



**AGENDA
CITY COUNCIL
TUESDAY, FEBRUARY 11, 2020
1371 WEST FM 550 - MCLENDON-CHISHOLM, TEXAS 75032
6:30 PM**

Page

- | | |
|---------|---|
| 4 - 19 | <div style="background-color: #f2f2f2; padding: 5px;">1. CALL TO ORDER</div> <div style="background-color: #f2f2f2; padding: 5px;">2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS</div> <div style="background-color: #f2f2f2; padding: 5px;">3. RULES OF DECORUM</div> <div style="background-color: #f2f2f2; padding: 5px;">4. CITIZEN COMMENTS</div> <div style="background-color: #f2f2f2; padding: 5px;">5. APPROVAL OF MINUTES</div> <div style="padding: 5px;">5.1. Consider approval of January 28, 2020 City Council Meeting Minutes
January 28, 2020 City Council Minutes</div> <div style="background-color: #f2f2f2; padding: 5px;">6. PRESENTATIONS</div> <div style="padding: 5px;">6.1. Presentation regarding the US 2020 Census (Requested by Council Member Dahl)</div> <div style="padding: 5px;">6.2. Presentation regarding the upcoming "BIG EVENT" by the Rockwall Area Chamber of Commerce (Requested by Council Member Kipphut)</div> <div style="background-color: #f2f2f2; padding: 5px;">7. ITEMS FOR CONSIDERATION</div> <div style="padding: 5px;">7.1. A resolution approving the order of a general election for the purpose of electing persons to the offices of Mayor, City Council Member Place 2 and City Council Member Place 4.
Res 2020-02 Approving Order for General Election 2020 (English)</div> |
| 20 - 26 | |

[Res 2020-02 Approving Order for General Election 2020 \(Spanish\)](#)
[Order of General Election \(Spanish\)](#)
[Order of General Election \(English\)](#)

- 27 7.2. **Update and discussion regarding code enforcement and related matters. (Requested by Mayor Short)**
[Staff Report -Code Enforcement](#)
- 7.3. **Discussion and action regarding accepting the resignation of Jason Linscott serving as an Alternate on the Planning & Zoning Commission and consideration for appointment for two new alternate commissioners. (Requested by Palomba)**
- 28 - 48 7.4. **Discussion and direction to staff regarding implementing a possible building moratorium in the Extraterritorial Jurisdiction (ETJ). (Requested by Palomba)**
[Staff Report - Possible Building Moratorium in ETJ](#)
[Texas Local Government Code Building Moratorium Requirements](#)
[Interlocal Agreement Subdivision in ETJ](#)
- 7.5. **Discussion and possible action regarding a noise ordinance. (Requested by Council Member Bloom)**
- 7.6. **Discussion and action regarding appointment of a City Secretary-Treasurer. (Requested by Mayor Short)**
- 7.7. **Discussion and action to consider accepting an offer or submitting a counteroffer for right-of-way acquisition from Texas Department of Transportation (TxDOT) for City of McLendon-Chisholm owned property consisting of a 0.0598 acre (2,604 square feet) parcel of land in the King Latham Survey, Abstract 133, also known as 1250 S. Hwy 205, McLendon-Chisholm, TX. (Requested by Palomba)**

8. EXECUTIVE SESSION

- 8.1. **Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:074(1) Personnel matters to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee regarding appointment of a City Secretary-Treasurer. (Requested by Mayor Short)**
- 8.2. **Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551.072 Deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person related to accepting an offer or submitting a counteroffer for right-of-way acquisition from Texas Department of Transportation**

(TxDOT) for City of McLendon-Chisholm owned property consisting of 0.0598 acre (2,604 square feet) parcel of land in the King Latham Survey, Abstract 133, also known as 1250 S. Hwy 205, McLendon-Chisholm, TX. (Requested by Palomba)

- 8.3. Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:071(2) Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding the possibility of City participation in engineering costs for a wastewater line along the Hwy 205 commercial area. (Requested by Palomba)

9. UPDATES, DISCUSSION AND DIRECTION TO STAFF

10. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

- 10.1. Mayor Short's reports and announcements
- 10.2. Council Member Kipphut's reports and announcements
- 10.3. Council Member Hodges' reports and announcements
- 10.4. Council Member Woessner's reports and announcements
- 10.5. Mayor Pro Tem Bloom's reports and announcements
- 10.6. Council Member Dahl's reports and announcements

11. ADJOURN

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session in order to seek confidential legal advice from the City Attorney on any agenda item herein.

I, Rochelle Green, do hereby certify that the above Notice of Meeting of the City Council of McLendon-Chisholm, Texas was posted or before 6:00 p.m., February 7, 2020 on the outside bulletin board at City Hall, a place convenient and readily accessible to the public at all times.



CITY COUNCIL MEETING
City of McLendon-Chisholm, Texas
Meeting Minutes
January 28, 2020

The City Council of the City of McLendon-Chisholm convened in Regular Session on Tuesday, January 28, 2020, at City Hall, 1371 West FM 550, McLendon-Chisholm, Texas, with the following members present:

ATTENDING:	Keith Short	Mayor
	Nathan Hodges	Council Member
	Lorna Kipphut	Council Member
	William Dahl	Council Member
	Trudy Woessner	Council Member
ABSENT:	Jim Bloom	Mayor Pro-Tem
Staff Present:	Lisa Palomba	City Administrator
	Shelly Green	Interim City Secretary
	Jim Simmons	Fire Chief/Marshall
	Michael Halla	City Attorney

1. CALL TO ORDER

Mayor Short called the meeting to order at 6:30 p.m.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

Council Member Hodges delivered the Invocation and Mayor Short led the Pledge of Allegiance to the U.S. and Texas Flags.

3. RULES OF DECORUM

Mayor Short announced the Rules of Decorum are in place and are to be observed throughout the meeting.

4. CITIZEN COMMENTS

Mike Donegan, 2620 Ridgelake Ln., Addressed Council about Code Enforcement, Zoning, and the Planned Development.

Mayor Short closed the citizens comments at 6:39 p.m.

5. APPROVAL OF MINUTES

5.1. Consider approval of Minutes for the January 14, 2020 City Council Meeting

MOTION: APPROVE THE MINUTES OF JANUARY 14, 2020 AS PRESENTED.

MADE BY: Council Member Hodges

SECONDED BY: Council Member Kipphut

APPROVAL: Unanimous by Members Present

6. ITEMS FOR CONSIDERATION

6.1. Discussion and action considering a request by Clifford and Rhonda Rogers seeking approval of a Final Plat for 4.25 acres, part of Rockwall CAD Paracel ID No. 46603, W.W. Ford Survey, Tract 39-8, generally located at 1000 Pullen Road.

City Planner, Karl Crawley, presented the following report:

APPLICANT: Clifford and Rhonda Rogers
1009 Native Trail
Heath, TX 75032

LOCATION: 1000 Pullen Road / Rockwall County ID#46055

ZONING: AG District

REQUEST:

Approval of a final plat of a 39.79-acre property to create an approximately 5.2 area lot to construct a single-family residence on the portion of the property zoned A District with frontage on Pullen Road.

PROPERTY OWNER: Clifford and Rhonda Rogers
1009 Native Trail
Heath, TX 75032

REPRESENTATIVE: Tracy Fetty

STAFF RECOMMENDATION: APPROVAL, the plat meets all the technical requirements and complies with zoning and subdivision regulations.

CONDITIONS:

Prior to the issuance of any authorization for construction of infrastructure, drainage, or structures, the final civil engineering plans be reviewed and approved by the City's Engineer.

BACKGROUND INFORMATION:

The proposed final plat consists of two proposed lots of record in the A District. The applicant has conveyed the purpose of the plat is to create two legal building sites in order to allow the construction of a new single-family residence. In the A District, Single-Family is an allowed use. The proposed plat divides the large tract into two lots. The remaining portion will not comply with the minimum width in an A District, but it contains an existing home and will be considered as non-conforming as to lot width. The present larger tract has been in the current configuration since 1995 which predates the Subdivision Ordinance. The proposed plat complies with the following zoning regulations of the A District:

DEVELOPMENT STANDARDS	A DISTRICT (minimum)	PROPOSAL
Lot area (smaller lot)	2.5 acres	5.3 acres*
Lot width	300 feet	300.00 feet
Lot depth	200 feet	764 feet

*Excludes 0.2-acre portion of property to be dedicated to the city for Pullen Road.

STAFF RECOMMENDATION: APPROVAL.

The final plat meets all technical requirements and complies with all zoning and subdivision regulations. Staff recommends approval subject to the conditions listed below.

CONDITIONS:

1. Engineering/Utility Connection: Prior to the issuance of any authorization for construction of infrastructure, drainage, or structures, the final civil engineering plans be reviewed and approved by the City's Engineer.
2. Thoroughfare/Streets: The applicant is dedicating 30 feet of property to the centerline to align with a proposed right-of-way of 60 feet for Smith Road. The right-of-way dedication will leave 5.28 acres for private development.

MOTION: APPROVE THE REQUEST BY CLIFFORD AND RHONDA ROGERS SEEKING APPROVAL OF A FINAL PLAT FOR 4.25 ACRES, PART OF ROCKWALL CAD PARCEL ID NO. 46603, W.W. FORD SURVEY, TRACT 39-8, GENERALLY LOCATED AT 1000 PULLEN ROAD.

MADE BY: Council Member Kipphut

SECONDED BY: Council Member Hodges

APPROVED: Unanimously by Members Present

6.2. Discussion and action regarding a Resolution approving a Chapter 380 Grant Agreement between the City of McLendon Chisholm and Bloomfield Homes, L.P.

City Administrator Palomba introduced this item. She explained that Bloomfield Homes is in the process of acquiring approximately 50 undeveloped lots in McLendon-Chisholm with plans to ultimately acquire about 200 undeveloped lots inside the City. Bloomfield is interested in entering into a Chapter 380 Economic Development Agreement with the City. This arrangement allows Bloomfield to opt out of paying sales tax to suppliers on building materials, but instead self-assess and pays use taxes where materials are first used in McLendon-Chisholm.

Local sales taxes in Texas have always been based on where an order is received but local use taxes have been based on where items are first used or stored.

Bloomfield's headquarters are located in Southlake and they have elected to selectively pay local use taxes on building materials where they build new homes. For this reason, they have 380 Agreements with multiple cities where they have significant undeveloped lots.

The staff recommends approval.

Mr. Doug Duffy is here. He is a CPA who specializes in these economic development agreements and he's here to present this on behalf of Bloomfield. He can answer any questions or maybe give you some more information.

Mr. Duffy – I've had the privilege of coming before this Council and the prior Council for two separate agreements. One for Highland, and it's been in place for almost two years now and I think it's a really good example of how a homebuilder can work with the City and generate new money for a City where they're building new homes and where their customers are going to live as opposed to benefitting the location where their suppliers are located. I thought that Lisa did a great job of explaining that that tax is typically going to Dallas or Fort Worth or to wherever the suppliers are located, not to the City of McLendon-Chisholm and the only way that happens is if they get a direct payment permit and actually convert a sales tax to a use tax and all use taxes are destination based. So this allows them a great opportunity to prove and it's a very performance driven agreement where if they don't generate new money for the City and if they don't give you a copy of their confidential tax returns showing exactly how much they benefited the City of McLendon-Chisholm, you owe them nothing. So, it's risk-free on the City's behalf and I consider it something where it's new money. It's estimated about \$570 per house and you multiple that by 200 houses and that's based on today's costs. As the price of materials goes up, so does the local tax revenue. I think it's a great opportunity for the City to work with a home builder and generate new money that they wouldn't have otherwise.

MOTION: Approve a Resolution approving a Chapter 380 Grant Agreement between the City of McLendon Chisholm and Bloomfield Homes, L.P.

MADE BY: Council Member Hodges
SECONDED BY: Council Member Dahl
APPROVED: Unanimously by Members Present

6.3. Presentation by Rockwall County Commissioner Dennis Bailey regarding County Subdivision Regulations and related matters. Council discussion may follow.

Dennis Bailey, Rockwall County Commission, was present to inform the Council of a complete rewrite of the subdivision regulations now in place in the County. The County has an interlocal agreement with the city whereby the more stringent regulations apply to the construction of subdivision.

The County is in the process of rewriting their regulations and Rockwall has placed a moratorium on subdivisions in their ETJ until such time as the new regulations are in place. The rewrite should be complete in May or June. At that time, a new interlocal agreement will have to be entered into.

6.4. Public hearing regarding a request by Muhammed Polani on behalf of MFS Group, LLC. requesting a zoning change from GB General Business to a Planned Development District for General Business on a 1.5-acre tract in the King Latham Survey, Rockwall CAD Property ID 10132, generally located south of FM 550 and State Highway 205.

Before hearing the staff report and opening the public hearing, and because there seems to be some confusion floating around town about this item, Mayor Short offered a few reminders.

There are several procedures involved in order to build on a property including zoning, platting and issuance of a building permit. Each has its own set of regulations.

What is on the table tonight for consideration is a zoning change request only. Zoning is land use and is regulated by Chapter 211 of the Local Government Code and our City ordinances.

Zoning regulations are designed to encourage appropriate land use that is compatible and suitable for an area. Other considerations include any street congestion; securing safety from fire, panic and other dangers; promoting health, safety and general welfare; providing light and air; preventing overcrowding of land; avoiding undue concentration of population; facilitating adequate provision of transportation, water, sewers, schools, parks and other public requirements; and, zoning must comply with the Comprehensive Plan.

The procedures followed are: P&Z hears a zoning change request and is a recommending body to Council. P&Z makes a recommendation to Council after determining if the proposed land use is suitable for the area and if it complies with the Comprehensive Plan. Council then weighs that information with information presented at the Council meeting and makes a decision.

Again, zoning considerations are about land use. Business success or failure is not our concern. That is the business owner's concern. If a land use is approved, such as retail, we cannot discriminate on which business is allowed if it meets our requirements. We only determine if the use is appropriate or not.

Technical or engineering requirements are addressed in the platting process, not the zoning process. Tonight we are only hearing a zoning case.

Prior to issuance of a building permit, the Building Official will determine if the building permit application conforms to the approved zoning regulations; the plat was approved; and, will review a building permit application to determine if building codes and local ordinances are met and performs inspections during each phase of the construction process.

Karl Crawley, City Planner, presented the following report:

APPLICANT: MFS Group, LLC – Muhammed Polani
2357 Jupiter Road
Plano, Texas 75074

LOCATION: 5763 South State Highway 205

ZONING: GB General Business

REQUEST:

The applicant requests approval of a Planned Development District for GB General Business uses and a Conceptual Plan.

PROPERTY OWNER: MFS Group, LLC
3645 Capstone Lane
Plano, TX 75074

REPRESENTATIVE: Muhammed Polani

PLANNING & ZONING COMMISSION RECOMMENDATION: The Planning and Zoning Commission, by a vote of 3 to 1 (with one not voting), recommended denial of the proposed request.

STAFF RECOMMENDATION: APPROVAL, subject to the attached PD Conditions and Conceptual Plan.

BACKGROUND INFORMATION:

The request site is located at the corner of State Highway 205 and FM 550. It is located at the southeast corner of the intersection. The site is approximately 1.5 acres with approximately 230 feet of frontage on SH 205 and approximately 250 feet of frontage on FM 550.

The site and surrounding area are zoned GB General Business. The purpose of the GB District is to provide for a wide range of retail and service establishments for the community. The existing GB District allows a maximum height of 35 feet and a maximum lot coverage of 35%. These two development standards are limiting factors, along with provisions of the Zoning Ordinance under the Commercial development standards which limits the overall size of any development. Under the existing GB District, the maximum footprint of all buildings would be approximately 22,800 square feet. Current GB zoning would limit any one building to a maximum floor area for a single floor to 6,000 square feet however with a maximum height of 35 feet, a two-story building could be erected bringing the likely maximum floor area of a single building (under the existing GB zoning) to 12,000 square feet. As mentioned earlier, the maximum lot coverage (building footprint) for the site is approximately 22,800 square feet, thus with a two-story building the maximum floor area allowed on the site would be approximately 45,600 square feet. It is highly unlikely the site could be developed with anywhere near that much floor area because parking would have to accommodate that much building area.

Recent State Law changes, effective September 1, 2019, have precluded the City from enforcing certain provisions in the Zoning Ordinance as it pertains to required exterior building materials. The City cannot dictate materials over and above the minimum standards required by the International Building Code (IBC). This basically means requiring masonry or other similar building materials if the IBC allows other materials which would meet minimum building code standards. How that is to be handled will be discussed later in this material. Other provisions of the Zoning Ordinance contained in the Commercial development standards can still be required. These include building articulation, building form, roof type (not material), architectural features and floor area and building size.

The request site is an important development site within the City and careful consideration should be given to any development on the site. The proposed PD for limited GB District uses along with the staff proposed conditions will help to protect the importance of this site and allow the development of a new and needed retail site. The requested PD will be conceptual in nature at this time and will require the developer to

return to both the P&Z and City Council for approval of a Development Plan and Elevations prior to the issuance of a building permit. Part of the development process for the site includes the developer bringing sanitary sewer to the site. The developer is currently working with the City on a Development Agreement for both the required infrastructure improvements and development standards which will satisfy the architectural standards which the State no longer allows the City to enforce. Although this Development Agreement is not part of the zoning request and should not be considered in making a decision on the request, it will play an important part of developing the site.

The staff proposed PD conditions (attached) would prohibit certain existing GB District uses which might not be appropriate for this intersection or this small of a site. With the developer proposing a small retail/office center with a possible restaurant use many uses are not appropriate. The PD would also modify the restaurant uses in order to limit size and require some outdoor seating area. This provision was inserted in order to discourage a large fast food drive-thru restaurant and to encourage the likelihood of a smaller sit-down restaurant with some outside seating. This is further encouraged by limiting the amount of parking required for outdoor covered seating for the first 200 square feet of area.

The existing Commercial development standards are also proposed to be modified in order to develop a small retail/office center. The maximum floor area for a single building has been increased to 12,000 square feet but no single tenant may be over 5,000 square feet; this would preclude a large single tenant building, by reference, a stand-alone drug store is in the 6,000 square foot range. The maximum length of any wall would be increased to 200 feet. As mentioned earlier the exterior façade material portion of the standards has for the most part been eliminated (as required by State law). The off-street parking requirements have been modified in order to limit the rows of parking between the building and the street, this will eliminate the possibility of a "sea" of parking.

Finally, since the applicant has submitted the request as a Conceptual PD, staff is in agreement with this portion of the request. A Development Plan and Elevations, as required by the Zoning Ordinance, will have to be approved at a later date. The PD modifies those requirements to include the P&Z in that process by reviewing and making a recommendation to the City Council.

COMPREHENSIVE PLAN: The Future Land Use Map in the Comprehensive Plan (see attached) recommends Commercial uses for this Site. The requested Plans comply with the Comprehensive Plan.

STAFF RECOMMENDATION: APPROVAL, subject to the attached PD Conditions and Conceptual Plan.

PROPOSED PD CONDITIONS Zoning Case 22019-03

PD for GB General Business Uses at State Highway 205 and FM 550

USES: Those uses allowed in a GB General Business District with the following uses prohibited or restricted:

Amusement center, indoor (S)
Veterinarian office, large animal practice (S)
Auto repair garage
Auto sales, new and used
Auto service station
Farm machinery and implement sales and service
Motorcycle sales
Ambulance service
Auction house, indoor
Building material sales/lumber yard
Contractor, no outside storage permitted
Contractor outside storage, permitted
Contractor storage or equipment yard
Cosmetic tattoo establishment
Extended-stay hotel/motel
Exterminating service
Factory outlet, retail or wholesale store
Hotel or motel
Kennel
Landscape Service
Laundry, self service
Pawn Shop
Mini-warehouse
Cargo container

The following uses as modified:

Restaurant, drive-in/drive-thru (allowed by right); limited to one with a maximum floor area of 3,000 square feet and include a minimum of 200 square feet of outdoor seating area.

Restaurant, with or without alcohol sales (allowed by right), must include a minimum of 200 square feet of outdoor seating area.

Density, area, yard, height, and lot coverage requirements: Per GB District

Off-street parking and loading requirements:

The proposed be new PD for modified GB District uses and development standards and Conceptual Plan will allow the development of and provide protections to ensure a quality development on this important site.

NOTE: If the City Council approves this request, an ordinance for consideration by the City Council will be brought back at a later date.

Council Member Hodges asked what P&Z's rationale was for denying the request.

Mayor Short recommended having the Chairman of P&Z answer that question during the public hearing.

The applicant, Muhammed Paloni, explained the process they have gone through to obtain this zoning.

Mayor Short opened the public hearing at 7:21 p.m.

Beverly Stibbens, 279 Partridge Dr. – Spoke in opposition to the zoning change.

Robert Rohde, Chairman of P&Z – Provided some information regarding the majority decision of the commission to deny the request for a zoning change from general business to a planned development for general business that affords some flexibility for the applicant and City. This meeting consisted of a two-part agenda consisting of a public hearing and a discussion and action segment. We heard from one citizen who was opposed to the request. We saw a conceptual plan that was totally different from what was just up on the screen. We did not see any of these drawings at our meeting as well.

We felt that the plans were somewhat ambiguous and how it related to the change request. The information triggered a discussion on future construction, some possible tenants, deed restrictions, sewer options. We heard a lot of assumptions and a lot of the committee was not comfortable relying on assumptions. The commission did veer somewhat off course and let that influence the decision on land use change. It created a doubt and some of the information was not definitive enough. So rather than proceed and recommend to City Council for approval, the Commission chose the side of caution knowing that the applicant could resubmit the request with information directly related to that land-use change or that it would come before Council and a clearer discussion that insures the validity of that land-use change request would occur. I delayed my vote in case I had to break a tie and I didn't want to influence anyone. Then when the vote was three to one to deny the request, I gathered it done and my vote wouldn't have mattered either way.

Council Member Woessner – Did you let them know your concerns so they could come back in.

Rohde – During the discussion and during the open meeting and the presentation, the commissioners raised those questions and concerns.

Council Member Kipphut – It seems to be that going from general business to the planned development, the big change is the restaurant. Was that not described to you?

Rohde – No.

City Administrator Palomba – Pointed out to Council that these are preliminary drawings and the architect may want to come up and maybe describe the drawings that were provided today. They do know they will have to come back, but after P&Z they wanted to provide at least some additional information about where they are headed as far as design.

David Gonzales, Architect for the Project – We just finished these drawings yesterday that you see here. As an architect, I'm going to have to calculate how much ratio there will be between the building and the parking lots and how can we maximize. This is what we came up with. As an inside team, we need to find out if this is viable for us as far as construction costs, site costs, how much building can we get on there and how much parking can we get on there. We don't know until we do these drawings. This is very conceptual and this is an image of what the owner wants to do. It's very preliminary and things might change according to buildings regulations, codes, engineering, civil engineering, and structural. This is just for us to know what the building might look like.

Mike Donegan, 2620 Ridge Lake Ln. – Recommended allowing the developer to work with Planning & Zoning.

Mayor Short closed the public hearing at 7:34 p.m.

6.5. Discussion and action regarding the application of MFS Group, LLC requesting a zoning change from GB General Business to a Planned Development District for General Business on a 1.5-acre tract in the King Latham Survey, Rockwall CAD Property ID 10132, generally located south of MF 550 and State Highway 205.

Council Member Hodges stated he is very pro small business, but has to go with P&Z on this.

Council Member Kipphut – Expressed concern that if they continue to deny the request, we won't have as much leverage with what is constructed there. With planned development, we will have a little bit more say over what is constructed.

City Administrator Palomba – It is more restrictive than the general business that's currently in place.

Council Member Dahl – Expressed concern that the first time they heard about this project, this Council was told about the restaurant and P&Z did not get that information. I want all bodies to have the same information so that everybody can make the same decision. They came to us about the restaurant and after two meetings they go to P&Z and they didn't have the information. I just want everybody to be able to see the whole picture. That way everybody can make the decision on the same thing.

City Administrator Palomba – Although these rendering drawings were not in the P&Z packet, the staff report did show a restaurant and gave the maximum square footage. The details were in there, but you would have to read through that staff report, there just weren't pictures.

Council Member Woessner – Is this something we have to do tonight, or can they go back to P&Z?

City Administrator Palomba – I think you need to ask our planner and/or our city attorney what that process would be. I've never actually seen that happen so I don't know if they need to start over with a new application or if we can kick it back.

City Attorney Halla – It can go back if it doesn't change too much.

City Administrator Palomba – I can see it starting over to be clean, but I don't think the request is changed. I think they provided some additional information that would be helpful.

City Planner Crawley – I think you can remand it back to P&Z. You will need to readvertise it.

City Attorney Halla – If you made a motion to remand it back to P&Z, it needs to include the notice provision.

MOTION: REJECT THE REQUEST FOR REZONING FROM GENERAL BUSINESS TO PLANNED DEVELOPMENT

MADE BY: Council Member Hodges

SECONDED BY: Council Member Dahl

MOTION FAILED: Unanimous by Members Present

MOTION: REMAND REQUEST BACK TO P&Z INCLUDING THE NOTICE PROVISION.

MADE BY: Council Member Hodges

SECONDED BY: Council Member Dahl

APPROVED: Unanimously by Members Present

6.6. Fire Chief Simmons will deliver a fire department “Year in Review” presentation addressing items such as department organization, manpower, equipment, call volume and related matters.

Fire Chief Simmons presented his “Year in Review” presentation as follows:

ACCOMPLISHMENTS

- Established TCFP Compliant Department (Combination Department)
- Accepted SAFER Grants for 6 Full-Time/Full-Time Equivalent
- Completed Integration of Two Departments October 2019
- Started and Completed Assessment of Fire Station 1 with TxDOT
- Received Offer from TxDOT to Build New McLendon-Chisholm Fire Station 1
- Received First TCFP Compliance Inspection
- Increased Staffing from 12 to 23 (Full-Time, Part-Time and Volunteer)
- Implemented New Annual Physical Agility Test for all Staff
- Created New Hiring Process for Fire Department
- Implemented New Training Program
- Implemented New Software PStrax and Target Solutions
- Responded to 458 Calls for Service

Goals FY 2020/2021

- Implement New Community Outreach Program (SAFE)
- Begin Design and Build New McLendon-Chisholm Fire Station 1
- 100% TCFP EMT/Paramedic Staff
- Implement New Volunteer Firefighter Program

6.7. Discussion and action regarding authorizing the Fire Chief to accept a cost share grant in the amount of \$20,000 from the Texas A&M Forest Service for fire/rescue equipment

Fire Chief Simmons explained that an application had been submitted for cost-share assistance under the Rural Volunteer Fire Department Assistance Program (HB 2064). Approval has been received for Fire/Rescue Equipment with a maximum cost-share payment of 75% of the actual cost, not to exceed \$20,000.

MOTION: AUTHORIZE THE FIRE CHIEF TO ACCEPT A COST SHARE GRANT IN THE AMOUNT OF \$20,000 FROM THE TEXAS A&M FORST SERVICE FOR FIRE/RESCUE EQUIPMENT.

MADE BY: Council Member Kipphut

SECONDED BY: Council Member Hodges

APPROVAL: Unanimous by Members Present

6.8. Discussion of fireworks and their use within the city limits.

Council Member Hodges explained he had a couple of citizens raise some concerns about shooting fireworks and when they were being shot. He wonders if this is something that, as a council, they want to start looking at addressing in some way.

Chief Simmons stated this is something that's on top of their list right now. They have started working on reworking the ordinances and codes, so one of the things we are going to come before the Council within the near future is adopting the 2015 fire code and all the other codes associated with it. Two big topics I have is fireworks and sprinkler systems when it comes to commercial buildings. So, this something we will be bringing before the Council.

7. EXECUTIVE SESSION

- 7.1. Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:071(2) Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding consideration of entering into a Development Agreement with Mohammed Polani representing MFS Group LLC related to property generally located south of the intersection of FM 550 and SH 205.**

Mayor Short recessed the regular meeting into Executive Session at 8:10 p.m.

8. RECONVENE REGULAR MEETING

Mayor Short reconvened the regular meeting at 8:36 p.m.

9. EXECUTIVE SESSION ACTION

No Action

10. UPDATES, DISCUSSION AND DIRECTION TO STAFF – None

11. REPORTS

11.1. Building Official Report December 2019 – No Comments

11.2. Sheriff's Report December 2019 – No Comments

11.3. Budget Report December 2019 – No Comments

11.4. McLendon-Chisholm Fire Rescue Report December 2019 – No Comments

11.5. CWD Report December 2019 – No Comments

12. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

12.1. Mayor Short's Reports and announcements

Expressed praise for the Flag Retirement Ceremony and all involved.

12.2. Council Member Kipphut's reports and announcements

Thanked the Fire Department for their part in the Flag Retirement Ceremony. Also reminded everyone of the Lunch & Learn event on Tuesday, February 4, 2020 featuring the Rockwall County DA, Kendra Culpepper, as the speaker.

12.3. Council Member Hodges' reports and announcements - None

12.4. Council Member Woessner's reports and announcements - None

11.5. Mayor Pro Tem Bloom's reports and announcements - Absent

11.6. Council Member Dahl's reports and announcements - None

13. ADJOURN

There being no further business to discuss, Mayor Short adjourned the meeting at 8:42 p.m.

ATTEST:

APPROVED:

Rochelle Green, Interim City Secretary

Keith Short, Mayor

CITY OF McLENDON-CHISHOLM, TEXAS

RESOLUTION NO. 2020-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF McLENDON-CHISHOLM, TEXAS APPROVING THE ORDER OF A GENERAL ELECTION FOR THE PURPOSE OF ELECTING PERSONS TO THE OFFICES OF MAYOR, CITY COUNCIL MEMBER PLACE 2 AND CITY COUNCIL MEMBER PLACE 4; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of McLendon-Chisholm, Texas (“City”) is a Type A general-law municipality of the State of Texas; and

WHEREAS, the Texas Local Government Code provides a term of two years for elected officials of the City and that elections be held annually on an authorized uniform election date as provided by Chapter 41 of the Texas Election Code; and

WHEREAS, Chapter 41 of the Texas Local Government Code provides that the first Saturday in May, being May 2, 2020, is an authorized uniform election date for municipal elections; and

WHEREAS, the Texas Election Code requires that the governing body of the City is responsible for ordering the general election of elected officials of the City; and

WHEREAS, the City will hold a general election on May 2, 2020 for the purpose of electing persons to the offices of Mayor, City Council Member Place 2 and City Council Member Place 4;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF McLENDON-CHISHOLM, TEXAS:

SECTION 1: The recitals set forth in the WHEREAS clauses of this Resolution are true and correct, constitute findings and determinations by the City Council acting in its legislative capacity and are incorporated herein.

SECTION 2: That the City Council hereby approves the City of McLendon-Chisholm, Texas Order of General Election for the purpose of electing persons to the offices of Mayor, City Council Member Place 2 and City Council Member Place 4, a true and correct copy of which is attached to this Resolution as Exhibit A for all purposes, and authorizes the Mayor and Council Members to execute the Order.

SECTION 3: That this Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED THIS THE 11th DAY OF FEBRUARY 2020.

Keith Short, Mayor

ATTEST:

Rochelle Green, Interim City Secretary

CIUD DE MCLENDON-CHISHOLM, TEXAS

RESOLUCION NO. 2020-02

UNA RESOLUCION DEL AYUNTAMIENTO DE LA CIUDAD DE MCLENCON-CHISHOLM, TEXAS, APROBANDO LA ORDEN DE UNA ELECCION GENERAL PARA EL PROPOSITO DE LAS PERSONAS ELEGIDAS A LAS OFICINAS DEL ALCALDE, MIEMBRO DEL CONSEJO DE LA CIUDAD LUGAR 2 Y LUGAR DEL CONSEJO DE LA CIUDAD 4; Y PROPORCIONANDO UNA FECHA EFFECTIVA.

POR CUANTO, la ciudad de McLendon-Chisholm, Texas ("Ciudad") nos es un municipio de derecho general tipo A del estado de Texas; y

POR CUANTO, elCodigo de Gobierno Local de Texas establece un plazo de dos anos para los funcionarios electos de la Ciudad y que las elecciones se celebren anualmente en una fecha de elección uniforme autorizada según lo dispuesto en el Capitulo 41 del Codigo de Elecciones de Texas; y

POR CUANTO, el Capitulo 41 del Codigo de Gobierno Local de Texas establece que el primer sábado de mayo, el 2 de mayo de 2020, es una fecha de eleccion uniforme autorizada para las elecciones municipales; y

POR CUANTO, el Codigo Electoral de Texas requiere que el cuerpo directivo de la Ciudad sea responsable de ordenar la eleccion general de los funcionarios electos de la Ciudad; y

POR CUANTO, la Ciudad llevara a cabo una elección general el 2 de mayo de 2020 con el elegir personas para los cargos de Alcalde, Miembro del Consejo de la Ciudad, Lugar 2 y Miembro del Consejo de la Ciudad, Lubar 4;

AHORA, POR LO TANTO, RESUELVE POR EL AYUNTAMIENTO DE LA CIUDAD DE MCLENDON-CHISHOLM, TEXAS:

SECCION 1: Los considerandos establecidos en las clausulas CONSIDERANDO que esta Resolucion son verdaderos y correctos, constituyen conclusiones y determinaciones del Ayuntamiento que actúa en su capacidad legislativa y se incorporan acui.

SECCION 2: Que el Consejo de la Ciudad por la presente aprueba la Orden de Eleccion General de la Ciudad de McLendon-Chisholm, Texas, con el propósito de elegir personas para los cargos de Alcalde, Miembro del Consejo de la Ciudad, Lugar 2 y Miembro del Consejo de la Ciudad, Lugar 4, cuya copia correcta y verdadera es adjunto a esta Resolucion como Anexo A para todos los propósitos, y autoriza al Alcalde y a los Miembros del Consejo a ejecutar la Orden.

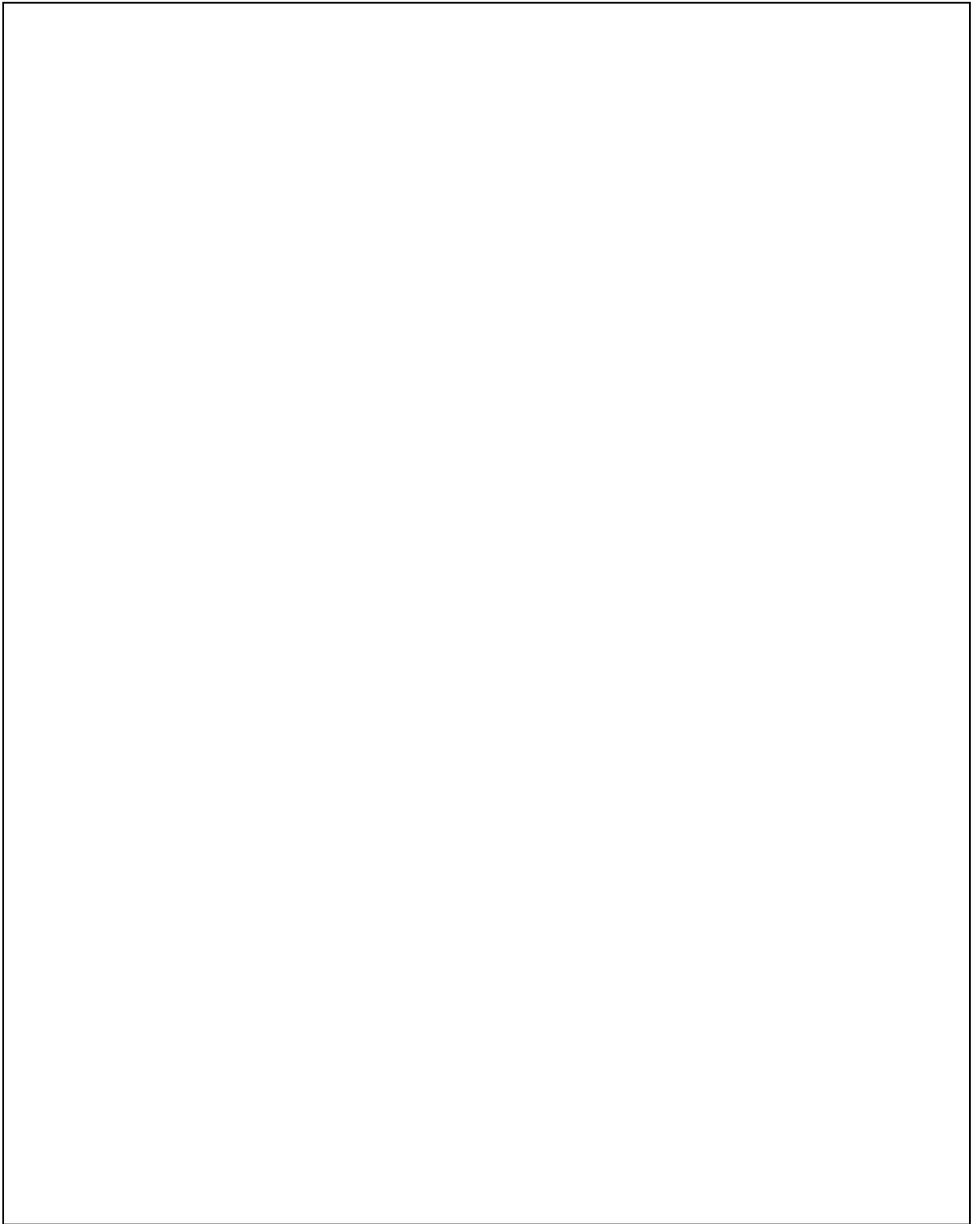
SECTION 3: Que esta Resolucion entrara en vigencia inmediatamente después de su aprobación.

APROBADO Y APROBADO ESTE EL 11° DIA DE FEBRERO DE 2020.

Keith Short, Alcalde

DAR FE:

Rochelle Green
Secretaria provisional de la Ciudad



CIUDAD DE MCLENDON-CHISHOLM, TEXAS

ORDEN DE ELECCION GENERAL

Se ordena una elección el 2 de mayo de 2020 con el propósito de elegir personas para los siguientes cargos nombrados de la Ciudad de McLendon-Chisholm en una elección general por de dos años:

ALCALDE, MIEMBRO DEL CONSEJO DE LA CIUDAD LUGAR 2, Y MIEMBRO DEL CONSEJO DE LA CIUDAD LUGAR 4

La votación anticipada por comparecencia personal será administrada por el Administrador de Elecciones del Condado de Rockwall. El principal lugar de votación anticipada para los votantes de McLendon-Chisholm será el Ayuntamiento de McLendon Chisholm, 1371 W. FM 550, McLendon-Chisholm, Texas 75032 en las fechas y horarios que se detallan a continuación.

El lugar de votación designado para el día de las elecciones para los votantes de McLendon-Chisholm será el Ayuntamiento de McLendon-Chisholm, 1371 W. FM 550, McLendon-Chisholm, Texas 75032 de 7 a.m. a 7 p.m.

Domingo	Lunes	Martes	Miercoles	Jueves	Viernes	Sabado
	ABR 20	ABR 21	ABR 22	ABR 23	ABR 24	ABR 25
	8am-5pm	7am-7pm	8am-5pm	7am – 7pm	8am-5pm	10am-3pm
	Votacion anticipada	Votacion anticipada	Votacion anticipada	Votacion anticipada	Votacion anticipada	Votacion anticipada

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
(Domingo)	(Lunes)	(Martes)	(Miercoles)	(Jueves)	(Viernes)	Sabado)
	ABR 27	ABR 28				MAYO 2
	8am-5pm	8am-8pm				7am-7am
	Votacion anticipada	Votacion anticipada				DIA DE ELECCION

MARTES 28 DE ABRIL DE 2020 ES EL ULTIMO DIA DE VOTACION ANTICIPADA.

La solicitud de una boleta por correo debe enviarse por correo a:

Sr. Christopher Lynch
Administrador de Elecciones
915 Whitmore Drive, Suite D
Rockwall, Texas 75087

Las solicitudes para una boleta por correo deben recibirse a mas tardar el 20 de abril de 2020.

Emitido el 11 de febrero de 2020.

Keith Short, Alcalde

Jim Bloom, Alcalde Pro Tem

Lorna Kipphut, Miembro del Consejo

William Dahl, Miembro del Consejo

Nathan Hodges, Miembro del Consejo

Trudy Woessner, Miembro del Consejo

CITY OF MCLENDON-CHISHOLM, TEXAS

ORDER OF GENERAL ELECTION

An election is hereby ordered to be held on May 2, 2020 for the purpose of electing persons to the following named offices of the City of McLendon-Chisholm in a general election for two-year terms:

MAYOR, CITY COUNCIL MEMBER PLACE 2, AND CITY COUNCIL MEMBER PLACE 4

Early voting by personal appearance shall be administered by the Rockwall County Elections Administrator. The main early voting location for McLendon-Chisholm voters shall be McLendon-Chisholm City Hall, 1371 W. FM 550, McLendon-Chisholm, Texas 75032 on the dates and times listed below.

The designated Election Day polling location for McLendon-Chisholm voters shall be the McLendon-Chisholm City Hall, 1371 W. FM 550, McLendon-Chisholm, Texas 75032 from 7 a.m. to 7 p.m.

SUNDAY (Domingo)	MONDAY (Lunes)	TUESDAY (Martes)	WEDNESDAY (Miercoles)	THURSDAY (Jueves)	FRIDAY (Viernes)	SATURDAY (Sabado)
	APRIL 20	APRIL 21	APRIL 22	APRIL 23	APRIL 24	APRIL 25
	8am-5pm	7am-7pm	8am-5pm	7am – 7pm	8am-5pm	10am-3pm
	Early Voting	Early Voting	Early Voting	Early Voting	Early Voting	Early Voting

SUNDAY (Domingo)	MONDAY (Lunes)	TUESDAY (Martes)	WEDNESDAY (Miercoles)	THURSDAY (Jueves)	FRIDAY (Viernes)	SATURDAY (Sabado)
	APRIL 27	APRIL 28				MAY 2
	8am-5pm	8am-5pm				7am-7pm
	Early Voting	Early Voting				ELECTION DAY

TUESDAY, APRIL 28, 2020 IS THE LAST DAY OF EARLY VOTING

Application for a ballot by mail should be mailed to:

Mr. Christopher Lynch
Rockwall County Elections Administrator
915 Whitmore Drive, Suite D
Rockwall, Texas 75087

Applications for a ballot by mail must be received no later than the close of business on April 20, 2020.

Issued the 11th day of February 2020.

Keith Short, Mayor

Jim Bloom, Mayor Pro-Tem

Lorna Kipphut, Council Member

William Dahl, Council Member

Nathan Hodges, Council Member

Trudy Woessner, Council Member



City of McLendon-Chisholm

Staff Report

Update and discussion regarding code enforcement and related matters.

DATE:

February 11, 2020

BACKGROUND OF ISSUE:

During the January 14, 2020 City Council Meeting, Council discussed the possibility of hiring a full-time Code Enforcement Officer/Public Works Coordinator or part-time Code Enforcement Officer. At that time, Council requested that Chief Simmons return to Council on February 11, 2020 to further discuss the code enforcement workload.

SUGGESTED ACTION: Provide direction to staff regarding the Code Enforcement position.

Lisa Palomba, City Administrator



City of McLendon-Chisholm

Staff Report

Discussion and direction to staff regarding the possibility of implementing a building moratorium in the ETJ. (Requested by Palomba)

DATE:

February 11, 2020

BACKGROUND OF ISSUE:

Rockwall County Commissioner Dennis Bailey presented information to Council on January 28 explaining the County has hired a firm to rewrite the County Subdivision Regulations. Bailey further explained that the current regulations are outdated and the Interlocal Agreement between McLendon-Chisholm and the County regarding subdivision regulations in the ETJ is also outdated and will need to be updated once the new County Subdivision Regulations have been approved.

Commissioner Bailey expressed concern regarding building in the ETJ during the interim period. He also informed Council that the City of Rockwall has implemented a building moratorium in their ETJ.

A survey of other cities in Rockwall County, conducted by staff, indicate that the cities of Fate and Royse City have not implemented a moratorium in the ETJ.

CONSIDERATIONS:

Implementing a building moratorium in the ETJ will not affect development projects previously approved. Other exceptions may apply such as small 1-2 lot subdivisions, and developments for which there are already existing Development Agreements in place.

There are several steps involved to create an approved building site. The first step is typically zoning but the City does not have zoning power in the ETJ so a developer may move straight to the platting process for a project. The purpose of platting is to ensure that proper public facilities, infrastructure, drainage, and fire protection can be provided to a development and to protect the health, safety and general welfare of residents who will reside in the new development as well as surrounding property owners.

Plats must be approved if they meet all technical requirements and now the state requires that cities consider plats within 30 days. A moratorium would prevent a developer from applying for a plat in the ETJ and possibly getting around any newly proposed County Subdivision Regulations which may be more stringent than current regulations.

Additionally, the existing Interlocal Agreement with Rockwall County provides that the City controls the development process in the ETJ, but the City must consider City and County requirements and developers must adhere to the greater of the requirements. Since the County is rewriting their regulations, the City does not have adequate criteria for subdivision review for properties in the ETJ at this time.

Since certain ongoing projects, small 1-2 lot developments, and developers with existing Development Agreements may be exempt, a building moratorium in the ETJ could provide the City and County a measure of protection from any new development until the County Regulations and a new Interlocal Agreement are in place.

There are specific procedures for adopting a moratorium which could require special meetings due to timing issues of required public hearings. The Procedure for adopting a moratorium is attached as well as the current Interlocal Agreement with the County.

Recommendation:

Provide staff direction if Council wishes to move forward with implementing a building moratorium in the ETJ.

Lisa Palomba, City Administrator

SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN
CIRCUMSTANCES

Sec. 212.131. DEFINITIONS. In this subchapter:

(1) "Essential public facilities" means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) "Residential property" means property zoned for or otherwise authorized for single-family or multi-family use.

(3) "Property development" means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.

(4) "Commercial property" means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 1, eff. September 1, 2005.

Sec. 212.132. APPLICABILITY. This subchapter applies only to a moratorium imposed on property development affecting only residential property, commercial property, or both residential and commercial property.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.133. PROCEDURE FOR ADOPTING MORATORIUM. A municipality may not adopt a moratorium on property development unless the municipality:

(1) complies with the notice and hearing procedures prescribed by Section [212.134](#); and

(2) makes written findings as provided by Section [212.135](#), [212.1351](#), or [212.1352](#), as applicable.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.134. **NOTICE AND PUBLIC HEARING REQUIREMENTS**. (a) Before a moratorium on property development may be imposed, a municipality must conduct public hearings as provided by this section.

(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality must publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality on the fourth day before the date of the hearing.

(c) **Beginning on the fifth business day after the date a notice is published under Subsection (b), a temporary moratorium takes effect.** During the period of the temporary moratorium, a municipality may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.

(d) **One public hearing must be held before the governing body of the municipality. Another public hearing must be held before the municipal zoning commission, if the municipality has a zoning commission.**

(e) If a general-law municipality does not have a zoning commission, two public hearings separated by at least four days must be held before the governing body of the municipality.

(f) Within 12 days after the date of the first public hearing, the municipality shall make a final determination on the imposition of a moratorium. Before an ordinance adopting a moratorium may be imposed, the ordinance must be given at least two readings by the governing body of the municipality. The readings must be separated by at least four days. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, an ordinance imposing a moratorium may not be adopted, and the temporary moratorium imposed under Subsection (c) expires.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.135. JUSTIFICATION FOR MORATORIUM: SHORTAGE OF ESSENTIAL PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium; and

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential public facilities.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1351. JUSTIFICATION FOR MORATORIUM: SIGNIFICANT NEED FOR PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) Except as provided by Section [212.1352](#), a moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1352. JUSTIFICATION FOR COMMERCIAL MORATORIUM IN CERTAIN CIRCUMSTANCES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on commercial property development that is not based on a demonstrated shortage of essential public facilities, the municipality must issue written findings based on reasonably available information that the moratorium is justified by demonstrating that applying existing commercial development ordinances or regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the municipality.

(b) The written findings must include a summary of:

(1) evidence demonstrating the need to adopt new ordinances or regulations or to amend existing ordinances, including identification of the harm to the public health, safety, or welfare that will occur if a moratorium is not adopted;

(2) the geographical boundaries in which the moratorium will apply;

(3) the specific types of commercial property to which the moratorium will apply; and

(4) the objectives or goals to be achieved by adopting new ordinances or regulations or amending existing ordinances or regulations during the period the moratorium is in effect.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.136. EXPIRATION OF MORATORIUM; EXTENSION. A moratorium adopted under Section [212.135](#) or [212.1351](#) expires on

the 120th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

- (1) holding a public hearing on the proposed extension of the moratorium; and
- (2) adopting written findings that:
 - (A) identify the problem requiring the need for extending the moratorium;
 - (B) describe the reasonable progress made to alleviate the problem; and
 - (C) specify a definite duration for the renewal period of the moratorium.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1361. NOTICE FOR EXTENSION REQUIRED. A municipality proposing an extension of a moratorium under this subchapter must publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing required by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1362. EXPIRATION OF MORATORIUM ON COMMERCIAL PROPERTY IN CERTAIN CIRCUMSTANCES; EXTENSION. (a) A moratorium on commercial property adopted under Section [212.1352](#) expires on the 90th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

- (1) holding a public hearing on the proposed extension of the moratorium; and
- (2) adopting written findings that:

(A) identify the problem requiring the need for extending the moratorium;

(B) describe the reasonable progress made to alleviate the problem;

(C) specify a definite duration for the renewal period of the moratorium; and

(D) include a summary of evidence demonstrating that the problem will be resolved within the extended duration of the moratorium.

(b) A municipality may not adopt a moratorium on commercial property under Section [212.1352](#) that exceeds an aggregate of 180 days. A municipality may not adopt a moratorium on commercial property under Section [212.1352](#) before the second anniversary of the expiration date of a previous moratorium if the subsequent moratorium addresses the same harm, affects the same type of commercial property, or affects the same geographical area identified by the previous moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.137. WAIVER PROCEDURES REQUIRED. (a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:

(1) claiming a right obtained under a development agreement; or

(2) providing the public facilities that are the subject of the moratorium at the landowner's cost.

(b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after the date of receiving the written request.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.138. EFFECT ON OTHER LAW. A moratorium adopted under this subchapter does not affect the rights acquired under Chapter [245](#) or common law.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.139. LIMITATION ON MORATORIUM. (a) A moratorium adopted under this subchapter does not affect an application for a project in progress under Chapter [245](#).

(b) A municipality may not adopt a moratorium under this subchapter that:

(1) prohibits a person from filing or processing an application for a project in progress under Chapter [245](#); or

(2) prohibits or delays the processing of an application for zoning filed before the effective date of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

**INTERLOCAL COOPERATION AGREEMENT BETWEEN
ROCKWALL COUNTY AND THE CITY OF MCLENDON-
CHISHOLM FOR SUBDIVISION REGULATION WITHIN THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF
MCLENDON-CHISHOLM**

THIS INTERLOCAL COOPERATION AGREEMENT ("Agreement") executed by and between Rockwall County, Texas, a political subdivision of the State of Texas (hereinafter referred to as "County"), and the City of McLendon-Chisholm, a municipal corporation of the State of Texas (hereinafter referred to as "City"), dated Nov. 12, 2013, is made pursuant to Tex. Loc. Gov't Code Ch. 242.

WHEREAS, the Agreement is in accordance with the requirements of Tex. Loc. Gov't Code Chapter 242, which requires that the City and the County enter into a written agreement pertaining to regulation of subdivision plats in the Extraterritorial Jurisdiction ("ETJ") of the City; and

WHEREAS, the City and the County believe it is in the best interest of both entities to combine their respective procedures into one seamless operation with each retaining certain responsibilities as hereinafter provided in this Agreement; and

NOW, THEREFORE, in order to carry out the intent of the Parties as expressed above, and for and in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both Parties, the County and the City agree as follows:

Article I. PURPOSE

- 1.01** The purpose of this Agreement is to establish and clarify each Party's obligations, costs, and the manner and method of approving subdivision plats for real property located within both the County and the ETJ of the City.
- 1.02** The ETJ of the City may fluctuate from time to time during the term of this Agreement as a result of City Council action. The City agrees to notify the County in writing within 10 days of any and all City Council action that changes the ETJ during the term of this Agreement thereby affecting subdivision platting for real property within the boundaries of the County.

Article II. TERM OF AGREEMENT

- 2.01** This Agreement shall be effective on January 1, 2014 and shall have an initial termination date of December 31, 2014. Thereafter, the Parties shall renew the Agreement on an annual basis. The annual renewal shall be automatic upon the expiration of the preceding one (1) year term unless one of the Parties gives the other Party written notice of its desire not to renew

the Agreement at least ninety (90) days prior to the expiration of the then current term.

- 2.02** Any notice of intent to terminate must be delivered by deposit in the United States mail, certified, return mail receipt requested, to the other Party at the addresses set out herein. Upon termination of this Agreement, neither party will have any obligations to the other party under this Agreement, except with respect to payment for services already rendered under this Agreement, but not yet paid.

Article.III. COUNTY RESPONSIBILITIES

- 3.01** The County assigns and delegates to the City the County's authority to approve subdivision plats and to issue related permits under Tex. Loc. Gov't Code Chapters 212 and 232 within the ETJ of the City, pursuant to Tex. Loc. Gov't Code Section 242.001(d), so that, except as otherwise provided in this Agreement, the City has exclusive jurisdiction to regulate subdivision plats and approve related permits in the City's ETJ utilizing the City's subdivision procedures.
- 3.02** The County will continue to administer and enforce County on-site sewage facility regulations in proposed and platted subdivisions in the City's ETJ; provided, however, that the County will reject as incomplete any application for an on-site sewage facility which is not accompanied by a plat application accepted by the City or a statement that the application is not associated with any development activity requiring approval of a subdivision or development plat.
- 3.03** This Agreement does not affect flood plain enforcement outside of the City Limits. The County will continue to be responsible for floodplain enforcement within the ETJ according to the County's Subdivision Rules and Regulations.
- 3.04** The County will continue to be responsible for accepting all public improvements that are located in the ETJ and are to be maintained by the County. The dedication and acceptance of the public improvements by the County must adhere to the County's Road Acceptance Procedures set forth in the County's Subdivision Rules and Regulations and the Unified Regulations attached hereto as Exhibit "A" and incorporated by reference herein.
- 3.05** The County agrees that it will not accept for filing any applications for plat approval for land within the City's ETJ following the effective date of this Agreement.

Article IV. CITY RESPONSIBILITIES

- 4.01.** The City will enforce its subdivision regulations and Unified Regulations, including design and construction standards, within its ETJ.
- 4.02.** The City and the County agree that the Unified Regulations shall be applied exclusively in the review of proposed plats in the City's ETJ. If either party wishes to propose revisions in the future to the Unified Regulations, the proposing party will notify the other party of the proposed change(s). The parties will cooperate in determining the need for the changes, and will adopt any change agreed to by amendment of the Agreement, as amended, by their respective governing bodies.
- 4.03.** The City agrees to require developers to dedicate public right-of-way pursuant to the Rockwall County Transportation Plan ("County Plan"), as currently adopted or as may be amended in the future, subject to applicable constitutional and statutory limitations for subdivisions. When it appears to the City that a requirement for dedication of right-of-way pursuant to the County Plan may exceed an applicable constitutional or statutory limitation, or if there is a conflict between the County Plan and the City of McLendon-Chisholm Thoroughfare Plan, the City will notify the County, and the parties will cooperate to determine the extent of right-of-way dedication to be requested, or an alternative method of securing the needed right-of-way.
- 4.04.** Where a dedication or construction requirement is to be imposed, the City, in consultation with the County, will make an initial determination of proportionality. If the applicant appeals the proportionality determination in accordance with procedures set out in the City's subdivision regulations, the City will make the final determination, again, in consultation with the County.
- 4.05.** The City will notify the County upon the filing of all applications for approval of final plats. A copy of the final plat and any engineering plans will be sent to the County within ten (10) days of filing with the City for the County's review and comment. The City will make every reasonable effort to notify the County of the final action taken by the City on the application, whether approved or denied, within three (3) working days, but no later than fifteen (15) days of the City's action.
- 4.06.** If an applicant requests an exception from any standard in the City's subdivision regulations, the City will bring the request before the County for review. Any variance from the City's subdivision regulations to be enforced in the ETJ must receive approval by the Commissioners Court prior to the City taking action on the plat application. Plat approval also shall be conditioned on: 1) formation of property owners associations for maintenance of any facilities not normally maintained by the County; and 2) upon provision of security instruments assigned to the County in the event

that the applicant seeks final plat approval before construction and acceptance of capital improvements.

- 4.07. The City will deliver two copies of all recorded plats for subdivisions within the City's ETJ to the County within ten (10) working days of the recording of the subdivision plat. For all subdivisions containing more than five (5) lots, the City will also provide to the County a digital file of the subdivision plat including at least two (2) ground control GPS points in a format approved by the County.
- 4.08. The City will confer with the Rockwall County 911 addressing Division in determining street names prior to final plat approval.
- 4.09. The City and County inspectors will have access to construction sites of subdivisions within the ETJ and the City will timely submit copies of all road design materials and road construction test results to the County during road construction. City inspectors will have inspection and approval authority over the road construction, storm water drainage construction, and on non on-site wastewater facility construction within the right-of-way and easements. The County may request that the City issue a stop-work notice if the applicable construction standards are not being met. The City will take all reasonable actions, including a stop-work order, to ensure that applicable construction standards are met, as deemed necessary by the City. The City will notify the County when construction of public improvements is completed for final acceptance by the County.
- 4.10. The City will collect all fees and charges involved with the approval of subdivision plats, including but not limited to engineering reviews, inspections of public improvements, but not including costs associated with applications for variances or exceptions to on-site sewer facilities to be reviewed and permitted by the County, under this Agreement.
- 4.11. As an attachment to this Agreement, the City will provide a current map defining the legal boundaries of its corporate limits and areas of ETJ. The City will notify the County of any changes to the City's ETJ within ten (10) days of the effective date of the change, and the area covered by this Agreement will be amended accordingly. A change in the area covered by the Agreement will not, however, affect any rights accrued under Tex. Loc. Gov't Code Chapter 245 prior to the effective date of the change.
- 4.12. The plats which will be subject to this Agreement are those that will be filed after the effective date of this Agreement. If the ETJ is expanded or reduced, plats must be filed with the party who has jurisdiction as defined by this Agreement.

Article V. GENERAL PROVISIONS

- 5.01. General Administration:** The County and the City will designate their respective representatives for the general administration of this Agreement.
- 5.02. Alteration, Amendment or Modification:** This Agreement may not be altered, amended, or modified, except in writing and signed by all parties to this Agreement.
- 5.03. Notice:** All notices sent pursuant to this Agreement will be in writing and must be sent by registered or certified mail, postage prepaid, return-receipt requested.

Notices sent pursuant to this Agreement will be sent to the Rockwall County Judge's Office at the following address:

*County Judge
Rockwall County Judge's Office
101 Rusk Street, Room 202
Rockwall, Texas 75087*

Notices sent pursuant to this Agreement may be delivered or sent to the City at the following address:

*Mayor
City of McLendon-Chisholm
1248 S. Hwy 205
McLendon-Chisholm, Texas 75032*

When notices sent pursuant to this Agreement are mailed by registered or certified mail, notices will be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office.

- 5.04. Severability:** If any provision of this Agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect the remaining provisions of this Agreement.
- 5.05. Breach:** The failure of either party to comply with the terms and conditions of this Agreement will constitute a breach of this Agreement. Either party will be entitled to any and all rights and remedies allowed under Texas law for any breach of this Agreement by the other party.
- 5.06. Non-Waiver:** The waiver by either party of a breach of this Agreement will not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision. Nothing in this Agreement is intended

by either party to constitute a waiver of any immunity from suit or liability to which it is entitled under applicable law.

- 5.07. Entire Agreement:** This Interlocal Cooperative Agreement constitutes the entire Agreement between the County and the City. No other agreement, statement, or promise relating to the subject matter of this Agreement and which is not contained in this Agreement or incorporated by reference in this Agreement will be valid or binding.
- 5.08. Terms used in Document:** As used in this Agreement, the terms "Interlocal Cooperation Agreement", "Interlocal Agreement", "Agreement", and "Contract" are synonymous.
- 5.09. Non-Defined Terms:** If not specifically defined in this Agreement, words and phrases used in this Agreement will have their ordinary meaning as defined by common usage.

EXECUTED THIS 12 day of November 2013.

Rockwall County

By: 
Honorable Jerry Hogan
Rockwall County Judge

Attest:


Felicia Morris, Court Administrator

Date: 11-2-13

EXECUTED THIS 10 day of December 2013.

City of McLendon-Chisholm

By: 
Gary L. Moody, Mayor

Attest:


Deborah Sorensen, City Secretary

Date: 12/10/13

EXHIBIT A

UNIFIED REGULATIONS FOR REVIEW OF PLATS IN ETJ OF CITY OF MCLENDON-CHISHOLM

1. The standards and procedures contained in the City of McLendon-Chisholm Subdivision Regulations duly enacted by the City, as amended before or upon the Effective Date of the Agreement, and which hereby are incorporated by reference for all purposes, shall apply exclusively to the review of all plat applications in the City's extraterritorial jurisdiction, with the exceptions contained in paragraph 2 of these Unified Regulations.
2. The following additional provisions, which are derived from the Rockwall County Subdivision Rules and Regulations, enacted by Order of May 29, 2007, as amended before or upon the Effective Date of the Agreement, and which hereby are incorporated by reference for all purposes, shall apply:
 - a. **Road specifications for residential streets by lot size.**
 - (1) Residential streets, where all lots are 1.5 acres or greater in size, shall have a minimum right-of-way of sixty (60) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and a minimum pavement width of twenty-six (26) feet.
 - (2) Residential streets, where any lot is less than 1.5 acres but greater than .75 acres in size, shall have a minimum right-of-way of seventy (70) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and a minimum pavement width of thirty-six (36) feet.
 - (3) Residential streets, where any lot is .75 acres in size or less, shall have a minimum right-of-way of seventy-five (75) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and a minimum pavement width of forty-four (44) feet.
 - b. **Minimum lot size.** For development relying upon on-site sewage facilities for wastewater disposal, the minimum lot size shall be 1.5 acres. This minimum lot size shall not include any right-of-way, drainage easement, utility easement, or floodplain area. The minimum lot frontage shall not be less than one hundred fifty (150) feet at the building line.
 - c. **Building set-back.** Building and setback lines shall be fifty (50) feet from the edge of the right-of-way on all streets and roads. No buildings shall be constructed closer than fifteen (15) feet from side

or rear property lines. Building and setback lines shall be shown on both the preliminary and final plats.

3. The design and construction standards and guidelines contained in the City of McLendon-Chisholm Standards of Design and Construction, duly enacted and as heretofore or hereafter amended, which hereby are incorporated by reference for all purposes, shall apply exclusively to the review of all plat applications and construction plans in the City's ETJ, with addition of the following sections to the Standards derived from Rockwall County specifications:
 - a. **Residential Streets in the ETJ.** The following standards apply to residential streets in the City's ETJ:
 - (1) Where all lots are 1.5 acres or greater in size, the minimum right-of-way shall be sixty (60) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and minimum pavement width shall be twenty-six (26) feet, with six (6) inches of 3600 psi reinforced concrete, as per City standards. Subgrade shall be stabilized with seven percent (7%) lime to a depth of six (6) inches, thirty (30) feet in width.
 - (2) Where any lot is less than 1.5 acres but greater than .75 acres in size, the minimum right-of-way shall be seventy (70) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and minimum pavement width shall be thirty-six (36) feet, with eight (8) inches of 3600 psi reinforced concrete, as per City standards. Subgrade shall be stabilized with seven percent (7%) lime to a depth of six (6) inches, forty (40) feet in width.
 - (3) Where any lot is .75 acres in size or less, the minimum right-of-way shall be seventy-five (75) feet, unless additional right-of-way is needed for maintenance or drainage purposes; and minimum pavement width shall be forty-four (44) feet, with eight (8) inches of 3600 psi reinforced concrete, as per City standards. Subgrade shall be stabilized with seven percent (7%) lime to a depth of six (6) inches, forty-eight (48) feet in width.
 - b. **Road Acceptance in ETJ.** All conditions of the Final Plat must be met. Acceptance of streets and alley improvements shall be evidenced by approval of the City of McLendon-Chisholm Engineering Department and by an instrument approved by the Rockwall County Commissioners Court in accordance with the Rockwall County Subdivision Rules and Regulations.

No acceptance will be considered by the County until the County's Designated Agent receives a certificate from the City of McLendon-Chisholm Engineering Department, certifying that all improvements have been completed in accordance with the approved construction plans. All costs associated with furnishing the necessary certificate shall be borne by the Subdivider.

c. Storm Drainage in the ETJ.

(1) Roads with Side Ditches.

- a. Side road ditches shall be designed to carry the 100-year developed flow and shall have a maximum side slope of 5:1.
- b. Cross road culverts shall be designed to carry the 100-year developed flow.
- c. Drainage channels shall be designed to carry the 100-year developed flow.
- d. The entire subdivision shall be designed so that no flooding of buildings or parking lots shall occur with the 100-year developed flow. The finished floor of buildings are to be a minimum of two (2) feet above the 100-year ultimate (developed) floodplain elevation. Parking lots shall be a minimum of one (1) foot above the 100-year ultimate (developed) floodplain elevation.

(2) Drainage Easements.

- a. The area identified as a drainage easement shall be subtracted from the raw lot size in determination of acceptable lot size for construction.
- b. Drainage easements shall generally be located along the existing drainage way.
- c. Open channels with top widths from zero (0) to fifty (50) feet require top width plus twenty-five (25) feet.
- d. Open channels with top widths greater than fifty (50) feet require top width plus twenty-five (25) feet per side.
- e. Enclosed pipes require twenty (20) feet minimum width.
- f. All easements shall be so designed to allow maintenance equipment to enter the easement for performance of necessary work.

(3) Lots in floodplains. For subdivisions that are located in a flood zone, as shown on the current Flood Insurance Rate Map (FIRM) for Rockwall County, the applicable minimum lot size shall be calculated by subtracting from the proposed lot size any land in the floodplain. Neither the City nor the County shall have

responsibility to provide and maintain drainage for the purpose of flood damage reduction on individual private lots located in the floodplain.

d. Private Utilities in ETJ.

(1) Size and Location: Utility easements shall be a minimum of fifteen (15) feet in width, and normally located along a property or lot line. It shall be the duty of the Subdivider to insure that all easements are of the proper width and location to serve the using utility companies. Utility lines crossing a road shall be installed a minimum of thirty-six (36) inches below the ditch line. All lines must be encased in steel pipe or concrete a minimum of two (2) feet beyond ditch line.

(2) Private Mailboxes.

- a. Community Mailboxes. For purposes of public safety, use of clustered or community mail facilities should be used whenever possible to reduce collision hazards.
- b. Mailbox Placement. Mailboxes shall be set a minimum of three (3) feet from the edge of the pavement. When placement of a mailbox outside the three-foot minimum is not possible, a mailbox of "break-away design" shall be used.
- c. Mailbox Requirements. All mailboxes within the road right-of-way shall meet the current Texas Department of Transportation (TXDOT) standards on streets with speed limits in excess of forty (40) miles per hour. All mailboxes must satisfy Post Office requirements and shall be erected in a place and manner that does not impede visibility. In the TXDOT and Post Office standards for mailboxes conflict, the more stringent standard shall apply.

- 4. The standards and procedures contained in Rockwall County Subdivision Standards, Article Ten, On-site Wastewater Rules, enacted by Order of May 29, 2007, as amended before or upon the Effective Date of the Agreement, and which hereby are incorporated by reference for all purposes, shall apply exclusively to the review of all applications for on-site sewage disposal within the City's ETJ. Where proposed developments require or seek centralized wastewater services, the City of McLendon-Chisholm Subdivision Regulations and related main extension policies, standards and procedures shall exclusively apply.