute site plan approval; Staff also recommends the following conditions on the site plan should the proposed specific use permit be approved: the applicant satisfy the conditions as shown on the Standard Conditions for Site Plan Approval Checklist, attached; and prior to the issuance of a Certificate of Occupancy, the applicant file a separate instrument for the drainage easement shown on the site plan, subject to the review and approval of the City Engineer. Caption reads as follows:

ORDINANCE NO. 2011-11-069

AN ORDINANCE AMENDING ORDINANCE NO. 1270 OF THE CITY OF MCKINNEY, TEXAS; PROVIDING FOR A SPECIFIC USE PERMIT FOR A RESTAURANT WITH DRIVE-THROUGH WINDOW USE, APPROXIMATELY 1.19 ACRES, LOCATED ON THE SOUTHEAST CORNER OF MCDONALD STREET AND ANTHONY STREET; PROVIDING REGULATIONS; 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

**11-135Z4** Mayor Loughmiller called for a Public Hearing for

Consideration/Discussion/Action on the Request by Dunhill Homes, on Behalf of Graham Mortgage Corporation, for Approval of a Request to Rezone Approximately 13.07 Acres from "PD" - Planned Development District to "PD" - Planned Development District, Generally to Modify the Development Standards, Located on the West Side of Hardin Boulevard and Approximately 1,050 Feet North of U.S. Highway 380 (University Drive), and Accompanying Ordinance. Senior Planner Brandon Opiela stated that the applicant is requesting to rezone 80 single family residential lots, totaling approximately 13.07 acres, generally to modify the rear yard setback for residential structures and covered porches, provide a minimum masonry percentage for each structure, and to enhance the landscaping on each lot. The subject property is part of a larger platted residential subdivision, the Heritage Bend Addition. Mr. Opiela stated that the modifications to the existing planned development ordinance are to reduce the rear yard setback from 25 to 20 feet and they would also like to have the option of having a patio to encroach the rear yard setback up to 8 feet. The applicant feels the reduction in the rear yard setback would allow the flexibility to offer a greater variety of designs and floor plans in order to accommodate market demand and preferences, including front and rear porch options. Mr. Opiela stated that Staff recommends approval of the proposed rezoning request. Applicant, Mr. John Mann, 2409 Hollow Hill Lane, Lewisville stated that he is excited to be in Heritage Bend. Mayor Loughmiller called for public comment.

Mr. Ronald Jordan, 2256 Catherine Lane, McKinney spoke in favor of the rezoning request.

Council unanimously approved the motion by Council member Kever, seconded by Council member Brooks, to close the public hearing and approve the Ordinance rezoning approximately 13.07 acres from "PD" - Planned Development District to "PD" - Planned Development District,

generally to modify the development standards, located on the west side of Hardin Boulevard and Approximately 1,050 Feet North of U.S. Highway 380 (University Drive), with the following special ordinance provisions: Use and development of the subject property shall conform to "PD" - Planned Development District Ordinance No. 2006-11-131, except as follows: the minimum rear yard setback shall be 20 feet; a covered patio may encroach into the rear yard setback no more than eight feet; each single family dwelling unit shall have a minimum of 90% masonry on each side of the primary structure; and a minimum of one tree shall be provided in the front yard and a minimum of two trees shall be provided in the rear yard of each single family lot. Caption reads as follows:

ORDINANCE NO. 2011-11-070

AN ORDINANCE AMENDING ORDINANCE NO. 2006-11-131 OF THE CITY OF MCKINNEY, TEXAS; SO THAT APPROXIMATELY 13.07 ACRE PROPERTY, Located on the WEST SIDE OF HARDIN BOULEVARD AND APPROXIMATELY 1,050 FEET NORTH OF U.S. HIGHWAY 380 (UNIVERSITY DRIVE), IS ZONED FROM "PD" – PLANNED DEVELOPMENT DISTRICT to "PD" – PLANNDDED DEVELOPMENT DISTRICT, GENERALLY TO MODIFY THE DEVELOPMENT STANDARDS; PROVIDING REGULATIONS; 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

**11-154M2** Mayor Loughmiller called for a public hearing for Consideration/Discussion/Action on the Request by the City of McKinney, for Approval of the Request to Amend Chapter 146 - Zoning Regulations of the Code of Ordinances, to Modify the Definitions of Car Wash, Fueling Station or Gasoline Station, and Service Station, and Accompanying Ordinance. Planning Director Jennifer Cox stated that Staff is working on modifying the definitions of a carwash, fueling station or gas station and service station. She stated that the current definitions for car wash, fueling station or gasoline station, and service station should be modified in an effort to remove any uncertainty with regard to

permitted/prohibited vehicle types. These three uses are currently allowed in industrial districts as well as lower intensity commercial districts such as "BN" -Neighborhood Business District (car washes require an SUP), "BG" - General Business District, and "C" - Planned Center District. The definition for gasoline station or fueling station uses the word "vehicle," which currently allows for all vehicle types to fuel without prohibiting higher intensity uses such as a semi-trailer truck fueling facility from locating on properties within these districts. Although the definitions for both car wash and service station use the word "automobile" (usually associated with a passenger vehicle), which carries less flexibility than the term "vehicle," Staff felt as though all three definitions should be clarified to prohibit specific vehicle types, thus removing any further ambiguity with regard to permitted vehicle types. Ms. Cox stated that on November 8, 2011, the Planning and Zoning Commission voted 5-1 to recommend approval of the proposed amendments to Section 146-46 (Definitions) of the Zoning Regulations. Chairperson Clark voted against the motion. As a part of the motion, the Planning and Zoning Commission also recommended that Staff come back to the Planning and Zoning Commission on January 10, 2012 with a recommendation regarding which zoning districts should allow a truck stop use and truck fueling station use. Ms. Cox stated that a tractor trailer would not be allowed because it is designed to tow. Council member Day stated that every retail store and grocery store has their merchandise delivered by a semi truck. Council member Brooks stated he disagrees with Don Day's stand on this matter and stated that Staff is working on having the City of McKinney free of having a lot of truck stops along Highway 75 and stated he supports the language. Council member Harris stated that he would be opposed to restricting semi trucks from being able to fuel in McKinney and feels this is the wrong approach. Mr. Harris stated that if our main concern is land use then let's focus on



land use. Mayor Loughmiller stated that this is an issue that he would like Council to discuss during a work session Council unanimously approved the motion by Council member Brooks, seconded by Mayor Pro-Tem Ussery, to table this item indefinitely and bring an item to the December 6th work session to discuss the broader issues.

Mayor Loughmiller called for Council and Manager Comments.

Council member Day did not have any comments.

Geralyn Kever stated that Saturday's Veterans Day Ceremony held at the Veterans Memorial Park was a moving experience and was attended by Congressmen Sam Johnson and Ralph Hall. I found several people that were looking at the wall and focusing on those who gave their lives in the service of their country. Ms. Kever expressed her gratitude to the McKinney Armed Services Memorial Board and the Parks, Recreation, and Open Space Department for all the work they did for the memorial for our fallen soldiers.

Council member Harris expressed his appreciation to the Mayor and Mayor Pro-Tem on winning the CASA's Mayor's Cup Challenge. Mr. Harris complimented the Boys Scouts for showing up in full force to attend the meeting tonight. Mr. Harris expressed his appreciation for the McKinney Airport Development Corporation and the McKinney Economic Development Corporation updates during the Work Session. Mr. Harris stated that he was at a Texas Workforce meeting this morning with a presentation that showed that people from northern states have been looking for employment in the DFW area.

Council member Brooks stated that last weekend was a very moving ceremony at the Veterans Memorial Park. Mr. Brooks stated that he was blessed to have his father from Colorado in attendance with him at the ceremony. The 1.1 million dollar memorial speaks to the character of the community and says something about who we are and what we value as a community. Mr. Brooks wished the Mayor good luck on his ironman competition in Arizona this weekend.

Mayor Pro-Tem Ussery thanked staff for what they do day in and day out as they are the engine that drives the machine. Mr. Ussery stated that he was proud of Teacher of the Year Karen Morman, Noah Satele for saving several lives, as well as the Veterans Memorial that recognizes Collin County war veterans. Mr. Ussery stated that he was at an event that was raising goods for the Samaritan Inn that helps those in need - we are fortunate to be serving in McKinney Texas.

Mayor Pro-Tem Loughmiller stated that Budget and Strategic Services Director Jason Cooley came back from competing in an Ironman in Florida. He commented that everyone needs to make an effort and go to the Veterans Memorial. Mayor stated that an elderly woman who had lost her husband in battle came up to him at the ceremony and was very thankful that the City put forth the effort to recognize those who died in battle. Mr. Loughmiller encouraged everyone to go out and see the names on the wall of those who gave their lives to their Country. He stated that there are many projects going on within the City that the public is not aware of such as the Emerson project and the McKinney Economic Development Corporation announcement that Encore Wire is expanding their facility. The City continues to focus on economic development. He wished everyone a Happy Thanksgiving and if they have a chance to come to the Believe Run on Saturday after Thanksgiving to try to make it out for support. He stated that Dickens of Christmas starts on Friday November 25<sup>th</sup>.

City Manager Jason Gray did not have any comments.

Mayor Loughmiller called for Citizens Comments.

Mr. Matthew Meals, 2705 Black Canyon Drive, McKinney, asked about the dog park because he currently has to go to the dog park in Allen.

Mr. Cole Kiger, 8105 Abbot Court, McKinney, thanked the Mayor for allowing them to come to the meeting and stated that it was very important for him because he would like to get his community badge and this will help him.

Mr. Matt DeLisle, 1912 Fieldstone Court, McKinney, is very glad that he could come to the meeting tonight to hear and watch the Council make decisions and stated that McKinney is his favorite city.

Mr. Logan Rosenbaum, 2312 Warbler Lane, McKinney, thanked the Mayor and Council for choosing their troop to lead the Pledge of Allegiance.

Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Brooks, to adjourn. Mayor Loughmiller adjourned the meeting at 7:10 p.m.

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary