

## CITY COUNCIL REGULAR MEETING

NOVEMBER 16, 2010

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on November 16, 2010 at 6:00 pm.

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

Staff Present: Interim City Manager Rick Chaffin; City Attorney Mark Houser; City Secretary Sandy Hart; Director of Engineering Jack Carr; Information Technology - Amy Greer, Clif Carnley, Gavin Metoyer, Pedro Gonzalez, Maurice Maravilla, and Richard Sewell; Chief Information Officer Chris Chiancone; Fire Chief Mark Wallace; Interim Finance Director Larry Cunningham; Planning Director Jennifer Cox; Historic Preservation Officer Guy Giersch; Assistant to the City Manager Aretha Harvey; Assistant Director of Development Services Rob Daake; Senior Planner Michael Quint; Environmental Stewardship Manager Julie Smith; Chief of Police Doug Kowalski; Executive Director of Development Services John Kessel; McKinney Performing Arts Center Director David Taylor; Deputy Chief Scott Brewer; Parks, Recreation and Open Space Director Lemuel Randolph; Deputy Chief Kim Malolepszy; Human Resources Director Tadd Phillips; Grants Coordinator Janay Tieken; Police Captain Ron Jones; Police Administration Manager Cathy Lennox; Assistant Chief of Police Randy Roland; Affordable Housing Coordinator Cristel Pruneda; Community Development Block Grant Administrator Shirletta Best; and Police Sergeant David Rodriguez.

There were approximately 40 guests present.

Mayor Loughmiller called the meeting to order at 6:04 p.m. after determining a quorum was present. Invocation was given by Pastor Bradley, Hillcrest Christian Church. Mayor Loughmiller led the Pledge of Allegiance

**10-541** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Supporting a Request for a Study of Necessary Improvements along the US 75 Highway Corridor. County Judge Keith Self requested support from the City of McKinney to support a study of the US 75 Highway corridor. Council unanimously approved the motion by Council

member Pete Huff, seconded by Council member Geralyn Kever, to approve a Resolution supporting a request for a study of necessary improvements along the US 75 Highway Corridor. Caption reads as follows:

RESOLUTION NO. 2010-11-143 (R)

A RESOLUTION SUPPORTING A REQUEST FOR A STUDY OF NECESSARY IMPROVEMENTS ALONG THE US 75 HIGHWAY CORRIDOR

INFORMATION SHARING

- 10-521** Salvation Army's Red Kettle Kick Off and Proclamation
- 10-522** Presentation of Award of Recognition to the McKinney Police Department by the Texas Police Chiefs Association

Mayor Loughmiller called for Citizen Comments

Mr. Ronnie Foster, P. O. Box 603, McKinney, spoke about the Paver Program for the Veterans Memorial Park. Mr. Foster encouraged everyone to participate in the program and purchase a paver.

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

- 10-523** Minutes of the City Council Work Session of October 27, 2010
- 10-524** Minutes of the City Council and McKinney Independent School District Board of Trustees Meeting of November 1, 2010
- 10-525** Minutes of the City Council Special Meeting of November 2, 2010
- 10-526** Minutes of the City Council Work Session of November 2, 2010
- 10-527** Minutes of the City Council Regular Meeting of November 2, 2010
- 10-528** Minutes of the Community Grants Advisory Commission Meeting of October 20, 2010
- 10-529** Minutes of the McKinney Community Development Corporation Board Meeting of September 30, 2010
- 10-530** Minutes of the McKinney Convention & Visitors Bureau Board Meeting of September 27, 2010
- 10-531** Minutes of the McKinney Housing Authority Board Meeting of September

28, 2010

**10-532** Minutes of the Planning and Zoning Commission Regular Meeting of October 26, 2010

**10-533** Consider/Discuss/Act on an Ordinance of the City Council of the City of McKinney, Texas Authorizing a Budget Amendment Pertaining to the Fiscal Year 2011 Budget. Caption reads as follows:

ORDINANCE NO. 2010-11-046

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AUTHORIZING A BUDGET AMENDMENT PERTAINING TO THE FISCAL YEAR 2011 BUDGET AND PROVIDING FOR AN EFFECTIVE DATE THEREOF

**10-534** Consider/Discuss/Act on an Ordinance Amending the Code of Ordinances and Appendix A Schedule of Fees for the McKinney Performing Arts Center Rental Rates. Caption reads as follows:

ORDINANCE NO. 2010-11-047

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING APPENDIX A, ENTITLED "SCHEDULE OF FEES", OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, RELATING TO FEES, BY AMENDING SECTION 74-212 RELATIVE TO MCKINNEY PERFORMING ARTS CENTER FEES; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

**10-082SU2** Consider/Discuss/Act on the Ratification of an Ordinance Approving a Specific Use Permit and Site Plan for an Indoor Automotive Parts Sales Building (O'Reilly Auto Parts), Approximately 0.78 Acres, Located on the West Side of Custer Road and Approximately 900 Feet North of Virginia Parkway. Caption reads as follows:

ORDINANCE NO. 2010-11-048

AN ORDINANCE AMENDING ORDINANCE NOS. 2006-04-039, 2004-11-116, 2004-01-006, AND 98-08-44 OF THE CITY OF MCKINNEY, TEXAS; PROVIDING FOR A SPECIFIC USE PERMIT FOR AN INDOOR AUTO PARTS SALES USE, APPROXIMATELY 0.78 ACRE, LOCATED ON THE WEST SIDE OF CUSTER ROAD AND APPROXIMATELY 900 FEET NORTH OF VIRGINIA PARKWAY; 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

- 10-536** Consider/Discuss/Act on a Resolution Authorizing City Manager to Pursue Grant Funding through the Texas Department of Housing and Community Affairs (TDHCA) HOME Investments Partnerships Program Homebuyers Assistance (HBA). Caption reads as follows:

RESOLUTION NO. 2010-11-140 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, COLLIN COUNTY, TEXAS, AUTHORIZING CITY MANAGER TO MAKE APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS (TDHCA) FOR HOME INVESTMENTS PARTNERSHIP PROGRAM FUNDING UNDER THE *HOMEBUYERS ASSISTANCE GRANT* (HBA); AND PROVIDING FOR AN EFFECTIVE DATE

- 10-537** Consider/Discuss/Act on a Resolution Approving the Project Plan and Financing Plan for Tax Increment Reinvestment Zone Number One. Caption reads as follows:

RESOLUTION NO. 2010-11-141 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, APPROVING THE PROJECT PLAN AND FINANCING PLAN FOR TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF MCKINNEY

- 10-538** Consider/Discuss/Act on a Resolution Approving the Project Plan and Financing Plan for Tax Increment Reinvestment Zone Number Two. Caption reads as follows:

RESOLUTION NO. 2010-11-142 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, APPROVING THE PROJECT PLAN AND FINANCING PLAN FOR TAX INCREMENT REINVESTMENT ZONE NUMBER TWO, CITY OF MCKINNEY

- 10-540** Consider/Discuss/Act on a Fourth Amendment to the Robinson Ridge Facilities Agreement Deferring Parkland Dedication until December 31, 2011.

END OF CONSENT

**10-535** Mayor Loughmiller called for Consideration/Discussion/Action on Resolution Authorizing a Two Year Term Maintenance Reimbursement Agreement with Stonebridge Ranch Community Association, Inc. Parks, Recreation, and Open Space Director Lemuel Randolph stated that Stonebridge Ranch Community Association is requesting a 3% increase on the reimbursement agreement with the City for maintenance of the common areas. The cost to the City is less than half of the \$8,800 per acre that Stonebridge Ranch Community Association pays. Staff feels that the increase is reasonable. Mayor Loughmiller requested that the City obtain additional information before taking a vote on this item. Council approved the motion by Mayor Pro-Tem Huff, seconded by Council member Keever, to table this item until the December 7, 2010 meeting with a vote of 5 - 1 - 0, Council member Ricchi voting against.

**10-542** Mayor Loughmiller called for Consideration/Discussion/Action on the Request by W. R. Livingston, Jr. to Appeal the Decision by the Historic Preservation Advisory Board to Deny a Certificate of Appropriateness to Remove Original Wood Windows and Install Vinyl Replacement Windows at 801 West Hunt Street. Historic Preservation Officer Guy Giersch stated on September 3, 2010, the applicant submitted a request for approval to remove the original wood windows and install vinyl replacement windows with vinyl grills/grids installed between two panes of glass. The applicant has stated that the proposed replacement windows would be similar in size to the original windows. The exterior and interior trims would be maintained as well. Because these proposed changes would conflict with the principles established by the *Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings*, Staff is not able to recommend approval of the applicant's request. On October 7, 2010 the Historic Preservation Advisory Board denied Mr. Livingston's request with a 7-0 vote. Application, Mr. Fred Livingston, 801 W. Hunt, McKinney stated that they had moved to McKinney in 1996 and they fell

in love with the old area of town. They purchased their home on Hunt Street in 1998. and searched for two years before finding the home on Hunt Street and since then, they had worked diligently at restoring and rehabilitating the home on Hunt Street while trying to preserve its original character and charm. Mr. Livingston stated that the current windows need replacing as they are rotting and creating a drafty home. Mr. Livingston stated that it was suggested in an earlier communication that they refurbish the existing wood windows and add storm windows to increase the efficiency of the windows. He stated that when he asked Staff for references that he was told that there is nobody whom he could check with locally to verify this method. Mr. Livingston stated that there is no economically easy way to refurbish the windows. He is requesting to replace the windows with the highest energy rated construction with clear; non-tinted or coated glass, with the grillwork in the top half between the panes of glass. The original exterior trim pieces and sills would be left intact thus maintaining the character of our home. Mayor Pro-Tem Huff made a motion to deny the installation of vinyl windows and to allow the installation of wood windows to match the original windows that would be approved by the Historic Preservation Officer. The motion failed for a lack of a second. Council unanimously approved the motion by Council member Ussery, seconded by Council member Day, to approve the appeal of the decision by the Historic Preservation Advisory Board at 801 West Hunt Street with the installation of a comparable window in vinyl with an exterior grid simulating the four over one.

**10-543** Mayor Loughmiller called for Consideration/Discussion/Action on the Request by George Bush of Eldorado Properties to Appeal the Decision by the City of McKinney Historic Preservation Officer to Deny a Certificate of Appropriateness for the Proposed Installation of Four-over-Four Windows and Multi-pane Storefront Windows at 109 East Virginia Street. Historic Preservation Officer Guy Giersch stated that on October

20, 2010, the applicant submitted a proposal to the Historic Preservation Officer to remodel the façade of the historic building at 109 East Virginia Street. The applicant's proposal included the following items: removing the circa 1960 corrugated metal cladding, installing a cornice treatment reminiscent of the original, creating ornamental window surrounds using EFIS, reconstructing the storefront using EFIS to create raised panel bulkheads and wood columns, installing a pair of wood doors with transom, painting the exterior of the building, installing a canvas barrel-vault awning, maintaining the terrazzo entry, replacing the metal windows on the second floor front façade with four-over-four wood windows with clear glass, and replacing the clear, non-mulled, plate glass windows in the storefront with multi-pane mulled windows with low E clear glass. On October 28, 2010, the Historic Preservation Officer issued a Certificate of Appropriateness for all items except replacing the metal windows on the second floor front façade with four-over-four wood windows with clear glass, and replacing the clear, non-mulled, plate glass windows in the storefront with multi-pane mulled windows with low E clear glass. Applicant Sharla Bush, 618 Finch Avenue, McKinney, stated that she has already ordered custom made divided light double pane windows. She stated that after spending several thousand dollars on these windows, her budget would not allow for her to replace the windows with single hung windows that Mr. Giersch had suggested. Ms. Bush stated that the design of the remodeling is fashioned after a store in Paris, France. Council unanimously approved the motion by Council member Ricchi, seconded by Council member Ussery, to the approve the request for a Certificate of Appropriateness for the proposed installation of four-over-four Windows and multi-pane storefront windows at 109 East Virginia Street.

**10-544** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Regarding Endorsements and Campaigning by City Council

Members in Local Elections. Mayor Pro-Tem Huff recommended that the Resolution be amended to state public endorsements or endorsements made verbally at meetings. Council unanimously approved the motion by Council member Ussery, seconded by Mayor Pro-Tem Huff, to approve the Resolution regarding endorsements and campaigning by City Council Members in Local Elections with the amendment to read: may not endorse or campaign for other political candidates in local elections through oral statements in a public forum or written materials intended for public dissemination. Caption reads as follows:

RESOLUTION NO. 2010-11-144 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ADOPTING A CITY COUNCIL POLICY PURSUANT TO ITS GOVERNANCE INITIATIVES PROVIDING THAT SEATED CITY COUNCIL MEMBERS REFRAIN FROM ENDORSING AND CAMPAIGNING FOR CANDIDATES IN LOCAL ELECTIONS

**10-545** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution of the City Council of the City of McKinney, Texas, Authorizing the City Manager to Execute a Contract with CP&Y to Develop a Water Conservation and Marketing Plan for the City of McKinney. Environment Stewardship Manager Julie Smith stated that the Department of Energy, through the Energy Efficiency and Conservation Block Grant program, granted the City of McKinney \$82,500 to develop a Water Conservation and Marketing Plan. After reviewing six RFQ submittals, the selection team ranked CP&Y, Inc. as the most qualified applicant. The purpose of the Plan is to reduce water consumption across the City, preserving water resources and also reducing the amount of energy required to collect and distribute both potable water and wastewater. Council unanimously approved the motion by Council member Ussery, seconded by Mayor Pro-Tem Huff, to approve the Resolution authorizing the City Manager to execute a contract with CP&Y to develop a Water Conservation and Marketing Plan for the City of McKinney. Caption reads as follows:



RESOLUTION NO. 2010-11-145 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CP&Y, INC. TO DEVELOP A WATER CONSERVATION AND MARKETING PLAN FOR THE CITY OF MCKINNEY

**10-546** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the CDBG FY 2009-10 Consolidated Annual Performance Evaluation and Report (CAPER). Community Development Block Grant (CDBG) Administrator Shirletta Best stated CDBG regulations require grantees to submit a Consolidated Annual Performance Evaluation and Report (CAPER) to the U.S. Department of Housing and Urban Development (HUD) within 90 days of the close of each grant year. The CAPER is a combination of reports generated by HUD's reporting system and a narrative written by the City. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Keever, seconded by Council member Ussery, to close the public hearing and approve the CDBG FY 2009-10 Consolidated Annual Performance Evaluation and Report (CAPER).

**10-112Z** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Carwin Advisors, L.L.C., on Behalf of Collin CR Wellness Communities, L.L.C., for Approval of a Request. to Rezone Approximately 33.89 Acres from "PD" - Planned Development 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 on the South Side of Stacy Road, and Accompanying Ordinance. Senior Planner Michael Quint stated that that the applicant is requesting to rezone approximately 33.89 acres from "PD" Planned Development 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. He stated that Staff recommends approval of the proposed rezoning request with the special ordinance provisions listed in the staff report. Mr. Quint stated that they will be individual structures with no common walls. There are a few quad-plex products on the western portion of the property that will continue along the western portion. This is a single family product in a multi-family area. Staff is recommending approval based on the staff report. Applicant, Mr. Bret Pedigo, 2100 McKinney Avenue, Dallas, stated they have customized the zoning to allow for the single family looking units. Maintenance of the grounds around the units will be taken care of. Council unanimously approved the motion by Council member Ussery, seconded by Council member Kever, to close the public hearing and approve the Ordinance rezoning approximately 33.89 acres from “PD” - Planned Development 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 on the south side of Stacy Road, with the following special ordinance provisions: use and development of the subject property shall be subject to the following special ordinance provisions: Use: Multi-family residential uses shall be permitted at a density as reflected on the attached Zoning Exhibit; Space Limits: Stacy Road and Custer Road Setback: 35 feet; southern property line setback: 25 feet; all other property line setback: 20 feet; maximum height: 35 feet (two stories); residential unit separation: 8 feet from unit foundation to unit foundation, except that the following items may project into the required 8 foot separation: architectural features may project up to 12 inches; roof eaves may project up to 24 inches; and there shall be no required separation between detached garages and other buildings;

Residential Unit Placement: residential dwelling units shall be constructed in the general building pad locations reflected on the attached Zoning Exhibit, while the exact floor plan, elevation, driveway locations, and garage locations shall be determined through the building permit process; Landscaping: all landscaping requirements of the Zoning Ordinance shall be applicable unless otherwise specified herein, one canopy tree shall be provided in the front yard of each one unit building pad; Parking: two enclosed parking spaces shall be provided for each unit; driveways shall be a minimum of 5 feet in length as measured from the edge of the adjacent access drive to the face of the garage. If a driveway less than 18 feet in depth is provided, an additional two 9 feet by 18 feet parking spaces shall be provided on the unit's building pad. There shall be no associated landscaping requirements for these two parking spaces; Architectural Standards: all Architectural and Site Standards of the Zoning Ordinance shall be applicable unless otherwise specified herein; the exterior finish on each wall of every multi-family structure shall be a minimum of 65 percent masonry as defined by the Zoning Ordinance; windows within 150 feet of a property line may orient towards adjacent residential properties; the architectural character of any constructed structure shall generally conform to the attached Architectural Renderings; the subject property shall generally conform to the attached Zoning Exhibit; and the subject property shall be subject to the requirements of the "REC" - Regional Employment Center Overlay District. Caption reads as follows:

ORDINANCE NO. 2010-11-049

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING ORDINANCE NO. 1270 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 33.89 ACRE PROPERTY, LOCATED ON THE EAST SIDE OF CUSTER ROAD AND ON THE SOUTH SIDE OF STACY ROAD, IS REZONED FROM "PD" - PLANNED DEVELOPMENT 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; 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

**04-410A3** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Kimley-Horn and Associates, Inc., on Behalf of Haggard Enterprises, Ltd. on a Petition to Annex Approximately 67 Acres, Located on the South Side of F.M. 1461 and Approximately 1,400 Feet East of F.M. 2478 (Custer Road), and Accompanying Ordinance. Planning Director Jennifer Cox stated that this is the third of three public hearings for annexation of a 67 acre tract. The first public hearing was held at a Special Meeting on October 19th and the second public hearing was held at the Regular Meeting on October 19th. Ms. Cox stated that after visiting the site, Fire Chief Wallace recommended that the fire station be placed further south and west. If this property is annexed and zoned, the City will be allowed to enforce land use control and regulate development. If the property remains in the City's Extra Territorial Jurisdiction, the developer would have to comply with provisions of the subdivision regulations but not have to comply with the City's zoning regulations pertaining to architectural or development standards for commercial use or parking standards. The Comprehensive Plan calls for a mixture of single family low density residential area with a medium density residential area to serve as a buffer between the low density and the commercial area. The low density residential area consists of 68.4 acres to be built according to RS60 zoning regulations; the medium density area consists of 24.4 acres to be built according to the RS35 or RG27 zoning regulations; and the commercial area consisting of 30.9 acres. Applicant Ms. Ashley Frysinger, 12700 Park Central Drive, Dallas, was available for questions. Mayor Loughmiller called for public comment and there was none. Council approved the motion by Council member Ussery, seconded by Council member Ricchi,

to close the public hearing and approve the Ordinance annexing approximately 67 acres, located on the south side of F.M. 1461 and approximately 1,400 feet east of F.M. 2478 (Custer Road), with a vote of 5 - 1 - 0, Mayor Pro-Tern Huff voting against. Caption reads as follows:

ORDINANCE NO. 2010-11-050

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ANNEXING CERTAIN TERRITORIES TO THE CITY OF MCKINNEY; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE AND PROVIDING FOR AN EFFECTIVE DATE THEREOF

**04-411Z** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Kimley-Horn and Associates, Inc., on Behalf of Haggard Enterprises, LTD, for Approval of a Request to Rezone Approximately 67.22 Acres from "AG" - Agricultural District to "PD" - Planned Development District, Generally for Residential and Commercial Uses, and Zone Approximately 67.22 Acres as "PD" - Planned Development District, Generally for Residential and Commercial Uses, Located on the Southeast Corner of FM 2478 (Custer Road) and FM 1461, and Accompanying Ordinance. Planning Director Jennifer Cox stated that Staff is recommending approval with the conditions in the Staff Report. Applicant, Ms. Ashley Fryinger, 12700 Park Central Drive, Dallas, was available for questions. Mayor Loughmiller called for public comment and there was none. Council approved the motion by Council member Ussery, seconded by Council member Ricchi, to close the public hearing and approve the Ordinance zoning request for approximately 67.22 acres from "AG" - Agricultural District to "PD" - Planned Development District, generally for residential and commercial uses, and zoning approximately 67.22 acres as "PD" - Planned Development District, generally for residential and commercial uses, located on the southeast corner of FM 2478 (Custer Road) and FM 1461, with a vote of 5 - 1 - 0, Mayor Pro-Tem Huff voting against, with the following special ordinance provisions: the subject property be zoned "PD" - Planned

Development District and the following special ordinance provisions shall be applicable: the subject property shall generally develop according to the attached Zoning Exhibit (Exhibit C) and the subject property shall develop according to the attached Planned Development District Regulations (Exhibit B). Caption reads as follows:

ORDINANCE NO. 2010-11-051

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING ORDINANCE NO. 1270 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 67.22 ACRE PROPERTY IS REZONED FROM "AG" - AGRICULTURAL DISTRICT TO "PD" — PLANNED DEVELOPMENT DISTRICT AND SO THAT AN APPROXIMATELY 67.22 ACRE PROPERTY IS ZONED "PD" — PLANNED DEVELOPMENT DISTRICT, LOCATED ON THE SOUTHEAST CORNER OF F.M. 2478 (CUSTER ROAD) AND F.M. 1461; 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

- 10-539** Mayor Loughmiller called for Consideration/Discussion/Action on a Development Agreement with Haggard Enterprises, Ltd. for Approximately 134.44 Acres, Located Generally on the Southeast Corner of FM 2478 (Custer Road) and FM 1461. Council approved the motion by Council member Ussery, seconded by Council member Ricchi, to approve the Development Agreement with Haggard Enterprises, Ltd. for approximately 134.44 acres, located generally on the southeast corner of FM 2478 (Custer Road) and FM 1461, with a vote of 5 - 1 - 0, Mayor Pro-Tem Huff voting against.

**10-115Z** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by SB Harbor Market, J.V., for Approval of a Request to Rezone Approximately 35.15 Acres from "PD" - Planned Development District to "PD" - Planned Development District, Generally to Modify the Development Standards, Located on the Southeast Corner of Virginia Parkway and Stonebridge Drive, and Accompanying Ordinance. Senior Planner Michael Quint presented the request to rezone approximately 35 acres from PD to PD generally to modify development standards. Mr. Quint stated that the rezoning request that was previously denied by the Planning and Zoning Commission prior to coming to City Council has been modified and no longer includes the following: Increase building heights, increase in allowable residence uses in retail district, and additional signage. Mayor Loughmiller stated that with the changes before Council tonight, the worst case scenario would be a 50/50 mix of commercial to residential and will clean up the 2005 Ordinance. Applicants, Mr. George Fuller, 6805 Dalmatia, McKinney and Mr. Jeff Blackard, 401 Adriatica Parkway McKinney, agreed to the Council's request for adding the wording "Construction of Phase I of the Harbor district, as indicated in Exhibit C, has commenced and the entire parking garage has received a full Certificate of Occupancy." Mayor Loughmiller called for public comment: Ms. Nancy Pompano, 821 Creeklne Way, McKinney, spoke against this request. Ms. Donna Blackard, 401 Adriatic Parkway, McKinney, spoke in favor of this request Council unanimously approved the motion by Council member Day, seconded by Mayor Pro-Tem Huff, to close the public hearing and approve the Ordinance rezoning approximately 35.15 acres from "PD" - Planned Development District to 'PD" - Planned Development District, generally to modify the development standards, located on the southeast

corner of Virginia Parkway and Stonebridge Drive, with the following special Ordinance provisions:

- a. Tracts D, E, and F, as reflected on the attached Zoning Exhibit (Exhibit B), shall be subject to the following regulations:
  1. Concurrently with the development of the first 50 residential units in the Town Center District, the developer shall construct, within the Town Center District 40,000 square feet of floor area of commercial uses exclusive of parking. Any enclosed mechanical and electrical space and parking uses are not part of the calculated floor area.
  2. The ground floor of each building constructed in Tracts D and E, as reflected on the attached Zoning Exhibit, shall feature 10 percent non-residential uses including, but not limited to retail and office uses. Any enclosed mechanical and electrical space and parking uses are not part of the calculated floor area.
  3. The ground floor of each building constructed in Tract F, as reflected on the attached Zoning Exhibit, shall feature 100 percent non-residential uses including, but not limited to retail and office uses.
  4. Construction of residential units in the Town Center District shall not commence until all of the following items have been satisfied:
    - i. at least 13 dwelling units in the Villa District have been constructed;
    - ii. either a living landscaping screen (ivy, Italian cypress shrubs and/or a similar alternative) that softens the appearance of the entirety of the 5 story parking garage southeast has been provided or complimentary masonry clad finishing materials have been provided along the southeast façade of the Harbor District's (Tract F) parking garage;
    - iii. a living landscaping screen (ivy, Italian cypress shrubs and/or a similar alternative) that softens the appearance of the entirety of the 5 story parking garage has been provided along the southwest façade of the Harbor District's (Tract F) parking garage; and
    - iv. the construction of phase one of the Harbor District, as indicated in Exhibit C, has commenced and the entire parking garage has received a full certificate of occupancy.
- b. In Tract E, as reflected on the attached Zoning Exhibit (Exhibit B), a Farmers Market shall be a permitted retail use.
- c. Two pedestrian bridges shall be permitted to extend over the right-of-way providing a minimum vertical clearance of 17 feet. The first bridge shall be permitted to extend from Tract F (the Harbor parking garage) to Tract D (a future multi-story building) over Mediterranean Drive and the second bridge shall be permitted to



extend from Tract E (a future multi-story building) to Tract D (a future multi-story building) over Adriatic Parkway.

- d. The following provisions as found in Zoning Ordinance Section 146-132(3) "Fences, Walls, and Screening Requirements" **shall not** apply to the subject property:
  - a. Screening devices shall be placed along any property line or district boundary between any single family detached or attached or any two-family zoning or use and any mobile home park, or non-residential use, but not across a dividing street between such uses. An alley shall not be considered a dividing street for purposes of this section. The more intensive use shall have the responsibility for providing and maintaining the screening device.
  - b. Multiple family residential developments outside of the Regional Employment Center Overlay district shall provide and maintain a six foot tall masonry screening wall along all side and rear property lines.
- e. The following provisions as found in Zoning Ordinance Section 146-135(f) "Architectural and Site Standards" **shall not** apply to the subject property:
  - (17) Multiple family residential uses shall provide a landscaped buffer of at least twenty feet (20') in width along all property lines planted with one canopy tree (minimum three-inch caliper and seven feet in height at time of planting) for each 30 linear feet or portion thereof of adjacent exposure. The trees along the street frontage may be clustered, while the trees along all other property lines may not.
- f. The following provisions as found in Zoning Ordinance Section 146-139(f) "Architectural and Site Standards" **shall not** apply to the subject property:
  6. All parking areas shall be screened from view from public thoroughfares by one or more of the following:
    - (i) A combination of low masonry walls and earthen berms reaching a minimum of six feet tall;
    - (ii) Earthen berms reaching a minimum of six feet tall;
    - (iii) A six foot tall brick masonry, stone masonry, or other architectural masonry finish; or
    - (iv) A six foot tall primed and painted tubular steel or wrought iron fence with masonry columns spaced 20 feet on center with structural supports placed every 10 linear feet, and with sufficient evergreen landscaping to create a screening effect.
  9. All multi-family residential buildings located outside of the Regional Employment Center Overlay District shall be limited to two stories in height.
  11. Multi-family residential structures within 150 feet of an adjacent single family residential use or zone shall be situated so that no exterior facing window is oriented

towards said adjacent single family residential use or zone.

Caption reads as follows:

ORDINANCE NO. 2010-11-052

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING ORDINANCE NO. 2005-02-017 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 35.15 ACRE PROPERTY, LOCATED ON THE SOUTHEAST CORNER OF VIRGINIA PARKWAY AND STONEBRIDGE DRIVE, IS REZONED FROM "PD" – PLANNED DEVELOPMENT 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 and Liaison Reports

Council member Ricchi expressed his appreciation to the Development Services staff for their hard work. Mr. Ricchi thanked the Information Technology Department headed by the Chief Information Officer Chris Chiancone for resolving issues that the Council had had their last meeting. Mr. Ricchi thanked IT staff Pedro Gonzales, Gavin Metoyer, Maurice Maravilla, Cliff Carnley, Richard Sewell, and David Linson for the work they did resolving the Council issues but also for their work with all departments. Mr. Ricchi stated that the Veterans Memorial Ceremony was held last Saturday and was attended by approximately 500 people. McKinney hosted its first Lacrosse Tournament with 36 teams participating.

Council member Day did not have any comments.

Council member Kever stated that Council member Brooks is not in attendance tonight due to an event in conjunction with his service as Chairman of the Houston Baptist the event has the guest speaker of George W. Bush. Ms. Kever stated that on Wednesday she attended an event at Raytheon celebrating their Multi-Spectral Targeting System's one millionth operational flight hour.

Council member Ussery thanked staff for their efforts day in and day out that allow McKinney to be the fifth best places to live.

Mayor Pro-Tem Huff thanked staff and Council for working so hard on the zoning issues tonight. Mr. Huff stated that he had the privilege of attending an event at one of the most beautiful chapels, Bella Donna Chapel in Adriatica.

Mayor Loughmiller stated that he recently celebrated his 23<sup>rd</sup> wedding anniversary. Mr. Loughmiller also congratulated his son Cameron for receiving the Lion Pride award this morning. Mr. Loughmiller stated that the Veterans Memorial event was a great celebration being capped off by very pointed comments from Mr. Board who recently lost his son Brad in combat. Mr. Loughmiller wished everyone a Happy Thanksgiving and encouraged everyone to come to the Believe Run where there will be a one mile fun run/walk, a 5K and a 10K. Mr. Loughmiller announced that on November 29<sup>th</sup> the City Council will be holding a work session to discuss items relating to zoning, subdivision, and annexations.

City Manager Chaffin echoed the comments of Council members Ricchi and Ussery thanking staff for always doing a great job. Mr. Chaffin thanked Development Services for all their hard work on the Adriatica project. Mr. Chaffin introduced Mr. Larry Cunningham who is serving as the Interim Finance Director. Mr. Cunningham has 43 years in municipal public service. Mr. Cunningham has served as City Manager for the cities of Lubbock and North Richland Hills.

Mayor Loughmiller called for Citizen Comments.

Mr. T.J. Lane, 802 W. Hunt Street, McKinney, spoke in favor of the Livingston appeal of the Historic Preservation Advisory Board denial.

Ms. Christy Lane, 802 W. Hunt Street, McKinney, spoke in favor of the Livingston appeal of the Historic Preservation Advisory Board denial.

Mayor Loughmiller recessed the meeting into executive session at 9:12 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, and Section 551.072 Discuss Real Property, as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 9:38 p.m.

Council unanimously approved the motion by Council member Ussery, seconded by Council Ricchi to adjourn. Mayor Loughmiller adjourned the meeting at 9:40 p.m.

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary