

CITY COUNCIL REGULAR MEETING

FEBRUARY 21, 2012

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on February 21, 2012 at 6:00 p.m.

Council Present: Mayor Brian Loughmiller, Mayor Pro-Tem Travis Ussery, Council members: David Brooks, GERALYN KEVER, Don Day, Ray Ricchi, and Roger Harris.

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; Planning Director Jennifer Cox; Planning - Brandon Opiela and Michael Quint; Grants Coordinator Janay Tieken; Assistant to the City Manager Aretha Harvey; Police Administration Manager Cathy Lennox; Chief of Police Doug Kowalski; Parks Superintendent Steve Brainerd; Parks, Recreation, and Open Space Director Lemuel Randolph; Director of Engineering Jack Carr; Assistant Director of Development Services Barry Shelton; Assistant Director of Engineering Michael Hebert; Civil Engineer Carla Easton; CIP Manager Matt Richardson; Help Desk Technician Clif Carnley; Fire Chief Danny Kistner; Police Sergeant Farrel Ritchie Officer; Assistant Fire Chief Neil Howard; Communications and Marketing - CoCo Good and Anna Clark; and Finance Director Rodney Rhoades.

There were 13 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 Joel Scrivner, Covenant Church. Mayor Loughmiller led the Pledge of Allegiance.

12-094 Presentation of Excellence in Financial Reporting. Finance Director Rodney Rhoades presented the Excellence in Financial Report to Mayor Loughmiller.

Mayor Loughmiller called for Citizen Comments.

Ms. Laurie Jay, 2603 Cedarwood Court, McKinney spoke in favor of the Sustainability Plan

Ms. Cindy Alexander, 2606 Woodland, McKinney spoke in support of the Sustainability Plan.

Mr. Gary Jay, 2603 Cedarwood Court, McKinney spoke in support of the Sustainability Plan

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

- 12-095** Minutes of the City Council Work Session of February 7, 2012
- 12-096** Minutes of the City Council Regular Meeting of February 7, 2012
- 12-097** Minutes of the McKinney Airport Development Corporation Meeting of January 12, 2012.
- 12-098** Minutes of the McKinney Armed Services Memorial Board Meeting of November 09, 2011
- 12-099** Minutes of the McKinney Main Street Board Retreat Meeting of January 26, 2012
- 12-080** Consider/Discuss/Act on a Resolution Adopting Revised Grants Policies and Procedures. Caption reads as follows:

RESOLUTION NO. 2012-02-018 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, ADOPTING THE GRANTS POLICIES AND
PROCEDURES

- 12-100** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Enter into a Local Project Advance Funding Agreement (LPAFA) with the Texas Department of Transportation (TxDOT) to Construct a Hike and Bike Trail Under US 75 at Comegy's Creek. Caption reads as follows:

RESOLUTION NO. 2012-02-019 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO
ENTER INTO A LOCAL PROJECT ADVANCE FUNDING
AGREEMENT (LPAFA) WITH THE TEXAS DEPARTMENT OF
TRANSPORTATION (TxDOT) TO CONSTRUCT A HIKE AND
BIKE TRAIL UNDER US 75 AT COMEGY'S CREEK

- 12-101** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Apply for and Accept a Fiscal Year 2013 State Criminal Justice Planning Fund Grant, if awarded, from the Governor's Criminal Justice Division. Caption reads as follows:

RESOLUTION NO. 2012-02-020 (R)

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND ACCEPT A FISCAL YEAR 2013 STATE CRIMINAL JUSTICE PLANNING FUND GRANT, IF AWARDED, FROM THE GOVERNOR'S CRIMINAL JUSTICE DIVISION

- 12-102** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Apply for and Accept for Fiscal Year 2013, the Selective Traffic Enforcement Program (STEP) Comprehensive Grant, if Awarded, from the Texas Department of Transportation. Caption reads as follows:

RESOLUTION NO. 2012-02-021 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT FOR FISCAL YEAR 2013, A SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) COMPREHENSIVE GRANT, IF AWARDED, FROM THE TEXAS DEPARTMENT OF TRANSPORTATION

- 12-103** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute a Supplemental Agreement for Engineering Services Related to the Design of Alma Road from Stacy Road to Fire Station #8, and Silverado Trail from Alma Road to Comstock Elementary. Caption reads as follows:

RESOLUTION NO. 2012-02-022 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SUPPLEMENTAL AGREEMENT FOR ENGINEERING SERVICES RELATED TO THE DESIGN OF ALMA ROAD FROM STACY ROAD TO FIRE STATION #8, AND SILVERADO TRAIL FROM ALMA ROAD TO COMSTOCK ELEMENTARY

- 12-104** Consider/Discuss/Act on a Resolution to Suspend Atmos Mid-Tex's Rate Increase. Caption reads as follows:

RESOLUTION NO. 2012-02-023 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, SUSPENDING THE MARCH 6, 2012, EFFECTIVE DATE OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION ("ATMOS MID-TEX") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ATMOS CITIES STEERING COMMITTEE ("ACSC") AND OTHER CITIES IN THE ATMOS MID-TEX SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS;

REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND ACSC'S LEGAL COUNSEL

END OF CONSENT

11-141PR2 Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Rockbrook Development, L.L.C., for Approval of a Preliminary-Final Replat for Lots 1-4, Block A, of the Rose Addition, Approximately 0.16 Acres, Located on the Northeast Corner of Tennessee Street and Walnut Street. Senior Planner Michael Quint stated that this item was tabled from the February 7, 2012 meeting. Mr. Quint stated that the Engineering staff has met with the applicant and both parties have agreed to several concessions that will better address the storm water detention on the property. The Engineering staff is comfortable that the intent of the Ordinance has been addressed and is supporting a variance to Section 142-105 of the Subdivision Ordinance reducing applicable storm water detention requirements. Mr. Quint stated that the only variance that Staff is not comfortable supporting is relating to the parkland dedication requirement. Mr. Quint stated that Staff recommends approval of the proposed preliminary-final replat granting variances outlined in the staff report. Mr. Quint clarified that in the agenda item it stated that the City would be donating \$2,000 towards the construction of a man hole. The Developer will be reimbursing the City for the \$2,000. Applicant, Mr. Jason Rose, stated that he was available for questions and there were none. Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Kever, to close the public hearing and approve a Preliminary-Final Replat for Lots 1-4, Block A, of the Rose Addition, approximately 0.16 acres, located on the northeast corner of Tennessee

Street and Walnut Street with the following conditions: The applicant satisfy the conditions as shown on the Standard Conditions for Preliminary-Final Replat Approval Checklist; the applicant receive approval of a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct portions of Walnut Street located adjacent to the subject property; the applicant receive approval of a variance to Section 142-105 of the Subdivision Ordinance reducing applicable storm water detention requirements; prior to filing the plat for record: the applicant revise the plat to provide a notation indicating that the proposed common area will be owned and maintained by a homeowners' association; the applicant revise the plat by labeling Common Area A-1 as a drainage easement; and the applicant receive approval of a variance to Section 142-157 of the Subdivision Ordinance waiving the requirement to dedicate park land or pay cash in lieu of a park land dedication.

11-153M3 Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Defining Truck Fueling Station and Truck Stop and Establishing which Zoning District(s) are Appropriate for these New and Unlisted Land Uses. Senior Planner Jennifer Cox stated that this Resolution would define a truck fueling station and truck stop and would establish where those uses would be appropriate within the City of McKinney. Ms. Cox stated that Staff is not proposing that a Truck Stop be allowed anywhere within the city limits of McKinney. Council member Day stated that a fueling station does not allow for scales and that scales are an important part of how they operate. Mayor Loughmiller stated that he likes the Resolution that was presented and stated that one of his concerns is that if semi-trailers are waiting to get fuel and scales are in place, would it then become a weighing station that would create a stacking issue. Ms. Cox stated that no more than one vehicle would be allowed to wait for another vehicle to finish fueling. She stated that the

definition could be modified to say stacking for no more than 2 vehicles. City Manager Jason Gray stated that from an enforcement standpoint, this gives the City the tool for enforcement should we run into a consistent issue. Council member Brooks stated that he agrees with Mayor's comments that stacking is a real concern and needs to be addressed. Council member Day stated that he has no objection to limiting the stacking as long as they have the scales. Ms. Cox restated the Council's suggestions to the following: to allow in industrial zoning districts, modify the definition of a fueling station, include scales, specify a single point of fueling per vehicle, and to not allow stacking with a Specific Use Permit required. Council unanimously approved the motion by Council member Brooks, seconded by Council member Harris, to approve the Resolution Defining Truck Fueling Station and Truck Stop and Establishing which Zoning District(s) are Appropriate for these New and Unlisted Land Uses to read as follows: the new and unlisted use identified as a "Truck Fueling Station" is hereby defined to be and mean "a retail fuel sales facility selling fuel for motor vehicles and semi-trailer trucks with at least 3 axles that are designed to tow trailers, limited to no more than one fueling pump per semi-trailer truck fueling bay. The truck fueling station may be attended or automated and include accessory truck scales/weigh stations. Off-site stacking for fueling and weighing purposes shall be prohibited; a "Truck Fueling Station" shall be permitted subject to approval of a specific use permit within the "ML" – Light Manufacturing and "MH" – Heavy Manufacturing zoning districts within the City of McKinney; the new and unlisted use identified as a "Truck Stop" is hereby defined to be and mean "any premises that provides parking facilities for semi-trailer trucks with at least 3 axles that are designed to tow trailers in conjunction with one or more other uses including, but not limited to, the incidental sale of accessories or equipment for such vehicles, fuel sales, truck scales/weigh stations,

restroom and showering facilities, restaurant facilities, truck washing facilities, and/or other uses typically associated with semi-trailer truck resting areas; and that a "Truck Stop" shall be prohibited in all zoning districts within the City of McKinney. Caption reads as follows:

RESOLUTION NO. 2012-02-024 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, DETERMINING THE RECOMMENDED ZONING CLASSIFICATION IN WHICH THE NEW AND UNLISTED LAND USES, "TRUCK FUELING STATION" AND "TRUCK STOP", SHOULD BE PERMITTED AS PRESCRIBED BY SECTION 146-43 (NEW AND UNLISTED USES) OF THE ZONING REGULATIONS

11-154M3 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 proposing to modify the definitions of car wash, fueling station or gasoline station, and service station as found in Section 146-46 (Definitions) of the City of McKinney Zoning Regulations to clearly identify the types of vehicles permitted within each definition. 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. Mayor Loughmiller called for public comment and there were none. Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Brooks, to close the public hearing and approve the Ordinance amending Chapter 146 - Zoning Regulations of the Code of Ordinances, to Modify the Definitions of Car Wash, Fueling Station or Gasoline Station, and Service Station, to read as follows: "(22) Car wash means a building or portion thereof, containing facilities for washing motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational

vehicles (excluding semi-trailer trucks with at least 3 axles that are designed to tow trailers) using automated or manual methods including chain conveyor, blower, steam cleaning device, or other mechanical device. A car wash may also be referred to as an auto laundry;" "(47) Fueling station or gasoline station means a retail fuel sales facility selling fuel for motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational vehicles (excluding semi-trailer trucks with at least 3 axles that are designed to tow trailers) with no ancillary services such as vehicle service, vehicle repair, or sale of items other than fuel. The fueling or gasoline station may be attended or automated;" and "(98) Service station means any building or premises used for the dispensing, sale, or offering for retail sale of any fuels or oils for motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational vehicles (excluding semi-trailer trucks with at least 3 axles that are designed to tow trailers). If the dispensing, sale or offering for sale is incidental to a public garage, the premises shall be classified as a public garage, and not as a service station." Caption reads as follows:

ORDINANCE NO. 2012-02-005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AMENDING CHAPTER 146 OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, RELATIVE TO THE AMENDMENT OF SECTION 146-46 (DEFINITIONS) OF THE ZONING REGULATIONS; ESTABLISHING PRESUMPTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

Mayor Loughmiller called for Council and Manager Comments

Council member Ricchi did not have any comments.

Council member Day did not have any comments.

Council member Kever thanked all the business and individuals that won awards and the Chambers Award Banquet last Friday night. She stated that she attended a Women of Service luncheon and appreciated the fact that they got the opportunity to get together. Ms. Kever stated that she had several individuals that are forming a non-profit

community garden and stated that they will contact the City to discuss a location. She stated that she understood that there are some people for and against the sustainability plan and that this is a good way for everyone to come together.

Council member Harris stated that the Chamber of Commerce event was very well done and a lot of people contributed. He thanked the Mayor, Mayor Pro-Tem, City Manager, the airport staff and McKinney Airport Development Corporation Chairman John Wroten for the time they spent in Washington, DC speaking to Congressional and Senate members. The visit was well received and the City of McKinney is viewed higher as a result of their visit. Mr. Harris thanked Staff for all their work putting together the agenda items that are presented to Council.

Council member Brooks stated that the Chamber event was very well done and he appreciated it being in held at the McKinney airport. He stated that City Council was invited to read at Minshew Elementary for National Literacy Day on March 2nd and he asked his colleagues to attend with him.

Mayor Pro-Tem Ussery thanked Staff for all they do, day in and day out and gave special recognition to the Finance Department. He recognized the Citizen of the Year, Mr. James C. Stewart. His passing was an unfortunate loss for McKinney, his greatness will live on through the people that he positively touched and we should all work in a positive way as he did.

Mayor Loughmiller stated that the Washington D.C. trip was a very good trip for the City of McKinney and he appreciated Chairman of the Airport Board, Ken Wiegend, Mayor Pro-Tem Ussery, Council member Harris and City Manager Gray for attending. He stated that they met with 16 people in a 24 hour period from the FAA, Compliance, Funding, and Tower Organizations. He stated that they spoke with Congressmen Sam Johnson and Ralph Hall, Senators Hutchinson and Cronyn about the airport as well as Lake Texoma issues. Mayor stated he wants to let everyone know that because there is no "sustainability plan" does not mean that the city does not have plans. He stated that there are plans such as a 20 year Master Park Plan, Storm Water Drainage Plan, Zoning Plan, multiple Long Range Plans in the city already in place that address things such as tree mitigations when a development occurs and stated that the City of

McKinney has been doing things for years without having to go forward with a 180 page sustainability plan.

City Manager Gray stated he echoed the Mayor's comments about the sustainability plan. He stated that there is not a time frame yet for the draft sustainability plan and staff is currently working on gathering information to bring to Council. Mr. Gray thanked the Mayor and the Council for their service on the City Council. Mr. Gray stated the people of McKinney are very well represented in Washington, D.C.

Mayor Loughmiller called for Citizen Comments.

Mr. Ubaldo Lozada, 1513 West Steet, McKinney spoke in support of the Sustainability Plan.

Mr. Neal Ator, 12 W. Virginia Parkway, McKinney spoke in opposition to the Sustainability Plan.

Mr. Juan C. Cortes, 103 Belden Circle, McKinney did not wish to speak but wanted his support of the Sustainability Plan entered into the record.

Mayor Loughmiller recessed the meeting into executive session at 7:07 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 551.087 Discuss Economic Development Matter as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 10:00 p.m.

Council unanimously approved the motion by Council member Day, seconded by Council member Kever, to adjourn Mayor Loughmiller adjourned the meeting at 10:00 p.m.

BRIAN LOUGHMILLER
Mayor

ATTEST:

SANDY HART, TRMC, MMC
City Secretary