

## CITY COUNCIL REGULAR MEETING

SEPTEMBER 20, 2011

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on September 20, 2011 at 6:00 pm.

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; Deputy City Manager Rick Chaffin; City Attorney Mark Houser; City Secretary Sandy Hart; Communications and Marketing – CoCo Good and Anna Clark; Planning Director Jennifer Cox; Senior Planner Michael Quint; Senior Planner Brandon Opiela; Assistant Director of Engineering Michael Hebert; Parks, Recreation, and Open Space Director Lemuel Randolph; Police Sergeant Roger Thornhill; Director of Engineering Jack Carr; Police Administration Manager Cathy Lennox; Budget and Strategic Planning Director Jason Cooley; Finance Director Rodney Rhoades; Human Resources Director Tadd Phillips; Fire Chief Danny Kistner; Help Desk Technician Clif Carnley; and Assistant to the City Manager Aretha Harvey.

There were 35 guests present.

Mayor Loughmiller called the meeting to order at 6:06 p.m. after determining a quorum was present. Invocation was given by Pastor Arnulfo Alvarado, First Hispanic Assembly of God. Mayor Loughmiller led the Pledge of Allegiance

**11-428** Mayor Pro-Tem Travis Ussery presented Blue Star Flags to: Tamara Johnson and Shirley Mack in Honor of Tamara's Daughter and Shirley's Granddaughter, Gabrielle Shirlene Mack Tucker.

**11-429** Planning Director Jennifer Cox a "Certificate of Achievement for Planning Excellence" to Mayor Loughmiller.

**11-430** McKinney Economic Development Corporation Presentation

Mayor Loughmiller called for Citizen Comments and there were none.

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

- 11-431** Minutes of the City Council Special Meeting of August 29, 2011
- 11-432** Minutes of the City Council Work Session of September 6, 2011
- 11-433** Minutes of the City Council Regular Meeting of September 6, 2011
- 11-434** Minutes of the Historic Preservation Advisory Board Meeting of August 10, 2011
- 11-435** Minutes of the McKinney Airport Development Corporation Meeting of August 11, 2011
- 11-436** Minutes of the Parks, Recreation and Open Space Advisory Board Meeting of August 11, 2011
- 11-008PZ** Minutes of the Planning and Zoning Commission Regular Meeting of August 23, 2011

- 11-437** Consider/Discuss/Act on a Resolution Authorizing a Contract with North Texas Contracting, Inc. for the Construction of the Aerial Crossing Replacement Project. Caption reads as follows:

RESOLUTION NO. 2011-09-098 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
McKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO  
EXECUTE A CONTRACT WITH NORTH TEXAS CONTRACTING,  
INC. FOR THE CONSTRUCTION OF THE AERIAL CROSSING  
REPLACEMENTS PROJECT

- 11-438** Consider/Discuss/Act on a Resolution Authorizing a Contract with PSI, Inc. for Materials Testing Services for the Aerial Crossing Replacement Project. Caption reads as follows:

RESOLUTION NO. 2011-09-099 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
McKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO  
EXECUTE A CONTRACT WITH PSI, INC. FOR MATERIALS  
TESTING SERVICES FOR THE AERIAL CROSSING  
REPLACEMENT PROJECT

- 11-439** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute an Interlocal Cooperation Agreement between the City of McKinney, Texas and the Town of Fairview, Texas Regarding Utility Service to Future Lot 8 of the Columbia Medical Campus of McKinney. Caption reads as follows:

RESOLUTION NO. 2011-09-100 (R)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF MCKINNEY, TEXAS AND THE TOWN OF FAIRVIEW, TEXAS REGARDING UTILITY SERVICE TO FUTURE LOT 8 OF THE COLUMBIA MEDICAL CAMPUS OF MCKINNEY

- 11-441** Consider/Discuss/Act on a Resolution Awarding Contract to Ferguson Waterworks for Water & Wastewater Parts. Caption reads as follows:

RESOLUTION NO. 2011-09-102 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT FOR WATER & WASTEWATER PARTS

- 11-442** Consider/Discuss/Act on a Resolution Approving the Recommendations of the Arts Commission for Awarding Grants for Funding of the Arts. Caption reads as follows:

RESOLUTION NO. 2011-09-103 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, FUNDING ART GROUPS FROM THE GENERAL FUND IN AN AMOUNT NOT TO EXCEED \$185,000.00; AND PROVIDING FOR AN EFFECTIVE DATE

- 11-443** 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. 2011-09-104 (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

- 11-444** Consider/Discuss/Act on an Amendment to the Facilities Agreement with HCA Health Services of Texas, Inc., now Known as Columbia Medical Center of McKinney Subsidiary, LP.

END OF CONSENT

**11-440** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Authorizing a Contract with Collin County Elections Administration to Conduct the November 8, 2011 Charter Election. Council member Keever requested that this item be pulled down for discussion. City Manager Jason Gray stated that at the last City Council meeting, the Council approved an Ordinance calling a Special Charter Election for November 8, 2011 to ask the voters if they would like the Council terms to be extended from three years to four year terms. If this measure passes, the next Council election will be held in May, 2013. The agenda item before you is to contract with the Collin County Election Administrator to conduct that election. Council unanimously approved the motion by Council member Keever, seconded by Council member Ricchi, to approve a Resolution authorizing a contract with Collin County Elections Administration to conduct the November 8, 2011 Charter Election. Caption reads as follows:

RESOLUTION NO. 2011-09-101 ®

A RESOLUTION AUTHORIZING A CONTRACT WITH COLLIN COUNTY ELECTIONS ADMINISTRATOR TO CONDUCT THE NOVEMBER 8, 2011 SPECIAL ELECTION

**11-445** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Nominating Members to the Collin Central Appraisal District Board of Directors. No action taken.

**10-063A8** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion on the Request by Petsche and Associates, Inc., on Behalf of Blue Star Land L.P. and 206 McKinney L.L.C., on a Petition to Annex Approximately 238.92 Acres, Located on the Southeast Corner of U.S. Highway 380 (University Drive) and Coit Road. Planning Director Jennifer Cox stated that this is the second of three public hearings on the request for voluntary annexation of approximately 239.92 acres at the southeast corner of U.S. Highway 380 and Coit Road. Ms. Cox stated that the third and final hearing for this case and

the associated zoning and development agreement will be held at the Council's regular meeting on October 18<sup>th</sup>. Ms. Cox further stated that the terms of the amended agreement insure the proper infrastructure is in place for both the residential and commercial components on an expedited timeline enabling efficient development of the property. Ms. Cox stated that annexing and preserving commercial property will preserve McKinney's tax base. Ms. Cox stated that without annexation, the City cannot regulate land use or collect property and sales tax. Ms. Cox stated that the annexation request has not changed, however, since last presented, there have been two changes to the zoning at the request of the City Manager. She stated that the applicant has agreed to modify the masonry requirement and that they also added a provision that would increase the number of trees to be planted per lot. Mr. Peter Petsche, Petsche and Associates, 2600 Eldorado Parkway, McKinney, agents for Blue Star Land and 206 McKinney stated he would like to go on record stating that they agree with Staff's report in its entirety including the changes proposed by the City Manager concerning the masonry requirements and tree planting. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Day, to close the public hearing.

**11-119Z2** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Request by Kimley-Horn and Associates, on Behalf of LevCal Custer, L.L.C., for Approval of a Request to Rezone Approximately 1.17 Acres, from "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District to "BG" - General Business District and "CC" - Corridor Commercial Overlay District, Located on the East Side of Custer Road and Approximately 260 Feet South of U.S. Highway 380 (University Drive), and Accompanying Ordinance. Senior Planner Michael Quint stated that the applicant is

requesting to rezone approximately 1.17 acres of land, located on the east side of Custer Road and approximately 260 feet south of U.S. Highway 380 (University Drive) from "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District to "BG" - General Business District and "CC" - Corridor Commercial Overlay District. Applicant, Mr. Mathew Kiran, Rex Real Estate, was available to answer questions and there were none. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Day, seconded by Council member Keever, to approve an Ordinance rezoning approximately 1.17 acres, from "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District to "BG" - General Business District and "CC" - Corridor Commercial Overlay District, located on the east side of Custer Road and approximately 260 feet south of U.S. Highway 380 (University Drive) with the following with the following special ordinance provision: the subject property, more fully depicted on Exhibit A, shall develop according to Section 146-85 ("BG" - General Business District) of the City of McKinney Zoning Ordinance, and as amended, and the "CC" - Corridor Commercial Overlay District, and as amended. Caption reads as follows:

ORDINANCE NO. 2011-09-056

AN ORDINANCE AMENDING ORDINANCE NO. 1270, OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 1.17 ACRE PROPERTY, LOCATED ON THE EAST SIDE OF CUSTER ROAD AND APPROXIMATELY 260 FEET SOUTH OF U.S. HIGHWAY 380 (UNIVERSITY DRIVE), IS REZONED FROM "PD" – PLANNED DEVELOPMENT DISTRICT AND "CC" – CORRIDOR COMMERCIAL OVERLAY DISTRICT TO "BG" – GENERAL BUSINESS DISTRICT AND "CC" – CORRIDOR COMMERCIAL OVERLAY DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INJUNCTIVE RELIEF, PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

**11-446** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Action on the Budget Appropriation Ordinance

for FY 2011-12 - 2nd Reading. City Manager Gray stated that this is the second reading on the Ordinance to adopt the budget for FY 2011-2012. Mr. Gray presented an overview of the FY12 budget that included \$88,746,844 in general fund revenues and \$88,746,844 in expenses. Council approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Keever, to close the public hearing and approve the Ordinance adopting the Budget Appropriation Ordinance for FY 2011-12 with a vote of 6-1-0, Council member Ray Ricchi voting against. Caption reads as follows:

ORDINANCE NO. 2011-09-057

AN ORDINANCE ADOPTING A BUDGET FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND ENDING SEPTEMBER 30, 2012, IN ACCORDANCE WITH THE CHARTER OF THE CITY OF MCKINNEY, APPROPRIATING THE VARIOUS AMOUNTS THEREOF, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLIC HEARINGS; PROVIDING FOR PUBLICATION OF THIS ORDINANCE AND FOR AN EFFECTIVE DATE HEREOF

- 11-447** Mayor Loughmiller called for Consideration/Discussion/Action on an Ordinance Ratifying the Property Tax Revenue Increase in the 2011-12 Budget as a Result of the City Receiving More Revenues from Property Taxes than the Previous Fiscal Year Council unanimously approved the motion by Council member Keever, seconded by Council member Day, to approve an Ordinance ratifying the Property Tax Revenue Increase in the 2011-12 Budget as a Result of the City Receiving More Revenues from Property Taxes than the Previous Fiscal Year.

ORDINANCE NO. 2011-09-058

AN ORDINANCE OF THE CITY OF MCKINNEY, TEXAS, RATIFYING THE PROPERTY TAX REVENUE INCREASE IN THE 2011-12 BUDGET AS A RESULT OF THE CITY RECEIVING MORE REVENUES FROM PROPERTY TAXES IN THE 2011-12 BUDGET THAN IN THE PREVIOUS FISCAL YEAR; AND PROVIDING AN EFFECTIVE DATE

- 11-448** Mayor Loughmiller called for Consideration/Discussion/Action on an Ordinance Adopting a Tax Rate for Fiscal Year 2011-12. Council unanimously approved the motion by Council member Keever, seconded

by Council member Ricchi, to approve an Ordinance adopting a Tax Rate of \$0.58550 for Fiscal Year 2011-12. Caption reads as follows:

ORDINANCE NO. 2011-09-059

AN ORDINANCE LEVYING TAXES FOR THE CITY OF MCKINNEY, TEXAS, FOR THE TAX YEAR 2011; PROVIDING FOR A DATE ON WHICH SUCH TAXES BECOME DELINQUENT; PROVIDING FOR A LIEN ON ALL REAL AND PERSONAL PROPERTY TO SECURE THE PAYMENT OF TAXES DUE THEREON; PROVIDING FOR PENALTY AND INTEREST FROM AN EFFECTIVE DATE HEREOF; PROVIDING FOR A 15% COLLECTION FEE FROM AN EFFECTIVE DATE HEREOF; AND PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE

- 11-449** Mayor Loughmiller called for Consideration/Discussion/Action on an Ordinance to Change the City Services Rates/Fees. Budget and Strategic Services Director Jason Cooley Dr. Cooley stated that the rate change fee Ordinance is brought forth to Council every year during the budget process. He stated that this gives City staff an opportunity to look at the services provided and assess the rate currently charged and have the opportunity to amend those rates to align with City services. He stated there are three areas included - Engineering, Library Services and Parks, Recreation and Open Spaces. Staff members are present to answer questions. Mayor Pro-Tem Ussery questioned the non-standard agreement fee stating that he thought it read like a blank check. Mr. Gray stated that the idea there was to recover the costs when engaging consultants to review a non-standard agreement. Assistant Director of Engineering Michael Hebert stated that these are fees that cover the cost of the consultant's fees as well as legal fees associated with changes to agreements. Mr. Hebert stated that Staff is not anticipating a significant increase in revenues and he thought it would be in the \$10,000 to \$20,000 range. Mr. Gray stated that in addressing the Mayor's concerns over maintaining a competitive advantage, he did not see these fees to be out of line. Mr. Gray suggested pulling the items to do a comparative analysis with competitive cities. Mr. Gray agreed to come back with language that was clear. Council member Ricchi stated he was not



supporting any new fees or taxes. Mr. Gray stated that the cost recovery fees are costs we bear today and to vote against it does not make the costs go away. Mr. Gray stated that the two fees he suggests to remove tonight are the Trolley Bus fee and also the Senior Center Information Booth fee. Ms. Keever stated she'd like to approve the rate fee changes for 2011 making note that the Trolley Bus fees and the Senior Center Information fees are not included in this motion. Council approved the motion by Council member Keever, seconded by Council member Brooks, to approve an Ordinance to change the City Services Rates/Fees with the removal of the following fees: Senior Center Information Booth fee, the Trolley Bus Fee, and the Non-Standard Agreement Fee, with a vote of 5-2-0, Council members Ricchi and Harris voting against. Caption reads as follows:

ORDINANCE NO. 2011-09-060

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 2, ENTITLED "ADMINISTRATION," AND APPENDIX A, ENTITLED "SCHEDULE OF FEES," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, RELATING TO FEES, BY AMENDING SECTION 2.1 RELATIVE TO FEES FOR FLOODPLAIN RECLAMATION REVIEW, TREE PERMIT FEES, AND LICENSE AGREEMENT AUTHORIZATIONS; BY AMENDING SECTION 50-4 RELATIVE TO LIBRARY ROOM RENTAL AND TEST PROCTORING; AND BY AMENDING SECTION 74-75, SUBSECTION (5) RELATIVE TO SENIOR CENTER USE FEE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

Mayor Loughmiller called for Council and Manager Comments.

Council members Harris and Brooks did not have any comments.

Mayor Pro-Tem Ussery thanked Staff for what they do each and every day to make McKinney a better place to live. Mr. Ussery thanked everyone who attended the sustainability project. Mr. Ussery thanked Mayor Loughmiller for assisting at the Constitutional Day at Collin College and for engaging in the competition.

Council member Ricchi thanked staff and the citizens for their commentary on the budget. It is good to see everyone come together. Mr. Ricchi thanked Jason Gray for all that he has done during the difficult process of presenting a budget. Mr. Ricchi

thanked all the citizens that make commentaries in emails and on facebook pages. Mr. Ricchi stated that he has been travelling with his new job and it is always great to come home to McKinney.

Council member Day reminded everyone to come out to the Oktoberfest event this Friday and Saturday around the downtown square. Mr. Day stated that there will be good food, music, and great activities for the entire family.

Council member Kever thanked the City Manager for his work on the budget and all the departments who took hard looks at their expenditures. Ms. Kever thanked Gary Graham, Aretha Harvey, and Janay Tieken for all their help on transportation related issues.

Mayor Brian Loughmiller stated that he had recently attended several successful events that were held at the McKinney Performing Arts Center and he is looking forward to events like these in the future. Mr. Loughmiller expressed his appreciate to Council member Day for sending information on project costs for the McKinney Performing Arts Center. Mr. Loughmiller thanked City Manager and Staff on bringing forward a balanced budget. Mr. Loughmiller expressed his appreciation to a Boy Scout attending the meeting who is working on an Eagle Scout badge that required interviewing a public servant and attending a Council meeting.

City Manager Gray introduced the new Finance Director, Rodney Rhoades who was formally from Travis County and Collin County. Mr. Gray expressed his appreciation for his decision to come and join the staff of the City of McKinney.

Mayor Loughmiller called for Citizen Comments and there were none.

Mayor Loughmiller recessed the meeting into executive session at 7:22 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 551.072 Discuss Real Property, and Section 551.087 Discuss Economic Development Matter as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 7:48 p.m.

Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Kever, to adjourn. Mayor Loughmiller adjourned the meeting at 7:48 p.m.

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary