

## **CITY COUNCIL REGULAR MEETING**

**JUNE 19, 2012**

The City Council of the City of McKinney, Texas met in regular session in the Council Chambers of the Municipal Building on June 19, 2012 at 6:00 p.m.

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

Staff Present: City Manager Jason Gray; Deputy City Manager Joe Williams; City Attorney Mark Houser; City Secretary Sandy Hart; Finance Director Rodney Rhoades; Assistant to the City Manager Aretha Harvey; Executive Director of Development Services Rob Daake; Assistant Director of Development Services Barry Shelton; Interim Planning Director Kevin Spath; Assistant Fire Chief Tim Mock; Assistant Fire Chief Neil Howard; Director of Engineering Jack Carr; Human Resources Director Tadd Phillips; Engineering – Kyle Odom, Paul Tucker, and Annita McCormick; Help Desk Technician Richard Sewell; Chief Information Officer Chris Chiancone; Chief of Police Doug Kowalski; Municipal Court Administrator Mary Jane Grubbs; Information Technology Manager Applications Services Lucien Matillano; Parks Development Superintendent Steve Brainer; Senior Planner Brandon Opiela; McKinney Community Development Corporation Director Cindy Schneible; and Police Officer Eric Stephens.

There were 38 guests present.

Mayor Loughmiller called the meeting to order at 6:07 p.m. after determining a quorum was present. Invocation was given by Pastor Jack Powers, New Life Church. Mayor Loughmiller led the Pledge of Allegiance.

Mayor Loughmiller called for Citizen Comments

Mr. Mike Giles, 3213 Gillespie Road, McKinney spoke about the Master Bike Plan.

The following individuals spoke against the Gateway Hotel/Convention Center

Mr. Charles Helm, Holiday Inn, 3220 Craig Drive, McKinney

Mr. Matt Dalrymple, 3220 Craig Drive, McKinney

Mr. Zack Glen, 3220 Craig Drive, McKinney

Mr. Paul Singh, La Quinta, 6501 Hammon Way, McKinney

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

- 12-423** Minutes of the City Council and McKinney Economic Development Joint Meeting of June 5, 2012
- 12-424** Minutes of the City Council Work Session of June 5, 2012
- 12-425** Minutes of the City Council Regular Meeting of June 5, 2012
- 12-426** Minutes of the McKinney Housing Authority Board Meeting of March 27, 2012
- 12-427** Minutes of the McKinney Housing Authority Board Meeting of May 5, 2012
- 12-316** Minutes of the Planning and Zoning Commission Work Session of April 24, 2012.

- 12-430** Consider/Discuss/Act on an Ordinance Authorizing a Budget Amendment Pertaining to the McKinney Municipal Court. Caption reads as follows:

ORDINANCE NO. 2012-06-030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AUTHORIZING CERTAIN BUDGET AMENDMENTS PERTAINING OF THE FISCAL YEAR 2011-2012 BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

- 12-431** Consider/Discuss/Act on a Resolution Authorizing a Contract for the Construction of 2 MG Hardin Boulevard Elevated Storage Tank and Virginia Water Main (Mallard Lakes - Hardin). Caption reads as follows:

RESOLUTION NO. 2012-06-074 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE A CONTRACT FOR THE CONSTRUCTION OF THE 2 MG HARDIN BOULEVARD ELEVATED STORAGE TANK PROJECT AND THE VIRGINIA WATER MAIN (MALLARD LAKES TO HARDIN)

- 12-432** Consider/Discuss/Act on a Resolution Repealing Resolution 2012-05-057(R) and the Associated Interlocal Agreement and Authorizing the City Manager to Enter into an Amended Interlocal Agreement with Collin County for Funding for the Ridge Road (Creekside - US 380) Project. Caption reads as follows:

RESOLUTION NO. 2012-06-075 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED INTERLOCAL AGREEMENT WITH COLLIN COUNTY FOR FUNDING THE RIDGE ROAD BETWEEN CREEKSIDE DRIVE AND US 380 PROJECT

- 12-433** Consider/Discuss/Act on a Resolution Authorizing an Agreement for McKinney Fire to Serve as a Task Force Participating Agency for the Dallas Regional Urban Search and Rescue Task Force (Task Force 2).  
Caption reads as follows:

RESOLUTION NO. 2012-06- 076 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF MCKINNEY AND THE DALLAS REGIONAL URBAN SEARCH AND RESCUE TASK FORCE (TEXAS TASK FORCE 2)

- 12-434** Consider/Discuss/Act on a Resolution to Extend the American National Bank Depository Contract. Caption reads as follows:

RESOLUTION NO. 2012-06-077 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE EXTENSION OF THE BANK DEPOSITORY CONTRACT WITH AMERICAN NATIONAL BANK FOR A ONE YEAR PERIOD ENDING JUNE 30, 2013

- 12-435** Consider/Discuss/Act on a Resolution to Accept and File the Semiannual Report with Respect to the Progress of the Capital Improvements Plan for Roadway and Utility Impact Fees. Caption reads as follows:

RESOLUTION NO. 2012-06-078 (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, COLLIN COUNTY, TEXAS, ACCEPTING AND FILING THE SEMIANNUAL REPORT WITH RESPECT TO THE PROGRESS OF THE CAPITAL IMPROVEMENTS PLAN FOR ROADWAY AND UTILITY IMPACT FEES

END OF CONSENT

- 12-428** Mayor called for Consideration/Discussion/Action on a Curfew Ordinance, Article VIII, Chapter 70, "Curfew Hours for Minors". Chief of

Police Doug Kowalski stated that there is currently a curfew Ordinance in place and state law requires that it be renewed every 3 years. Chief Kowalski stated there were no changes to the existing ordinance. Council unanimously approved the motion by Council member Harris, seconded by Council member Keever, to approve the Curfew Ordinance, Article VIII, Chapter 70, "Curfew Hours for Minors". Caption reads as follows:

ORDINANCE NO. 2012-06-028

AN ORDINANCE OF THE CITY OF MCKINNEY, TEXAS, REPEALING ARTICLE VIII OF CHAPTER 70, "CURFEW HOURS FOR MINORS" IN ITS ENTIRETY AND ADOPTING A NEW ARTICLE VIII, CHAPTER 70, TO THE CITY OF MCKINNEY'S CODE OF ORDINANCES ENTITLED "CURFEW HOURS FOR MINORS;" ESTABLISHING A CURFEW BETWEEN THE HOURS OF 11:00 P.M. ON ANY SUNDAY, MONDAY, TUESDAY, WEDNESDAY, OR THURSDAY UNTIL 6:00 A.M. ON THE FOLLOWING DAY; AND 12:01 A.M. UNTIL 6:00 A.M. ON ANY SATURDAY OR SUNDAY FOR PERSONS UNDER SEVENTEEN (17) YEARS OF AGE; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING A PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

- 12-429** Consider/Discuss/Act on an Ordinance Supporting a Municipal Setting Designation (MSD) Certification as Requested by McKinney Junk Company (dba McKinney Metals) to Prohibit All Use of the Groundwater Beneath the Property located at 341 E. Virginia Street and an Adjacent Portion of the Dallas Area Rapid Transit (DART) Right-of-Way. Storm Water Specialist Annita McCormick explained that the agenda item demonstrates support of a Municipal Setting Designation (MSD) certification by the City of McKinney for the property located at 341 E. Virginia Street and an adjacent portion of the Dallas Area Rapid Transit (DART) right-of-way. This ordinance will support a Texas Commission on Environmental Quality (TCEQ) certified MSD that prohibits all use of

the property's underlying groundwater. Ms. McCormick stated that the applicant has been working with and are being monitored by the Texas Commission on Environmental Quality to remove items from this site in order to be in compliance. Environmental Manager Kyle Odom stated that the MSD supporting Ordinance and the MSD certification through TECQ is considered a form of mitigation in terms that it prohibits the use of that groundwater. Mr. Odom stated that having an MSD certification by the state does not preclude the owner or the responsible party from potential further remedial actions. Council member Harris stated that it reduces what they are required to do to allow the owner to get closure through a non-severe cleaning process or procedure to put the property back on the tax rolls and put it into a position to where people can develop it. Mr. Damion Johnson registered GEO Scientist for the State of Texas and is representing the owner of the subject property. Mr. Odom stated that the ground impact on the site itself is confined to the site and is limited to areas where there were past storage tanks that have been removed. What they are doing with the MSD is to remove the groundwater ingestion pathway so no one on the property can drink the groundwater. Applicant representative Mr. Damon Johnson, Modern Geo Sciences, stated that some soil has been removed, the paving will remain as a protective barrier, and MSD protects the public from the ground water, certification of the MSD does not restrict TCEQ from further compliance requirements. Council unanimously approved the motion by Council member Kever, seconded by Council member Harris, to approve an Ordinance Supporting a Municipal Setting Designation (MSD) Certification as Requested by McKinney Junk Company (dba McKinney Metals) to Prohibit All Use of the Groundwater Beneath the Property located at 341 E. Virginia Street and an Adjacent Portion of the Dallas Area Rapid Transit (DART) Right-of-Way. Caption reads as follows:

ORDINANCE NO. 2012-06-029

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH THE PROPERTY IDENTIFIED AS BEING 10.27 ACRES OF LAND LOCATED IN THE WILLIAMS DAVIS SURVEY, ABSTRACT NO. 248, MCKINNEY, COLLIN COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET H, SLIDE 377 OF THE PLAT RECORDS OF COLLIN COUNTY, TEXAS AND BEING A PORTION OF THE DALLAS AREA RAPID TRANSIT (DART) RIGHT-OF-WAY AREA WITHIN MCKINNEY, COLLIN COUNTY, TEXAS, TO FACILITATE THE CERTIFICATION OF SAID PROPERTY WITH A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY PURSUANT TO THE TEXAS SOLID WASTE DISPOSAL ACT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR CRIMINAL PENALTIES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

- 12-101SP2** Conduct a Public Hearing to Consider/Discuss/Act on the Request by the City of McKinney, for Approval of a Site Plan for Two Baseball Fields and a Skatepark (Gabe Nesbitt Community Park), Approximately 160.00 Acres, Located on the Southeast Corner of Eldorado Parkway and Alma Road. Senior Planner Brandon Opiela stated that the City of McKinney is proposing to construct two baseball fields and a skatepark, located on the southeast corner of Eldorado Parkway and Alma Road. After discussing the proposed plans with the McKinney Baseball Association and McKinney Little League, it was determined that the warm-up area and the associated lighting were no longer necessary and would be removed from the plans. The proposed baseball fields and skatepark will be approximately 1,200' away from existing single family residences to the west and approximately 200' away from existing single family residences to the east. Parks Superintendent Steve Brainerd stated that the warm up area was removed which reduces the light standards that were closer to the residences. Mr. Brainerd stated that they are installing a new state of the art light system that has internal and external forms of lighting and stated that the glare and light spillage will be reduced significantly. Mr. Brainerd stated that the new lighting system could be an add on to the surrounding fields if it is funded. Mr. Brainerd stated that they are

working with residents to talk about planting Live Oak trees to screen light spillage. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Council member Harris, seconded by Council member Brooks, to close the public hearing and approve the request by the City of McKinney, for approval of a Site Plan for two Baseball Fields and a Skatepark (Gabe Nesbitt Community Park), approximately 160.00 acres, located on the southeast corner of Eldorado Parkway and Alma Road, with the with the following conditions: the City satisfy the conditions as shown on the Standard Conditions for Site Plan Approval Checklist; the City revise the landscape plan to ensure that all trees are a minimum of 8' from any public utility line; the City revise the site plan to correctly label the 30' radii on the internal side of the proposed firelane; and the City revise the site plan and landscape plan to remove the lighted warm-up area.

Council member Kever stepped down from the dais for the following item.

- 11-131M3** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Baylor Healthcare Systems, for Approval of an Amendment to the Comprehensive Sign Package for Baylor Medical Center at McKinney, Approximately 57.75 Acres, Located on the Northwest Corner of Lake Forest Drive and U.S. Highway 380 (University Drive). Brandon - Geralyn stepped down. Senior Planner Brandon Opiela explained the only modification to the sign package is the replacement of the currently approved Corner Development Identity Sign with the proposed Corner Development Identity Sign. The proposed sign reduces the effective sign area from 260 square feet to 64 square feet (meeting the current sign ordinance maximum) and reduces the sign height from 10' to 9'10". The proposed sign will utilize the same exterior finishing materials as the hospital and resembles the overall shape of the hospital building. The water feature that was previously approved has been removed due to the maintenance on the sign due to the waterfall. Staff recommends

approval of this amendment. Applicant, Mr. Bernie Bavandar stated that the water feature of the original sign due to future maintenance issues having to do with the pumping of the water. Mayor Loughmiller called for public comment and there was none. Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Harris, to close the public hearing and approve the request by Baylor Healthcare Systems, for approval of an amendment to the Comprehensive Sign Package for Baylor Medical Center at McKinney, approximately 57.75 acres, located on the northwest corner of Lake Forest Drive and U.S. Highway 380 (University Drive).

Council member Kever returned to the dais.

**12-436** Consider/Discuss/Act on a Resolution of the City of McKinney Authorizing the City Manager to Execute a Release Agreement with Wistron Corporation, and Providing for an Effective Date. Council unanimously approved the motion by Council member Roger Harris, seconded by Council member Geralyn Kever, to Approved 12-436 Consider/Discuss/Act on a Resolution of the City of McKinney Authorizing the City Manager to Execute a Release Agreement with Wistron Corporation, and Providing for an Effective Date. City Manager Jason Gray requested authorization to execute a release agreement with Wistron Corporation as discussed in Executive Session. Council unanimously approved the motion by Council member Harris, seconded by Council member Kever to authorize the City Manager to execute a release agreement with Wistron Corporation.

**12-352** Mayor Loughmiller called for Consideration/Discussion/Action on Approval of a Letter of Intent with Champ Hospitality and Beck Development in Regards to the Gateway Hotel and Conference Center. City Manager Gray stated that the letter of intent was approved at the last meeting with two contingencies and they are still working on the final language. No action was taken on this item.

Mayor Loughmiller called for Council and Manager Comments

Council member Ricchi did not have any comments.

Council member Day did not have any comments.

Council member Kever stated that on June 25<sup>th</sup> she will be attending a pre RTC meeting in Plano where they will discuss a list of projects around the county. She stated that staff will have a presentation for the meeting on behalf of Council. She stated that on June 13<sup>th</sup> Mayor Loughmiller and her met with Gary Thomas of DART to discuss Job Access/Reverse Commute (JA/RC) grant.

Council member Harris stated that we have a bright future in front of us and he is extremely proud of staff for their coordination on the traffic situation to assist the citizens. He stated he looked forward to the budget meeting on Friday. Mr. Harris stated that he and Mayor Pro-Tem Ussery will be having a Town Hall meeting at MPAC on Thursday night to meet citizens and hear their concerns.

Council member Brooks did not have any comments.

Mayor Pro-Tem Ussery thanked staff for what they do day in and day out and stated that McKinney will have former Fleetwood Mac Lindsey Buckingham performing at MPAC on August 23, 2012.

Mayor Loughmiller stated he appreciated GERALYN KEVER'S transportation update and explained the JA/RC grant. He stated that the preliminary discussions concerned if bus service could be provided at a cost that makes sense for the citizens of McKinney. He stated that in the work session that was held earlier today, staff provided a very good update on US 75. Mr. Loughmiller encouraged everyone to follow the information that is on the City's website regarding updates and closures. He asked that anyone's businesses that were being impacted due to construction to contact John Valencia from McKinney Economic Development Corporation, any City Council members, or the City Manager so that they can deal with concerns business owners may have due to the US 75 construction. Mayor Loughmiller thanked the Boy Scout Troop 285 for attending the meeting tonight. Mayor Loughmiller wished everyone a safe 4<sup>th</sup> of July holiday, to enjoy all the Red, White, and Boom activities, and to remember that fireworks are prohibited within the City limits of McKinney. Mr. Loughmiller announced that there will not be a July 3<sup>rd</sup> Council meeting.

Mayor Loughmiller called for Citizen Comments and there were none.

Mayor Loughmiller recessed the meeting into executive session at 7:10 p.m. per Texas Government Code Section 551.071 (2). Consultation with City Attorney on any Work Session, Special or Regular Session agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said items (as needed), Section 551.071 (1) (A). Litigation / Anticipated Litigation, Section 551.074 Personnel Matters, and Section 551.087 Discuss Economic Development Matter as listed on the posted agenda. Mayor Loughmiller recessed to the open session at 7:35 p.m.

Council unanimously approved the motion by Council member Brooks, seconded by Council member Ricchi, to adjourn. Mayor Loughmiller adjourned the meeting at 7:36 p.m.

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary