

CITY COUNCIL REGULAR MEETING

MAY 15, 2012

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on May 15, 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; Finance Director Rodney Rhoades; Assistant to the City Manager Aretha Harvey; Executive Director of Development Services Rob Daake; Assistant Director of Development Services Barry Shelton; Planning Director Jennifer Cox; Communications and Media Manager Anna Clark; Parks, Recreation, and Open Space Director Lemuel Randolph; Fire Chief Danny Kistner; Human Resources Director Tadd Phillips; Assistant Director of Engineering Michael Hebert; Senior Planner Michael Quint; Senior Planner Brandon Opiela; Public Works Director Hal Cranor; Assistant Fire Chief Tim Mouk; Assistant Fire Chief Neil Howard; and Help Desk Technician Clif Carnley.

There were 30 guests present.

Mayor Loughmiller called the meeting to order at 6:04 p.m. p.m. after determining a quorum was present. Invocation was given by Father Salvador Guzman of St. Michael the Archangel. Mayor Loughmiller led the Pledge of Allegiance.

12-333 National Public Works Week Proclamation. Mayor Loughmiller presented the National Public Works Week Proclamation to Public Works Director Hal Cranor.

Mayor Loughmiller called for Citizen Comments.

Mr. Ron Sanchez, 3813 Lindale Drive, McKinney spoke about issues between the soccer teams and the lacrosse teams at the Al Ruschhaupt Soccer Complex.

Mr. Nasser Sabetpour, 2411 Hogans Hill, McKinney, spoke about issues between the soccer teams and the lacrosse teams at the Al Ruschhaupt Soccer Complex.

Mr. Alex Heppner, 7216 Faraday Lane, McKinney, spoke about the lacrosse teams at the Al Ruschhaupt Soccer Complex.

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

- 12-334** Minutes of the City Council and McKinney Independent School District Joint Meeting of April 30, 2012
- 12-335** Minutes of the City Council Work Session of May 1, 2012
- 12-336** Minutes of the City Council Regular Meeting of May 1, 2012
- 12-287** Minutes of the Historic Preservation Advisory Board Regular Meeting of March 1, 2012
- 12-337** Minutes of the McKinney Community Development Corporation Board Meeting of March 22, 2012
- 12-215** Minutes of the McKinney Housing Finance Corporation Meeting of November 11, 2011
- 12-338** Minutes of the Parks, Recreation and Open Space Advisory Board Meeting of April 12, 2012
- 12-212** Minutes of the Planning and Zoning Commission Regular Meeting of March 27, 2012
- 12-253** Minutes of the Planning and Zoning Commission Regular Meeting of April 10, 2012
- 12-340** Consider/Discuss/Act on a Resolution to Deny Atmos Mid-Tex's Proposed Rate Increase. Caption reads as follows:

RESOLUTION NO. 2012-05-067 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, DENYING ATMOS ENERGY CORP., MID-TEX DIVISION'S ("ATMOS MID-TEX") REQUESTED RATE CHANGE; REQUIRING THE COMPANY TO REIMBURSE THE CITY'S REASONABLE RATEMAKING 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

- 12-341** Consider/Discuss/Act on a Resolution Awarding a Contract to Digitech for EMS Billing and Collection Services. Caption reads as follows:

RESOLUTION NO. 2012-05-068 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO
AWARD A CONTRACT FOR EMS BILLING AND COLLECTION
SERVICES

END OF CONSENT

- 12-339** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Authorizing a Supplemental Agreement with Brown & Gay Engineers, Inc, for Additional Engineering Design Services Required for the US 75 Utility Relocation Project from SH 121 to White Avenue. Council member Kever requested this item be pulled down for discussion. Ms. Kever asked the City Manager if there was an opportunity, in these large engineering projects, to treat these projects like construction projects where if the company completes the project at their projected costs that there could be some type of incentive. Mr. Gray stated that we project the engineering costs of these type projects based on the field conditions at the time. As projects develop, there are different field conditions that are actually present. Mr. Gray stated that Staff will look into the ability to provide incentives for future projects. Council unanimously approved the motion by Council member Kever, seconded by Council member Harris, to approve a Resolution authorizing a Supplemental Agreement with Brown & Gay Engineers, Inc, for additional Engineering Design Services required for the US 75 Utility Relocation Project from SH 121 to White Avenue. Caption reads as follows:

RESOLUTION NO. 2012-05-066 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO
EXECUTE A SUPPLEMENTAL AGREEMENT WITH BROWN AND
GAY ENGINEERS, INC, FOR ADDITIONAL ENGINEERING
DESIGN SERVICES REQUIRED FOR THE US 75 UTILITY
RELOCATION PROJECT FROM SH 121 TO WHITE AVENUE

12-342 Mayor Loughmiller called for Consideration/Discussion/Action on Filling the Vacant Position on the McKinney Housing Authority. Council unanimously approved the motion by Council member Brooks, seconded by Council member Kever, to appoint James De Coste to fill the unexpired term ending September 30, 2013 on the McKinney Housing Authority

12-069PF Mayor Loughmiller called for Consideration/Discussion/Action on the Request by Bruce Geer, Surveyor, on Behalf of S.L. and Kimberly Trees, for Approval of a Preliminary-Final Plat for the Almosta Ranch Addition, Approximately 10.00 Acres, Located Approximately 1,250 Feet South of County Road 408 and on the East Side of County Road 406. Senior Planner Brandon Opiela stated that the applicant is requesting to subdivide a 10 acre parcel to two 5 acre parcels between the Town of New Hope and the City of Princeton and within the City of McKinney's ETJ and stated that the applicant has requested various variances which are: (1) A variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to dedicate right-of-way for public rights-of-way, (2) a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct public streets including the associated street lighting and sidewalks adjacent to the subject property; (3) a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct sanitary sewer and water lines to the subject property and extend them to the adjacent upstream property; (4) a variance to Section 142-105 of the Subdivision Ordinance allowing the use of individual septic systems; (5) a variance to the Storm Water Management Ordinance waiving the requirement to collect drainage in an underground storm water system; (6) a variance to the 2006 Edition of the International Fire Code, including local amendments, waiving the requirement that fire hydrants and minimum fire flows be provided; and (7) a variance waiving the requirement to provide the standard note on the plat stating that all

lots comply with the subdivision ordinance. He stated that the applicant has provided 30 feet of right of way dedication for future expansion of County Road 406 as well as an easement through the center of proposed Lot 2 for drainage purposes. He stated that staff's concerns are that it would shift the cost of providing infrastructure to this area directly to the City of McKinney and or other future adjacent developers to these properties and stated that the requested variances would be a detriment to the public welfare. Staff recommends denial of the proposed preliminary final plat and stated that if Council chooses to approve the preliminary final plat and the associated variances, staff asks that it be approved with the 2 conditions listed in the staff report prior to the applicant filing the plat for record. Applicant, Mr. Bruce Geer, 1514 N. McDonald Street, McKinney, stated he would like the same standard notations that apply to the City limits to apply to his project in the ETJ. City Manager Jason Gray stated to be clear that the subdivision ordinances apply to all properties in the ETJ and within the City limits of McKinney. Assistant Director of Engineering Michael Hebert stated that the sewer and water connections are a great distance from this location and the water is supplied by North Collin Water Supply Corporation as well as Milligan. Mr. Opiela stated that the subdivision ordinance requires that the applicant provide sewer services for this property and stated that sewer lines are about 1 mile or more away from the applicant's property. Property Owner, Mr. Von Trees 3818 County Road 406, McKinney, stated that he has no issue with granting the thoroughfare dedication for the future 6-lane road. Mr. Opiela stated that staff made their recommendation based on the requirements of the subdivision ordinance and also taking into consideration the plats to the north of the subject property. He stated that the other variances requested are reasonable for a rural development. City Manager Gray stated that the most important request within the ETJ is that the

thoroughfare plan is constructed as planned and stated that the only other real issue is the driveways that enter onto a major street that can become a real safety issue. Mr. Trees stated that he was agreeable to provide Staff's recommendation on the following: dedicate right-of-way for public rights-of-way and to provide the standard note on the plat stating that all lots comply with the subdivision ordinance. Council unanimously approved the motion by Council member Kever, seconded by Council member Ricchi, to approve a Preliminary-Final Plat for the Almosta Ranch Addition, approximately 10.00 acres, located approximately 1,250 feet south of County Road 408 and on the East Side of County Road 406, with the following conditions the applicant satisfy the conditions as shown on the Standard Conditions for Preliminary-Final Plat Approval Checklist; the applicant received approval of a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct public streets including the associated street lighting and sidewalks adjacent to the subject property; the applicant received approval of a variance to Section 142-105 of the Subdivision Ordinance waiving the requirement to construct sanitary sewer and water lines to the subject property and extend them to the adjacent upstream property; the applicant received approval of a variance to Section 142-105 of the Subdivision Ordinance allowing the use of individual septic systems; the applicant received approval of a variance to the Storm Water Management Ordinance waiving the requirement to collect drainage in an underground storm water system; the applicant received approval of a variance to the 2006 Edition of the International Fire Code, including local amendments, waiving the requirement that fire hydrants and minimum fire flows be provided; prior to filing the plat for record: the applicant revise the plat to provide the note, "All proposed lots situated entirely outside the city's corporate limits and within the city's extraterritorial jurisdiction comply with the subdivision ordinance"; and the applicant

revise the plat to dedicate right-of-way for a portion of a six-lane master-planned major arterial road way, running north-south, approximately 1,500 feet east of County Road 406, crossing the eastern portion of proposed Lot 2, Block A, with the final location of such right-of-way subject to review and approval by the City Engineer.

11-050Z5 Mayor Loughmiller called for a Public Hearing to Consider/Discuss/Act on the Request by Doug Parker, for Approval of a Request to Rezone Approximately 0.33 Acres from "BN" - Neighborhood Business District and "CC" - Corridor Commercial Overlay District to "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District, to Allow a Digital Billboard, Located on the Southeast Corner of Rockhill Road and U.S. Highway 75 (Central Expressway), and Accompanying Ordinance. Senior Planner Brandon Opiela stated that the applicant contacted staff late last week and requested that this item be tabled again until the July 17th meeting. Mr. Opiela stated that the applicant wanted additional time to speak to those in opposition. Mr. Opiela stated that if Council denied the request, the applicant would have to come forward with a substantially different request or wait a year to come forward with the same request. Mayor Loughmiller called for public comment.

The following did not wish to speak but would like their opposition to be recorded:

Ms. Jill Alcantara, 2837 Dog Leaf Trail, McKinney

Ms. Diane Craig, 309 N. Benge Street, McKinney

Mr. Gerhard Deffner, 108 ½ West Virginia Street, McKinney

The following individuals spoke in opposition of the proposed rezoning request:

Ms. Lisa Raymer, 408 Heard Street, McKinney

Mr. Rudy Littrell 405 West Hunt Street, McKinney

Council member Kever stated that it is disconcerting to continue tabling

this item. Mayor Loughmiller stated that he has an issue that the item has been posted to a specific date and then the item gets tabled again and again. Council member Brooks stated that he has a struggle with continuing the public hearing. Council approved the motion by Council member Kever, seconded by Council member Ricchi, to close the public hearing and deny the request by Doug Parker to rezoning approximately 0.33 acres from "BN" - Neighborhood Business District and "CC" - Corridor Commercial Overlay District to "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District, to allow a digital billboard, located on the southeast corner of Rockhill Road and U.S. Highway 75 (Central Expressway. with a vote of 5-2-0, Council members Day and Harris voting against.

12-065SU2 Mayor Loughmiller called for a Public Hearing to Consider/Discuss/Act on the Request by McKinney Bed and Breakfast, Inc., for Approval of a Specific Use Permit for a Bed and Breakfast, Approximately 0.25 Acres, Located Approximately 125 Feet South of Howell Street and on the West Side of Parker Street, and Accompanying Ordinance. Senior Planner Brandon Opiela stated that the applicant is requesting a specific use permit so that an existing residence within the Historic District could be used as a Bed and Breakfast. He stated that staff has received 2 emails in favor and 1 in opposition of the proposed specific use permit and stated that staff recommends approval. Applicant, Mr. Wayne Field, 406 Parker Street, McKinney, stated that it is a dream for he and his wife to open a bed and breakfast. This property became available and they would like to convert 3 rooms for guests. Mr. Opiela stated that staff does not see that this business will create any traffic congestion. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Ricchi, seconded by Mayor Pro-Tem Ussery, to close the public hearing and approve an Ordinance approving a Specific Use Permit for a Bed and Breakfast,

approximately 0.25 acres, located approximately 125 feet south of Howell Street and on the west side of Parker Street, with the following special ordinance provision: the property shall generally develop in accordance with the associated site plan exhibit. Caption reads as follows:

ORDINANCE NO. 2012-05-023

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1270 OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS; PROVIDING FOR A SPECIFIC USE PERMIT FOR A BED AND BREAKFAST AT 406 PARKER 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

12-076Z2 Mayor Loughmiller called for a Public Hearing to Consider/Discuss/Act on the Request by Petsche & Associates, Inc., on Behalf of DT McKinney, L.P., for Approval of a Request to Rezone Approximately 2.56 Acres from "PD" - Planned Development District to "PD" - Planned Development District, to Allow for a Veterinarian Clinic with No Outside Runs, Located on the Southeast Corner of Ridge Road and Virginia Parkway, and Accompanying Ordinance. Senior Planner Michael Quint Michael Quint stated that the applicant is requesting to rezone the subject property for a Veterinarian Clinic with no outside runs and stated that staff sees no issues with the requests and recommends approval. Applicant, Mr. Pete Petche 2600 Eldorado Parkway, McKinney, stated that he is in agreement with staff's comments. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Kever, seconded by Council member Harris, to close the public hearing and approve an Ordinance rezoning approximately 2.56 Acres from "PD" - Planned Development District to "PD" - Planned Development district, to allow for a veterinarian clinic with no outside runs, located on the southeast corner of Ridge Road and Virginia Parkway, with the following special ordinance provisions: use and development of the subject property (a portion of Stonebridge Parcel

No. 139) shall conform to the "O-1" - Office District regulations of "PD" - Planned Development District Ordinance No. 97-06-36, except as follows: a veterinarian clinic with no outside animal runs shall be an allowed use. Caption reads as follows:

ORDINANCE NO. 2012-05-024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING ORDINANCE NO. 97-06-36 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 2.56 ACRE PROPERTY, LOCATED ON THE SOUTHEAST CORNER OF RIDGE ROAD AND VIRGINIA PARKWAY, IS REZONED FROM "PD" - PLANNED DEVELOPMENT DISTRICT TO "PD" - PLANNED DEVELOPMENT DISTRICT, GENERALLY TO ALLOW FOR A VETERINARIAN CLINIC WITH NO OUTSIDE RUNS; 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

Mayor Loughmiller introduced Major Lynda Dye who just returned from a tour of duty in Afghanistan. Major Dye presented a flag that was flown on September 11, 2011 in Kandahar, Afghanistan. She stated that she had this flag flown in honor of the City of McKinney Fire Department.

Council member Ricchi stated that early voting started on Monday and he encouraged all citizens to go out and vote. Mr. Ricchi stated that he is looking forward to voting on going back to Stage 2 water restrictions. Mr. Ricchi announced that the Smiles Charity will be holding a free concert at Adriatica on May 27th with all proceeds benefiting building homes for wounded veterans. The McKinney Ladies Association raised over \$5,000 at their garage sale that will go towards scholarships. Mr. Ricchi stated that the Heard Museum is a great place to take your family during the summer months. Mr. Ricchi complimented staff on the great presentations that they provided to Council and he appreciates their work and the City Manager's leadership.

Council member Day did not have any comments.

Council member Kever congratulated Hollie Cavanagh for making it to the top 4 finalists on American Idol this season. Ms. Kever complimented the Communications Department for the outstanding job in getting a billboard up supporting Hollie Cavanagh.

Council member Harris stated that he attended the ceremony at the Public Safety Building and commended staff for a job well done. He also complimented the City Manager on the successful meet and confer meetings with the Fire and Police associations. Mr. Harris also echoed comments about Hollie Cavanagh and stated that she made citizens of McKinney very proud. Mr. Harris encouraged everyone to get out and vote.

Council member Brooks stated that the City continues to work with staff on the Gateway project with an update to be provided in a few months. Mr. Harris complimented the City Manager and staff for doing an excellent job.

Mayor Pro-Tem Ussery thanked staff for what they do, day in and day out. Mr. Ussery apologized to his teammates - City Manager Gray and Mayor Loughmiller for missing 2 free throws during the Samaritan Inn Charity Basketball game.

Mayor Loughmiller stated that staff worked fast in getting things organized for Hollie Cavanagh in a 24 hour period of time to prepare 10 renditions of schedules from California in the event that Hollie made it to the top 3 finalists. Our staff did a great job lining up everything. The American Idol organization complimented the City of McKinney for having done more in the shortest period of time to prepare for the possibility of a hometown visit. The City would still like to have some sort of celebration in honor of Hollie Cavanagh. Mr. Loughmiller stated that he also attended the event today that recognized the Police officers that have died in the line of duty. McKinney has lost 3 officers in the history of the Police Department. He invited everyone to downtown McKinney on May 25th for Bike the Bricks where he will be in attendance enjoying the festivities.

City Manager Gray stated that although Mayor Pro-Tem Ussery did miss 2 free throws he did make several 3 point shots and that he was the highest scorer of the team.

Mayor Loughmiller called for Action on Executive Session Items.

Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Kever, to approve a contract for Municipal Judge Roger Dickey and Associate Municipal Judge Efren Ordonez as discussed in Executive Session.

Mayor Loughmiller called for Citizen Comments.

Mr. Chris Widra, 1417 Summerset Drive, McKinney, spoke about the issues relating to the congestion at the Al Ruschhaupt Soccer Complex created between the soccer and lacrosse teams.

Dr. Ed Mapes, 4903 Carolina Circle, McKinney, thanked Council for approving the rezoning item for the Veterinary Clinic.

Mayor Loughmiller recessed the meeting into executive session at 7:33 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 551.074 Personnel Matters, and Section 551.087 Discuss Economic Development Matter as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 8:03 p.m.

Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Ricchi, to adjourn. Mayor Loughmiller adjourned the meeting at 8:04 p.m.

BRIAN LOUGHMILLER
Mayor

ATTEST:

SANDY HART, TRMC, MMC
City Secretary