

## CITY COUNCIL REGULAR MEETING

DECEMBER 6, 2011

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on December 6, 2011 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 Rick Chaffin; 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; Communications and Marketing - CoCo Good and Anna Clark; Parks, Recreation, and Open Space Director Lemuel Randolph; Fire Chief Danny Kistner; Director of Engineering Jack Carr; Human Resources Director Tadd Phillips; Additional: Assistant Planning Director Kevin Spath; Senior Planner Michael Quint; Community Development Block Grant Administrator Shirletta Best; Facilities Construction Manager Patricia Jackson; Budget and Strategic Services Director Jason Cooley; Grants Coordinator Janay Tieken; McKinney Community Development Corporation Director Cindy Schneible; McKinney Convention and Visitors Bureau Director Diann Bayes.

There were approximately 100 guests present.

Mayor Loughmiller called the meeting to order at 6:08 p.m.. after determining a quorum was present. Invocation was given by Father Mike Michie, St. Andrew's Episcopal Church. Cub Scout Pack 970 led the Pledge of Allegiance.

### INFORMATION SHARING

- 11-551** Mayor Loughmiller presented an overview and promotional video of local manufacturing company Tong Yang Group (TYG). He also presented a key to the city to Jeff Chen, Vice President of TYG.
- 11-552** Historic Preservation Officer Guy Giersch presented the Recognition of the Preserve Historic McKinney - Historic Home Recognition Program and Calendar.

Mayor Loughmiller called for Citizen Comments

Mr. Jack Dalfonzo, 2305 Aberdeen Avenue, McKinney, recognized the Tong Yang Group as a great asset to McKinney.

Mr. Blake Whitehead, 10128 Benwich Drive, McKinney, asked the Council about the City's plans for a Dog Park

Mr. Mickey Lewis, 9900 Carter Drive, McKinney, inquired when the Custer Road project will be completed.

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

- 11-553** Minutes of the City Council Work Session of November 15, 2011
- 11-554** Minutes of the City Council Regular Meeting of November 15, 2011
- 11-555** Minutes of the City Council Special Meeting of November 16, 2011
- 11-556** Minutes of the Board of Adjustment Meeting of August 24, 2011
- 11-557** Minutes of the Community Grants Advisory Commission Meeting of October 20, 2011
- 11-558** Minutes of the Library Advisory Board Meeting of October 20, 2011
- 11-559** Minutes of the McKinney Airport Development Corporation Meeting of October 13, 2011
- 11-560** Minutes of the McKinney Armed Services Memorial Board Meeting of October 17, 2011
- 11-561** Minutes of the McKinney Community Development Corporation Meeting of October 27, 2011
- 11-562** Minutes of the McKinney Economic Development Corporation Minutes of October 18, 2011
- 11-563** Minutes of the McKinney Housing Finance Corporation Meeting of July 15, 2011
- 11-564** Minutes of the McKinney Main Street Board Meeting of October 13, 2011
- 11-565** Minutes of the Parks, Recreation and Open Space Advisory Board Meeting of October 13, 2011
- 11-526** Minutes of the Planning and Zoning Regular Meeting of October 25, 2011
- 11-484** Consider/Discuss/Act on an Ordinance Granting to Denton County

Electric Cooperative, Inc., D/B/A CoServ Electric, a Non-Exclusive Franchise to Use and Occupy Public Rights-of-Way Within the City of McKinney for the Constructing and Operating of an Electric Transmission and Distribution System. Caption reads as follows:

ORDINANCE NO. 2011-12-072

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, GRANTING TO DENTON COUNTY ELECTRIC COOPERATIVE, INC., D/B/A COSERV ELECTRIC, ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE RIGHT TO USE AND OCCUPY RIGHTS-OF-WAY WITHIN THE CITY OF MCKINNEY FOR THE CONSTRUCTION AND OPERATION OF AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM; PRESCRIBING CONDITIONS GOVERNING THE USE OF THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR COMPENSATION THEREFORE, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC; AND PROVIDING FOR SEVERABILITY

- 11-566** Consider/Discuss/Act on an Ordinance Establishing a Speed Limit on Spur 399 Frontage Roads, Spur 399 Main Lanes and on the SH 121 Westbound Frontage Road. Caption reads as follows:

ORDINANCE NO. 2011-12-073

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ESTABLISHING A SPEED ZONE ON THE WESTBOUND FRONTAGE ROAD OF SH 121 FROM US 75 TO HARDIN BOULEVARD; ESTABLISHING A SPEED ZONE ON THE FRONTAGE ROADS OF SPUR 399 FROM US 75 TO SH 5; ESTABLISHING SPEED ZONES ON A PORTION OF THE MAIN LANES OF SPUR 399; AMENDING THE CODE OF ORDINANCES, CITY OF MCKINNEY, TEXAS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE, EFFECTIVE DATE HEREOF AND A PENALTY CLAUSE

- 11-567** Consider/Discuss/Act on an Ordinance Establishing a Speed Limit on US 75 Frontage Roads. Caption reads as follows:

ORDINANCE NO. 2011-12-074

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ESTABLISHING A SPEED ZONE ON THE US 75 FRONTAGE ROADS A POINT 550 FEET SOUTH OF ROCKHILL ROAD TO THE SOUTH CITY LIMITS; AMENDING THE CODE OF ORDINANCES, CITY OF MCKINNEY, TEXAS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE, EFFECTIVE DATE HEREOF AND A PENALTY CLAUSE

- 11-568** Consider/Discuss/Act on an Ordinance Establishing a Speed Limit on Bloomdale Road from US 75 to Shawnee Drive. Caption reads as follows:

ORDINANCE NO. 2011-12-075

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ESTABLISHING A SPEED ZONE ON BLOOMDALE ROAD FROM SHAWNEE DRIVE TO US 75; AMENDING THE CODE OF ORDINANCES, CITY OF MCKINNEY, TEXAS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE, EFFECTIVE DATE HEREOF AND A PENALTY CLAUSE

- 11-569** Consider/Discuss/Act on an Ordinance Amending 2011-12 Annual Budget Including the 2012-2016 Capital Improvements Program for the Construction of Street Projects. Caption reads as follows:

ORDINANCE NO. 2011-12-076

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AUTHORIZING CERTAIN BUDGET AMENDMENT PERTAINING TO THE FISCAL YEAR 2011-2012 BUDGET AND THE 2012-2016 CAPITAL IMPROVEMENTS PROGRAM AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

- 11-570** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Enter into an Interlocal Agreement with Collin County for Funding the Alma Road and Silverado Trail Transportation Project. Caption reads as follows:

RESOLUTION NO. 2011-12-116 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH COLLIN COUNTY FOR FUNDING THE ALMA ROAD AND SILVERADO TRAIL TRANSPORTATION PROJECT

- 11-571** Consider/Discuss/Act on a Resolution Adopting the Financial Policy. Caption reads as follows:

RESOLUTION NO. 2011-12-117 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ADOPTING THE FINANCIAL POLICY

- 11-573** Consider/Discuss/Act on a Fifth Amendment to the Robinson Ridge Facilities Agreement Deferring Parkland Dedication until December 31, 2012.

END OF CONSENT

- 11-572** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Adopting A Public Art Program. Council member Kever stated that she pulled down this item to consider undergraduates as possible contributors for art projects and stated that her recommendation is remove undergraduate students from paragraph 1 c) on page 6. Council unanimously approved the motion by Council member Kever, seconded by Council member Day, to approve the Resolution adopting a Public Art Program with the removal of "undergraduate students" and the remaining wording under Selection of Artists 1 c) to read as follows: Specifically excluded for eligibility are the design architect (or other design professional) or members of the firm(s) utilized for selection of the work of art, City employees or their relatives, and artists who are members of, or related to members of the Commission, or works of art by any of the above. Caption reads as follows:

RESOLUTION NO. 2011-12-118 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
McKINNEY, TEXAS, AUTHORIZING THE APPROVAL OF A  
PUBLIC ART PROGRAM

- 11-574** Mayor Loughmiller called for Consideration/Discussion/Action on Filling the Vacant Position on the McKinney Armed Services Memorial Board. Council unanimously approved the motion by Council member Brooks, seconded by Mayor Pro-Tem Ussery, to appoint Mark Stoddard and James Morrell to fill the vacant positions on the McKinney Armed Services Memorial Board.
- 11-575** Mayor Loughmiller called for Consideration/Discussion/Action on an Ordinance Electing for the City of McKinney to Make Current Service and

Prior Service Contributions to the City's Account in the Municipal Accumulation Fund of the Texas Municipal Retirement System. Human Resources Director Tadd Phillips stated that this ordinance will allow the City to continue to properly fund TMRS benefits for City employees. And will have no effect on City employee benefits. An existing ordinance sets maximum contribution rate of 13.50% of salaries for eligible employees. That number is less than is actuarially required to fund current and future benefits starting in 2012. This ordinance will set the maximum contribution rate to 15.50% of salaries for eligible employees. This number is a "ceiling" for future year contribution rates. The 2012 contribution rate is below that ceiling. Council unanimously approved the motion by Council member Keever, seconded by Council member Brooks, to approve an Ordinance electing for the City of McKinney to make current service and prior service contributions to the City's account in the Municipal Accumulation Fund of the Texas Municipal Retirement System. Caption reads as follows:

ORDINANCE NO. 2011-12-077

AN ORDINANCE ELECTING FOR THE CITY OF MCKINNEY TO MAKE CURRENT SERVICE AND PRIOR SERVICE CONTRIBUTIONS TO THE CITY'S ACCOUNT IN THE MUNICIPAL ACCUMULATION FUND OF THE TEXAS MUNICIPAL RETIREMENT SYSTEM AT SUCH RATE WITHIN LEGAL LIMITS, AS THE ACTUARY ANNUALLY DETERMINES IS REQUIRED TO FUND WITHIN A PERIOD OF TWENTY-FIVE YEARS FROM THE MOST RECENT VALUATION DATE, THE COSTS OF EMPLOYEE BENEFITS PAYABLE FROM, OR CHARGEABLE TO, THE CITY'S SAID ACCOUNT IN SAID FUND

- 11-576** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution Authorizing the City Manager to Take Steps to Enter Into an Agreement for the Development of a Public Art Master Plan. Assistant to the City Manager Aretha Harvey stated that the estimated cost of a Public Art Master Plan will range from \$25,000 - \$35,000. Specific costs will not be known until a full RFP process is completed. Ms. Harvey stated that Staff went before the McKinney Community Development Corporation at its November 21<sup>st</sup> meeting to discuss the details of a

Public Art Master Plan and ask for consensus to bring back an application for the cost of the project. The Board was favorable toward the project. Council member Ricchi stated he would vote to approve this item only if it would be funded through McKinney Community Development Corporation. Council unanimously approved the motion by Council member Ricchi, seconded by Council member Kever, to approve a Resolution with Section 2 to read as follows: Authorize the City Manager to create a Request for Proposals (RFP) and apply to the McKinney Community Development Corporation for funding of the development of a Public Art Master Plan. Caption reads as follows:

RESOLUTION NO. 2011-12-119 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
McKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO  
TAKE STEPS TO ENTER INTO AN AGREEMENT FOR THE  
DEVELOPMENT OF A PUBLIC ART MASTER PLAN

- 11-577** Mayor Loughmiller called for Consideration/Discussion/Action on a Resolution to Authorizing a Design/Build Contract for the Baseball Fields at Gabe Nesbitt Park. City Manager Gray stated that staff is requesting that this item be tabled. City Manager Gray stated that the company that is being considered for the design/build has extensive ballfield experience. Parks, Recreation, and Open Space Director Lemuel Randolph stated that if the skateboard park is combined with the two field baseball complex, this contract could move forward to provide a cost estimate for the movement of the skateboard park project. Council member Day stated that he requested that this item be tabled so that his concerns can be addressed. Mr. Randolph stated that he is proposing doing a joint project with the skateboard park and the ballfields. Mr. Randolph stated that it would allow for joint parking and shared conduits for electrical systems and lighting. This would provide costs savings with the joint locations. Council unanimously approved the motion by Council member Geralyn Kever, seconded by Council member Don Day, to table this item until the January 3, 2012 meeting.

- 11-578** Mayor Loughmiller called for Consideration/Discussion/Action on an Ordinance Restating the Amended City Charter in Accordance with the November 8, 2011 Election. City Attorney Mark Houser stated that this is a procedural item resulting from the November 8, 2011 Special Charter election where all three propositions passed. Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Day, to approve an Ordinance Restating the Amended City Charter in Accordance with the November 8, 2011 Election. Caption reads as follows:

ORDINANCE NO. 2011-12-078

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, RESTATING THE HOME RULE CHARTER IN ACCORDANCE WITH THE RESULTS OF THE CHARTER ELECTION HELD ON THE 8TH DAY OF NOVEMBER, 2011, PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE

- 11-579** Mayor Loughmiller called for Discussion on the Proposed Discount of Roadway Impact Fees as a Targeted Incentive to Promote Economic Redevelopment. Assistant Planning Director Kevin Spath stated that based on feedback received during the November 1<sup>st</sup> work session as well as the analysis of the additional data, Staff is proposing the following policy framework for establishing a roadway impact fee discount: Offer a 100% discount (up to \$19,999 per project) of roadway impact fees for commercial, industrial, community facility, single-family attached (townhome), and multi-family projects; offer this discount in ALL service areas (i.e. city-wide); offer this discount ONLY to redevelopment projects. Redevelopment projects would include either the rehabilitation and/or conversion of an existing building or the construction of a new building on an already developed site which has the effect of increasing the number of service units (i.e. vehicle miles) to be generated by the project; require City Council approval for discount requests in the amount of \$20,000 and above. Upon formal adoption of the necessary ordinance amendments in January 2012, City Staff would proceed with establishing an



administrative procedure, including requiring an applicant to submit an application requesting a determination of eligibility for the discount prior to any building permits being issued and before any improvements are made to the property. Mr. Spath stated that redevelopment would be to rehabilitate and or conversion of an existing building or the construction of a new building on an already developed site. City Manager Gray stated that Staff can bring back specific tables that show a sliding scale of incentives tied to a permit value as opposed to assessed. Council member Day stated that he is support of what Staff is proposing. Council member Kever stated that she is agreement with what is being proposed with the exception of single family attached town homes and multi-family projects. Mr. Spath stated that any substantial multi-family project that is a rehabilitation of an existing multi-family building is not going to be charged impact fees because it is the same use. Mayor Loughmiller stated that if this is limited to redevelopment projects as opposed to new development it will limit the projects that are applicable. He stated that his goal in dealing with the current economic issue is to create another vehicle for redevelopment. Mr. Harris stated that he agrees with the conversation and he does not want to provide an incentive for increasing residential projects, especially high density, on the west side of McKinney. Council member Brooks stated that he has not heard any concerns about it being citywide and stated that the concern is that this is applied to residential redevelopment. Council member Ricchi stated that if there is an existing multi-family development and someone wants to come in and rehabilitate it or remodel it to make it look better than what it is, then he has no problem with it. City Council provided feedback on how to proceed with drafting the necessary ordinance amendments for formal adoption by City Council at an upcoming meeting.

**11-136M3** Mayor Loughmiller called for Consideration/Discussion/Act on an Appeal

to Chapter 130 of the Code of Ordinances Regarding Roadway Impact Fees Associated with the Louisiana Street Grill, Located on the South Side of Louisiana Street and East of McDonald Street. Council unanimously approved the motion by Council member Day, seconded by Mayor Pro-Tem Ussery, to approve the discount of Roadway Impact Fees as a targeted incentive to promote Economic Redevelopment.

**11-581** Mayor Loughmiller called for Consideration/Discussion/Act on Development Services Related to the Hotel and/or Conference Center in the Gateway Project. City Manager Gray stated that there are 4 different options submitted by Mathews Southwest for the Gateway project: Option A - The recommended option is to build to the original intent of the project, but not at the original site of the current existing unfinished structure; Option B - Remove the existing structure and forgo building a hotel and conference center; Option C - Seek a limited service hotel using the existing unfinished structure without a conference center; and Option D - Build a hotel conference center to the original intent using the existing structure. The original project was planned to be a Westin Hotel and Conference Center but due to a variety of factors that project stopped being constructed and it is now within the control and ownership of a combination of the City of McKinney and the McKinney Economic Development Corporation. Mr. Gray stated that he is recommending moving forward with Option A - to build to the original intent of the project, but not at the original site of the current existing unfinished structure. He stated that the recommendation is based upon several conversations that he has had with a variety of hotel operators. Mr. Gray stated that if we decide to build on the existing site there would be some cost savings. Mr. Gray stated that the access issues that have been discussed by potential hotel operators and recognizing that a significant number of hotel rooms would be driven directly by the Emerson Process Management being at the north end of the site. He stated that there is a

general consensus among the operators that there may be a better location within the Gateway project for the hotel conference center to be located. Mr. Gray suggested taking the next 120 days to identify with a high level of clarity and to get an actual agreement in hand as to whether or not to move forward with either the existing structure or a hotel conference center that would sit at a different site within the Gateway property. At the end of the 120 days, the Council can decide whether to move forward with the project or select a different site and remove the existing structure. He stated that he does not recommend that the structure be taken down without a solid agreement in hand by an operator and with terms that Council can agree to. He stated that they also looked at the possibility of a limited service hotel at the Gateway site utilizing the existing structure and stated that he does not recommend this a course of action. He stated that alternative D is built to the original intent with the existing structure and believes that it is a viable alternative but from the perspective of trying to make sure that we have the flexibility to negotiate the best possible overall deal on behalf of the City. Mr. Gray stated that he believes that Option A provides the ability to negotiate in good faith that we would be able to arrive with the best overall deal for the City. Mr. Gray stated that Option A allows to move forward with a possible different site and Option D goes with the original intent at the existing site. Mayor Loughmiller stated that we still need to move forward in coming up with a solution to develop the 90 acres. He stated that his issue that relates to Option A versus Option D and he does not agree with Options B or C. Council member Brooks stated that the City has known from the inception of this project that it was going to require a large amount of public contribution and stated that we would not know how much it would cost until they have actual numbers. Mr. Brooks stated that Council made a commitment with Collin College that a hotel conference center would be built at the south end and that they could

partner with us, Mr. Brooks stated that his request tonight is to move ahead on Option A or D. Mr. Brooks requested that contact be made with Collin College and Emerson to make sure that we weigh all the ramifications of where the hotel will be located. Mr. Brooks stated that he is opened minded to either option. Mr. Brooks stated that the City needs to build a first rate hotel conference center at this location, as soon as possible, as we have promised our citizens, corporate partners, and all the large corporations in the City. Council member Day stated that he agrees with Mr. Brooks comments and that this project might have made sense in a market of 7 years ago, but at this time he cannot support Option B or C. Council member Ricchi stated that he would like for the City Manager to provide alternatives and costs associated with utilizing the current site and structure and the potential need to move the location and stated that resolution does not mean to build at any cost. Mayor Pro-Tem Ussery stated that he feels confident and comfortable in delegating this decision to the City Manager to pursue the options and would also ask him to be respectful of those neighbors as part of that process and asked if it could be done earlier than 120 days. Council member Harris stated that he appreciates the work and efforts that the City Manager and his team working on this project. He stated that he would appreciate that we get a proposal, get it on the table, make a decision, and not loose site that there is a lot of development that needs to get done in McKinney. Mr. Gray stated that if we move forward with Option A, he would bring a side by side comparison of cost, risk, and a hard dollar amount of both building at another site and building with the existing structure. Council member Kever stated that the citizens of McKinney have already invested money on the 90 acre site and that we should be in the business of maximizing the return on investment of the taxpayer throughout this whole 90 acre site. Ms. Kever stated that she is appreciative of Collin College as well as Emerson for their partnership

and stated that there is great opportunity and a great obligation to the citizens of McKinney to make something right and special on this property. Council unanimously approved the motion by Council member Brooks, seconded by Council member Kever, to authorize and request the City Manager to move forward with pricing and looking at every aspect of Option A - The recommended option is to build to the original intent of the project, but not at the original site of the current existing unfinished structure and Option D - Build a hotel conference center to the original intent using the existing structure and bring back a side by side comparison of the cost, form of the cost, and operating challenges of each proposal within 120 days and allow the Council to act on that.

**11-580** Mayor Loughmiller called for Consideration/Discussion/Act on Development of a Hotel in Craig Ranch. City Manager Gray explained the proposed Hotel in Craig Ranch project that includes construction of a 200 room hotel in Phase I and up to 300 rooms in Phase II. Mr. Gray stated that this is a \$44 million project and the public investment would be around \$10.75 million. Mr. Gray stated that there is a potential deal structure that has been discussed and stated the \$10.75 million would be given in 2 forms – \$7 million would be a grant that would be funded through a combination of tax and revenue bonds. He stated that the direct taxes on this project would cover the \$560,000 annual debt services and the \$3.7 million remaining would be through a private loan from the developer to the City. Mr. Gray stated that the dollars that are being discussed are for this project and not the Gateway project. Mr. Gray stated that there was a demand analysis done by PKF as part of the Gateway project and they were asked to make a determination if two projects in were in close proximity. He stated that the demand would make it more difficult from an operational stand point in competition with one another. Council member Ricchi stated that his concerns are basically the same as it was before - at what cost to the taxpayers are

these business' getting built. He stated he would like to see a comparison of costs. Mr. Gray stated that it is going to be difficult to get a cost comparison of the two projects since the Craig Ranch Hotel project does not have an associated conference center space. Council member Day stated that he would like the City Manager to negotiate the best deal for this project and if it has merit then move forward regardless of the Gateway project. Mayor Pro-Tem Ussery stated that he would also like to see hard numbers. Mr. Jeff West, Mathews Southwest, stated that having another 4 star hotel in close proximity is a negative effect on the Gateway project. Mr. David Craig explained the proposed development and requested that they are allowed to work with the City Manager to prepare a proposal. Ms. Kever stated that her request is that we don't go forward with a consideration of any hotel project prior to hearing the numbers on the Gateway proposal. Mr. Gray stated that his recommendation is that we wait until the Gateway project is resolved. Council approved the motion by Council member Kever, seconded by Council member Brooks, to wait until after the 120 days for the Gateway proposal before any further discussion is made regarding the Craig Ranch proposal, with a vote of 4-3-0, Council members Ricchi, Day, and Harris voting against.

**11-582** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Act on the CDBG FY 2010-11 Consolidated Annual Performance Evaluation and Report (CAPER). Shirletta Best, Community Development Block Grant Administrator stated that under the regulations that regulate the funding for the Community Development Block Grant (CDBG) we receive requires grantees to submit a Consolidated Annual Performance Evaluation and Report (CAPER) to HUD within 90 days of the close of each grant year. We have citizens that participate by the Community Advisory Commission, they have an opportunity to speak during public comment periods such as this one,

they hear it through the action plan that goes before Council, and now where we talk about the end of the year. Ms Best stated that in assessing the year of activities under CAPER 10, the City did not hinder its Consolidated Plan implementation by action or willful inaction. The City of McKinney provided certifications of consistency for HUD programs in a fair and impartial manner that included citizen participation throughout the year from the start of planning to year-end close. Ms. Best stated that this report was provided on line for the last 15 days, in person at different meetings, and on the City's website, we conclude that we have provided a variety of services that are fair and concise. The City concludes that we have attempted to provide only the best of service and far reaching benefits of quality of life for not only our low to moderate income residents but the entire community. Mayor Loughmiller complimented Shirletta Best on the outstanding job she does relative to the Community Development Block Grant program and great passion that she shows for her job and the community. Mr. Loughmiller thanked Ms. Best for all that she does above and beyond her responsibilities. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Keever, seconded by Council member Harris, to close the public hearing and approve the CDBG FY 2010-11 Consolidated Annual Performance Evaluation and Report (CAPER).

**11-583** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Act on the Continued Taxation of "Goods-In-Transit". Finance Director Rodney Rhoades stated that due to recent legislative changes, the Council is required as the taxing unit to hold a public hearing if they chose to continue to tax goods in transit. Currently, the City of McKinney does tax goods in transit. The new Legislative requires that the taxing entity hold a public hearing and take a vote prior to January 1, 2012 to continue to do so. Mayor Loughmiller called for

public comment and there were none. Council approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Brooks, to close the public hearing and approve the Ordinance continuing Taxation of "Goods-In-Transit" with a vote of 6-1-0, with Council member Day voting against. Caption reads as follows:

ORDINANCE NO. 2011-12-079

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS PROVIDING FOR THE TAXATION OF GOODS IN TRANSIT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

**11-152Z2** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Act on the Request by Abernathy, Roeder, Boyd & Joplin, on Behalf of Wells Fargo Bank, National Association, for Approval of a Request to Rezone Approximately 53.02 Acres from "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District to "BG" - General Business District, "O" - Office District, and "CC" - Corridor Commercial Overlay District, Located on the East Side of Community Avenue and on the South Side of U.S. Highway 380 (University Drive), and Accompanying Ordinance. Senior Planner Michael Quint stated this is a rezoning request to modify the limits of subzoning districts of a governing Planned Development. The property currently has office zoning and is requesting to modify Planned Development to allow BG uses. Office uses that are already in place will stay and the existing zoning exhibit will be removed to allow them to go to straight zoning district as they exist in the zoning ordinance. Staff is recommending approval. Applicant, Mr. Bob Roeder, 1700 Redbud, Suite 300, McKinney, stated that they are requesting to take it out of the Planned Development zoning and into the same straight zoning that was in place prior to the rezoning to Planned Development. The northern 1/3 of the property to general business and the southern 1/3 to office. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Day, seconded by



Council member Ricchi, to close the public hearing and approve an Ordinance rezoning approximately 53.02 acres from "PD" - Planned Development District and "CC" - Corridor Commercial Overlay District to "BG" - General Business District, "O" - Office District, and "CC" - Corridor Commercial Overlay District, located on the east side of Community Avenue and on the South Side of U.S. Highway 380 (University Drive), with the following special Ordinance provisions: Use and development of the subject property, as reflected by the attached Zoning Exhibit, shall develop in accordance with the regulations of Section 146-85 ("BG" - General Business District) of the Zoning Ordinance, and as amended, Section 146-88 ("O" - Office District) of the Zoning Ordinance, and as amended, and Section 146-101 ("CC" - Corridor Commercial Overlay District) of the Zoning Ordinance, and as amended. Caption reads as follow:

ORDINANCE NO. 2011-12-080

AN ORDINANCE AMENDING ORDINANCE NO. 1270, OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 53.02 ACRE PROPERTY, LOCATED ON THE EAST SIDE OF COMMUNITY AVENUE AND ON THE SOUTH SIDE 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, "O" - OFFICE 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

**11-133Z4** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Act on the Request by J. Volk Consulting, Inc., on Behalf of the City of McKinney, T. L. Wheeler, Jr., and Standard Pacific of Texas, for Approval of a Request to Rezone Approximately 128.95 Acres from "PD" - Planned Development District, "AG" - Agricultural 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 Alma Road and on the North Side of Silverado Trail, and Accompanying Ordinance. Senior Planner Michael Quint stated the applicant is requesting to rezone the subject property generally to allow single family residential uses. Mr. Quint stated that single family residential uses are currently allowed in a portion of the property. The proposed general development standards and General Development Plan are consistent with what has been previously approved. Mr. Quint stated that there are a couple of differences that are not in the current REC zoning district relate to the garage offset. Currently the REC zoning requires a 20 foot offset from front face of the garage to front face of the structure. Staff has previous provided a compromise is a 10 foot offset and a 10 foot porch. The applicant is requesting a 5 foot setback from the garage face to the structure. Staff is attempting to try to maintain the 20 foot public/private space that the REC mandates as an integral part of a pedestrian friendly atmosphere. The applicant was comfortable on the last zoning request to accept the 10 foot offset but this time they are not. Mr. Quint stated that the only other request is for approval of a cul-de-sac that the REC discourages. Staff is recommending denial. Applicant, Mr. Bob Roeder, 1700 Redbud, Suite 300, McKinney, stated that the last time this came before Council it was an 80 acre site and now there is additional of 40+ acres which allows the developer to upgrade the project to a master planned community. Mr. Roeder stated that they are now asking for a 5 foot offset and no front porch requirements. Mr. Roeder stated that there will be a mandatory 20 feet from the side walk or street (whichever is close). 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 rezoning approximately 128.95 acres from

"PD" - Planned Development District, "AG" - Agricultural 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 Alma Road and on the north side of Silverado Trail, with the following special Ordinance provisions: use and development of the subject property (128.95 acres), more fully depicted on Exhibit A, shall conform to the "REC" - Regional Employment Center Overlay District, and as amended, except as follows: the subject property shall generally conform to the attached general development plan (Exhibit B); the subject property shall develop in accordance with the attached development regulations (Exhibit C); and the subject property shall generally conform to the attached entryway exhibits (Exhibit D). Caption reads as follows:

ORDINANCE NO. 2011-12-081

AN ORDINANCE AMENDING ORDINANCE NO. 1270, OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 128.95 ACRE PROPERTY, LOCATED ON THE EAST SIDE OF ALMA ROAD AND ON THE NORTH SIDE OF SILVERADO TRAIL, IS REZONED FROM "PD" - PLANNED DEVELOPMENT DISTRICT, "AG" - AGRICULTURAL DISTRICT, AND "REC" - REGIONAL EMPLOYMENT CENTER OVERLAY DISTRICT TO "PD" - PLANNED DEVELOPMENT DISTRICT AND "REC" - REGIONAL EMPLOYMENT CENTER 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

**11-140Z2** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Act on the Request by JR Rose Architecture on Behalf of Ronald Lustig, for Approval of a Request to Rezone Approximately 0.16 Acres from "BN" - Neighborhood Business District to "PD" - Planned Development District, Generally to Modify the Development Standards, Located on the Northeast Corner of Tennessee Street and Walnut Street, and Accompanying Ordinance. Senior Planner

Michael Quint stated that the applicant is requesting to rezone approximately 0.16 acres of land, located on the northeast corner of Tennessee Street and Walnut Street from "BN" - Neighborhood Business District to "PD" - Planned Development District, generally to modify the development standards. The proposed planned development district reflects the applicant's intent to construct a townhome building with four townhome units. The proposed single family residential attached use is allowed by right per the governing zoning district, but the applicant is rezoning to modify the development standards as discussed herein. The applicant is in agreement to develop according to the Exhibits depicting the elevations and plan, and as part of a home occupation, the applicant would be allowed certain protruding signs or a façade mounted sign that is in keeping with the town center. Staff is recommending approval.

Applicant, Mr. Jason Rose, 2120 Cosmos Way, Argyle, Texas stated that after studying this proposal they desire to increase the width of each of the units by 1 foot. Mayor called for public comment and there was none. Staff is agreeable to the requested change. Council unanimously approved the motion by Council member Kever, seconded by Council member Day, to close the Public Hearing and approve and Ordinance rezoning approximately 0.16 Acres from "BN" - Neighborhood Business District to "PD" - Planned Development District, Generally to Modify the Development Standards, located on the northeast corner of Tennessee Street and Walnut Street, with the applicant submitting a revised Exhibit B to show an additional one foot width for each unit and with the following special Ordinance provisions: Use and development of the subject property (0.16 acres), which is more fully depicted on Exhibit A, shall be zoned "PD" - Planned Development District and shall conform to the following special ordinance provisions: the subject property shall conform to the attached site layout (Exhibit B); the subject property shall generally conform to the attached elevations exhibit (Exhibit C); one non-

illuminated sign shall be allowed per townhome unit; attached below the second story windows, above the front door, on the west side of each townhome unit; the sign must comply with one of the following: one projecting (blade) sign with a maximum size sign face of four square feet (24" x 24") displayed with a wrought iron hanging element; maximum projection of signs shall be three feet from the face of the building; and the sign shall be similar to the signs depicted in Exhibit D - Projecting Sign Examples or one attached wall sign with a maximum size sign face of four square feet (24" x 24"), flat against the face of the building, with a maximum projection of six inches. Caption reads as follows:

ORDINANCE NO. 2011-12-082

AN ORDINANCE AMENDING ORDINANCE NO. 1270, OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 0.16 ACRE PROPERTY, LOCATED ON THE NORTHEAST CORNER OF TENNESSEE STREET AND WALNUT STREET, IS REZONED FROM "BN" – NEIGHBORHOOD BUSINESS DISTRICT AND TO "PD" – PLANNED DEVELOPMENT 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

**11-151Z2** Mayor Loughmiller called for a Public Hearing for Consideration/Discussion/Act on the Request by Sanchez and Associates, L.L.C., on Behalf of TCI McKinney Ranch, Inc., for Approval of a Request to Rezone Approximately 20.87 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 Multi-Family Residential Development Standards, Located on the Southwest Corner of Silverado Trail and McKinney Ranch Parkway, and Accompanying Ordinance. Senior Planner Michael Quint stated that multi-family residential properties are current allowed on the subject property. In August of 2007, an exhibit reflecting a general layout of the development was approved along with special ordinance provisions including, but not

limited to the elimination of the requirement for multi-family residential developments to provide one covered parking space for each residential unit, which was part of the parking requirement for multi-family residential uses at the time. Since August of 2007, the City Council has modified certain regulations pertaining to the development of multi-family residential uses in the City of McKinney. Two of these changes include requiring one enclosed parking space for every multi-family residential unit rather than one covered parking space for each multi-family residential unit plus an additional ½ unit for each bedroom. The other notable ordinance amendment is the requirement that multi-family residential structures within 150 feet of an adjacent single family residential use or zone be situated so that no exterior facing window is oriented towards said adjacent single family residential use or zone (150 foot multi-family residential window provision). The applicant is requesting to rezone the subject property so that these two regulations pertaining to multi-family residential uses that were adopted by the City Council in May of 2010 will not apply to any future multi-family residential development that may be constructed on the subject property. The purpose of these May 2010 amendments to the Zoning Ordinance was primarily focused on ensuring that future multi-family residential developments were built to a higher quality than would have been constructed under the requirements of the Zoning Ordinance prior to that time. Staff sees no reason why the applicant could not comply with the requirement to provide one enclosed parking space for every residential dwelling unit as is currently required by the Zoning Ordinance. Multi-family developments that provide a higher number of enclosed parking spaces typically result in developments of a higher quality. The Planning and Zoning Commission recommended approval. Staff is recommending denial of the rezoning request. Mr. Quint stated that the City has received emails from residents opposed to this rezoning request. Staff has also

received an informal petition with 104 signatures opposing this request. Applicant, Mr. Martin Sanchez, 220 E. Virginia, McKinney, stated that they plan to build parking tuck-under garages; however, due to space limitations they cannot provide a tuck-under garage for each unit. He stated that he did not like detached garages because a lot of times they turn into storage units for the residents. At this time they are willing to commit to approximately 190 tuck-under garages at this time. Mr. Quint stated that Staff's recommendation of denial is based on the current Ordinances and the message from Council with the passage of the new standards in 2010 that multi-family residential properties should be developed to a higher standard. Mr. Sanchez stated that in 2007 all the road alignments were established which led to put all the land uses where it was the least impactful to existing communities. Mr. Loughmiller offered to attend a meeting between the applicant and the residents to see if there is an agreement that can be reached.

Mayor Loughmiller called for public comment:

The following individuals spoke against the rezoning request:

Ms. Lisa Cook, 5729 Pebble Ridge, McKinney

Ms. Patricia Godfrey, 6213 Whetstone, McKinney

Mr. Jose Zurita, 6208 Blackstone Drive, McKinney

Ms. Kim Lusk, 5817 Rubblestone Drive, McKinney

Close the public hearing and deny this request.

Council approved the motion by Council member Keever, seconded by Council member Brooks, to close the public hearing and deny the rezoning request, with a vote of 4-3-0, Mayor Pro-Tem Ussery and Council members Day and Harris voting against.

Mayor Loughmiller called for Council and Manager Comments.

Council member Ricchi stated that he has received some complimentary citizen letters regarding Staff that has gone above and beyond the call of duty. Mr. Ricchi stated that he had the opportunity the first part of November to participate in the 60 mile Walk for the Cure. It was a very memorable event and he appreciated the support from

the community and the donations that were made. The walk was equal to about 2-1/2 marathons in 3 days. Mr. Ricchi stated that it was a very humbling experience to see cancer survivors passing him by and he encouraged everyone to participate next year. Mr. Ricchi wished everyone a Merry Christmas. Mr. Ricchi stated that he is very humbled to be able serve the citizens of McKinney.

Council member Day wished everyone a Happy Holiday.

Council member Kever wished everyone a Happy Holiday.

Council member Rogers met with Bob Roeder earlier in the week and was taken by his comments and how much he went on and on about how great it has been to work with City Staff on the projects he is working on lately and how cooperative they have been and how much he enjoys working with them. Mr. Harris stated that he believes we are going to see a tremendous amount of economic development potential come about and it is just a question of when. The Gateway project is a perfect opportunity for us to see how we are approaching economic development and what our needs are and what resources we will need. Mr. Harris stated that he would like to see some more strategic finance input into the process. Mr. Harris complimented the Mayor, City Manager and those involved in having so much of the discussion in the open for public discussion. Mr. Harris wished everyone a Happy Holiday.

Council member Brooks stated that he has also heard great comments about City staff and he goes to City Manager Gray's great leadership and the team you have put around you. Mr. Brooks expressed his appreciation to his fellow colleagues as well as wishing everyone a Happy Holiday.

Mayor Pro-Tem Ussery thanked Staff and City Manager Gray for his efforts on the projects that Council looked at tonight. Mr. Ussery announced that Gary Morris will be performing at the McKinney Performing Arts Center on December 9<sup>th</sup> and on December 10<sup>th</sup> there will be a Parade of Lights in downtown McKinney.

Mayor Loughmiller congratulated Mr. Ricchi on his 3 day Walk for the Cure and it is great when you can do some exercise for a cause. Mr. Loughmiller stated that he is a big supporter of Relay for Life and other Cancer causes. Mr. Loughmiller stated that he encourages the City Council to allow the City Manager to bring economic development items to the Council when it makes economic sense so that we can accomplish our



stated goals. Mr. Loughmiller requested City Council to complete their City Manager evaluation forms and turn in by the first meeting in January so that they can be compiled for a discussion at the 2nd meeting in January. Mr. Loughmiller wished everyone a Happy Holiday and encouraged anyone who has the ability to provide a benefit to those in need to please reach out and help.

City Manager Gray wished everyone a Happy Holiday and expressed his sincere thanks for the Council's engagement in the economic development process that is not always easy and fun. I appreciate your comments regarding City staff and I know they are working hard. Mr. Gray stated that he appreciates all that they do. Mr. Gray expressed his appreciation to the Mayor and Council for the work they do as a service to the community.

Mr. Loughmiller called for Citizen Comments.

Mr. Barney Flores, 1500 Shady Ridge, McKinney, spoke about the upcoming Silver Gloves Tournament that will be held December 8- 12, 2011.

Mr. Fritz Mowery, 2507 St. Remy, McKinney, spoke about the Council making decisions based on the taxpayers of McKinney.

Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Kever, to adjourn. Mayor Loughmiller adjourned the meeting at 11:28 p.m.

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary