The City Council of the City of Garland, Texas convened in regular session at 7:00 PM on Tuesday, June 5, 2012, in the Council Chambers at City Hall with the following members present:

MayorRonald E. JonesMayor Pro TemPreston EdwardsCouncilmemberLaura Perkins CoxCouncilmemberMarvin 'Tim' Campbell

Councilmember John Willis

Councilmember Lori Barnett Dodson

Councilmember Rick Williams
Councilmember Jim Cahill
Councilmember B.J. Williams

STAFF PRESENT: City Manager William E. Dollar

Sr. Assist. City Attorney
Interim City Secretary
Recording Secretary

Mark Dempsey
Elaine Simpson
Yvonne Naser

CALL TO ORDER: The meeting was called to order by Mayor Ronald E. Jones.

Councilmember Jim Cahill led the invocation and the pledge.

CEREMONIALS: Mayor Ronald E. Jones presented a Proclamation for 'Heart

Trek Day' in Garland.

CONSENT AGENDA: All items marked with asterisks (**) on the Consent Agenda

were voted on at the beginning of the meeting. Motion was made by Councilmember Cahill and second by Councilmember Dodson to approve items 1, 2.a., 2.b., 2.c., 2.d., 2.e., 2.f., 2.g., 2.h., 3.a., 3.b., 3.c., 4., 5., 6., 7. and 8. on

the Consent Agenda as presented.

Motion carried: 9 Ayes; 0 Nays; and 0 Abstentions.

1. Approved** Consider approval of the minutes of the May 15, 2012

Regular Meeting and May 22, 2012 Special Canvass

Meeting.

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2.a. Approved**

Consider Bid No. 2845-12 for EMS Supplies from Bound Tree Medical for \$215,629.01, and Midwest Medical Supply for \$109,155.85 for a total of \$324,784.86, for purchase of supplies for the Fire Department to be used to diagnose and treat patients in a pre-hospital environment.

2b. Approved**

Consider Bid No. 2880-12 for Water and Sanitary Sewer Improvements at Second Street, Haskell Drive, Avenue G, and Hopkins Street from ARK Contracting Services, LLC in the amount of \$710,657.00 for construction of new residential service lines, removal of the existing lines from an undersized main, and the connection to a new larger main. The existing sanitary sewer main will also be replaced.

2.c. Approved**

Consider Bid No. 2904-12 for Environmental Waste Trucks from Southwest International Trucks for \$375,348.19, from Heil of Texas for \$205,076.00, from Bond Equipment for \$162,109 and from East Texas Mack Sales for \$133,496.32 for a total of \$876,029.51 for purchase of seven replacement trucks, truck bodies, and cab and chassis for the Environmental Waste Services Department to be used in daily operations.

2.d. Approved**

Consider Bid No. 2942-12 for Tractor/Transfer Trucks from Fort Worth Freightliner for \$392,982.00 for purchase of three tractor/transfer trucks for the Hinton Landfill to be used in daily operations.

2.e. Approved**

Consider Bid No. 2859-12 for Various Fleet Vehicles – Vans and Trucks from Sam Pack's Five Star Ford for \$613,349.00, from Randall Reed's Prestige Ford for \$49,986 and from Baby Jack II Automotive, LTD \$16,966 for a total of \$680,301 for the purchase of 30 replacement vehicles for various City departments to be used in daily operations.

2.f. Approved**

Consider Bid No. 2902-12 for Hydraulic Excavator from HoltCat in the amount of \$317,534.00 for the purchase of a 336EL Hydraulic Excavator for the Hinton Landfill to be used in daily operations.

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2.g. Approved**

Consider Bid No. 2906-12 for Bucket Trucks from Altec Industries, Inc. in the amount of \$618,048.00 for purchase of five replacement bucket trucks to be used by the Transportation Department and GP&L in daily operations.

2.h. Approved**

Consider Bid No. 2949-12 for Caterpillar Model 973D Track Loader from HoltCat in the amount of \$486,713.00 for the purchase of a Caterpillar Model 973D Tract Loader for the Hinton Landfill to be used in daily operations.

3.a. Approved**

Consider Ordinance # 6544 regarding Zoning File No. 12-16, Winkelmann & Associates, applicants, amending the zoning laws of the City of Garland by approving a change in zoning from Planned Development (PD) District 81- 61 to a Planned Development (PD) District for General Business Uses with a Specific Use Permit (SUP) for Restaurant, Drive-Through on a 7.088-acre tract of land located south of Marketplace Drive, east of Saturn Road and northwest of Centerville Road.

3.b. Approved**

Consider Ordinance #6545 regarding Zoning File No. 12-19, Columbus Realty Partners Ltd. Applicants, amending the zoning laws of the City of Garland by approving amendments to the Planned Development conditions and approval of a Detail Plan on a 3.998-acre tract of land zoned in Planned Development (PD) District 02-25 for Freeway Uses located south of Firewheel Parkway and east of Lavon Drive.

3.c. Approved**

Consider Ordinance #6546 regarding Zoning File No. 12-20, Barclay Construction, applicants, amending the zoning laws of the City of Garland by approving amendments to the Planned Development conditions and approval of a Detail Plan on a .8161-acre tract of land zoned in Planned Development (PD) District 03-22 for Office Uses located at the northeast corner of Jupiter Road and Collins Boulevard.

4. Approved**

Consider by minute action authorizing the City Manager to execute an engineering services contract with BW2 Engineers, Inc. The 2012 approved Capital Improvement Program includes funding to design and construct a bikeway from the north city limits to the south city limits. A contract has been negotiated with a local firm, BW2 Engineers, Inc., to design the off-road portions of the bikeway for an estimated amount of \$181,400. The improvements will include a concrete bikeway complete with two bridge crossings over Duck Creek.

5. Approved**

Consider Ordinance #6547 authorizing the issuance of "City of Garland Water and Sewer System Revenue Bonds, Series 2012", pledging net revenues of the City's Water and Sewer System to the security of and the payment of the principal of and interest on such obligations; providing for the sale and delivery thereof, including the approval and execution of a Paying Agent/Registrar Agreement and a Purchase Agreement, and the approval and distribution of a Preliminary Official Statement and an Official Statement pertaining thereto; enacting provisions incident and related to the purposes and subject of this ordinance.

Consider Ordinance #6548 authorizing the issuance of "City of Garland Combination Tax and Revenue Certificates of Obligation, Series 2012"; providing for the payment of said certificates of obligation by the levy of an ad valorem tax upon all taxable property within the City and a limited pledge of the net revenues derived from the operation of the City's Water and Sewer System; providing the terms and conditions of such certificates of obligation and resolving other matters incident and relating to the issuance, payment, security, sale and delivery of said certificates of obligation, including the approval and execution of a Paying Agent/Registrar Agreement and a Purchase Agreement and the approval and distribution of a Preliminary Official Statement and an Official Statement pertaining thereto.

On February 21, 2012, Council approved the 2012 Capital Improvement Program (CIP) which contemplated the sale of Certificates of Obligation in the amount of \$6.8 million, and Water and Sewer Revenue Bonds in the amount of \$8.4 million, excluding debt issuance cost. At the May 14, 2012

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Work Session, Council considered authorizing the sale of debt to fund the approved CIP.

6. Approved**

Resolution #10054 adopting an amended investment policy of the City of Garland. At the May 14, 2012 Work Session, Council considered authorizing revisions to three sections of City Council Policy FIN-06, Statement of Investment Policy.

7. Approved**

Resolution #10055 authorizing the City Manager to enter into a banking services and depository agreement with JP Morgan Chase Bank. At the May 14, 2012 Work Session, Council considered authorizing a depository bank contract with JP Morgan Chase, a financial institution that has been selected through a Request for Application process to meet the City's banking needs in accordance with City Council Policy FIN-06.

8. Approved**

R esolution # 10056 reappointing Jamie Ratliff to the Board of Directors of the Texas Municipal Power Agency. At the May 15, 2012 Work Session, Council was notified that Jamie Ratliff's term as a member of the Texas Municipal Power Agency (TMPA) Board of Directors will expire on July 18, 2012. Information was posted on the City's website for 14 days in order to provide an opportunity for citizens to apply for the position. Mr. Ratliff was the only citizen to respond.

ITEMS FOR INDIVIDUAL CONSIDERATION

9. Held and Approved

Hold a public hearing to consider Ordinance #6549 amending Chapter 22, "Health", of the Code of Ordinances of the City of Garland; providing a penalty under the provisions of Sec. 10.05 of the Code of Ordinances of the City of Garland. Health Department staff proposes that Section 22.39(E) of the Code of Ordinances be modified by removing paragraphs (2) and (3). The removal of paragraph (2) will eliminate the prohibition of conveying food from mobile food preparation vehicles to "walk-up" and "drive-up" customers. The removal of paragraph (3) will remove the restriction of mobile food preparation vehicles operating at one location no longer than one hour. The easing of movement and sales constraints will permit the new niche of

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"gourmet food trucks" to operate on private property within Garland. The proposed draft ordinance was presented to Council by the Marketing/Events Committee Chair at the May 14, 2012 Work Session.

Richard Briley, Managing Director of Health and Code Compliance, explained that these changes will remove impediments to the operation of these food trucks in Garland, without compromising food safety.

Councilmember Willis made a motion, seconded by Councilmember Cox, to approve amendment to Chapter 22, "Health", of the Code of Ordinances of the City of Garland; providing a penalty under the provisions of Sec. 10.05 of the Code of Ordinances of the City of Garland as recommended by Health Department staff, that Section 22.39(E) of the Code of Ordinances be modified by removing paragraphs (2) and (3). Motion carried unanimously with 9 Ayes; 0 Nays and 0 Abstentions.

10.a. Held & Approved

Consider the application of Wes Parnell requesting approval of 1) a change of zoning from Office 1 (O-1) District to General Business (GB) District and 2) a Specific Use Permit for a Restaurant with Drive-Through. The property is located at 3300 Broadway Boulevard. (File 12-15). The proposal is for approval of a change in zoning from Office 1 to General Business and a Specific Use Permit for a Restaurant with Drive-At the April 9, 2012 meeting, the Plan Through. Commission (by a 5 to 4 vote) recommended denial of the At the May 1, 2012 meeting, City Council approved a motion to change the zoning and a Specific Use Permit. At the May 15, 2012 meeting, the City Council directed this case be set for a new public hearing.

Neil Montgomery, Senior Managing Director of Development Services presented the staff report and also explained that a petition had been submitted tonight by the opponents of the proposed zoning change. The petition references the "20 % rule". Although the petition does not affect the Council deliberations tonight, city staff will review this petition and determine if the 20% rule is triggered. If it

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is and if the zoning change is approved tonight, the 20% rule may be a factor at the next City Council meeting. The petition says "June 4, 2012, Please consider this a formal written notice to the City of Garland regarding the proposed zoning change located at the corner of Stonewall Street and Broadway Blvd, the existing zoning of Office 1 (O-1). We the undersigned are property owners within 200 feet of the proposed change. Twenty percent or more of us are opposed to the change and feel it will adversely affect our property values. Zoning file Z 12-15, Applicant: Wes Parnell." There were five signatures. The petition was given to city legal staff for guidance.

Mayor opened the Public Hearing:

Speakers:

Wes Parnell, Applicant: Noted that since he has provided testimony earlier he would field questions tonight. He also noted that 30% of buildings in this area are vacant. He also explained that he has agreed to requested changes to the driveway to a one-way driveway.

Darrell Fisher, 1138 Stonewall ST: Noted his property is within 300 feet from the proposed site of restaurant and expressed concerns regarding traffic and the addition of this restaurant to lure teenagers to walk across Broadway because there is a problem with teen jay-walking across Broadway.

John L. Losher, MD, 2821 Harpers Ferry DR: In favor of the request even though his alley enters off of Stonewall. He explained that he was formerly with Chamber of Commerce and that this planned business would add value and opportunities and needs to be encouraged. He said he thought the additional traffic could be handled.

Lisa A. Garner, MD: 3310 Broadway BLVD (practice): Explained she had recently spoken to former Mayor Wright, who explained to her that the zoning in this area was done to determine the types of businesses that would come here would be office related. She said the property owners in this area purchased land with belief that they had the protection of this Office zoning. She noted that she shares the concerns about the traffic and the jay-walking teens in this area. She explained her concerns about the traffic and pointed out to

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the Council on a diagram of the site that there are medians in Broadway which will cause motorists to make a U-turn in Broadway in this area. She noted that there are many other buildings in South Garland for Chicken Express.

Carlos Colburn, 1245 Garden Gate: Spoke in favor. Mr. Colburn expressed that this is the best use for the corner and that this restaurant will bring jobs for the young workers of the area.

Phillipp Dunn, MD., 1016 Stonewall ST: Spoke in opposition to the zoning change citing concerns that this use will not increase the value of the properties in this area.

Traci Dunn, 1016 Stonewall ST: Spoke in opposition citing concerns about loss of professional offices coming to the area if this change is approved and noted that there is a proliferation of fast-food restaurants in this area.

Eddie Leibman; CCIM, Senior Vice President of Weitzman Group - Investment Advisory Services, 3102 Maple AV, Dallas, TX: Spoke in favor of zoning change. He explained that his company represents Chase Bank (seller of this property) in this transaction. He provided some history of the property. In 2008, Chase purchased Washington Mutual, but since there is a Chase Bank nearby, they did not wish to open a Chase branch in this former Washington Mutual building. The property was listed with Weitzman in 2009. Weitzman approached about 100 potential buyers and approximately ten have been interested in touring the location. Chase will not sell to another banking institution. There has been no interest from any medical professionals. The conversion costs will be high. The building was built in 1976. The Weitzman group connected with Mr. Parnell in February of this year. The investment that Mr. Parnell is planning for this site is approximately one million dollars. There was no interest from any professional office type businesses. One reason that this location will work so well for the Chicken Express is that it is located on a corner that has signalization.

Andy Cummings, 588 North Collins, Sunnyvale, TX: Spoke in opposition to the zoning change as owner of Garland Independent Pharmacy located at 3641 Broadway Blvd, #100, which is nearby. He noted that he has his successful

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professional business in this area and wants the City Council to join him in recruiting doctors to come to this area. He recommended that the city try to attract a hospital.

Don E. Howard III, 1109 Bardfield AV: Spoke in favor of the change, noting that Mr. Parnell is going to make a large investment in this area.

Jason Curtis, 3010 Club Country DR: Spoke in favor of the change request, noting that he has a successful air conditioning business and is in this area. He suggested that the increase in traffic to this area may increase interest in the big box stores which remain empty in this area so something can come in there. Also, the professional offices that exist should not be adversely affected by this change because if the practice is successful, then the doctor should be able to sell the practice whenever they are ready to retire.

The following individuals submitted a speaker card to register a position be read into the record, but they did not provide testimony:

- 1. David H. Merchant, 1146 Stonewall ST Against
- 2. Phyllis Morton, 2905 Club Hill DR Against
- 3. Bruce M. Rogers, 1609 Fairway Circle Against
- 4. Bernice Nolan, 2918 Anatole CT Against
- 5. Ronal J. Nolan, 2918 Anatole CT Against
- 6. Sharon Rogers, 1609 Fairway CR Against
- 7. Kim Freeman, 1501 Surrey CT Against
- 8. Paul LaPlante, 5613 Saddleback For
- 9. Brenda Cummings, 5613 Saddleback RD For
- 10. Dianne Yarborough, 1826 Eastern Hills Against
- 11. Don Yarborough, 1826 Eastern Hills Against
- 12. Keilia Curtis, 3010 Club Country For
- 13. Judy Eckert, 2817 S. Country Club RD Against

Mr. and Mrs. Cummings brought a letter to the Council from their neighbors, the Guinn Family. Mayor requested input from Council on the question of whether the letter should be read into the record. Consensus of members was that it would not be read into the record because other letters which are received via mail are not read into the record.

Motion by MPT Edwards, seconded by Councilmember

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Dodson, to close the Public Hearing at 8:56 p.m. and to grant the request as described in item 10.a. with the following conditions: the change of zoning is to zoning district Office 2, and will be for a Specific Use Permit for a Restaurant with a Drive Through, for twenty-five (25) years to be granted in the name of Chicken Express, with agreement by the owner that the first driveway/entrance on Stonewall will be an entrance only and that that traffic will wrap around the building to the back side of the property to an exit only driveway. Motion carried by a vote of 6 Ayes, 3 Nays and 0 Abstentions.

Ayes: Campbell, Edwards, Dodson, Cahill, Cox and Jones Nays: B.J. Williams, Willis, R. Williams and 0 abstentions.

10.b. Held & Approved

Consider the application of United Towing & Transport Dallas requesting approval of a Specific Use Permit for a Wrecker Service on property zoned Commercial 2 (C-2) District and Industrial 1 (I-1) District. The property is located at 2521 Oakland Street. (File 12-22) The proposal is for approval of a Specific Use Permit for a Wrecker Service. At the May 14, 2012 meeting, the Plan Commission (by a 9 to 0 vote) recommended approval of the request as recommended by staff.

Neil Montgomery, Senior Managing Director of Development Services, this request is for no outdoor storage of vehicles and the area is primarily automotive.

Mayor opened the Public Hearing.

Councilmember Willis made a motion, seconded by Councilmember Dodson, to close the Public Hearing at 8:57 p.m and to approve request of United Towing & Transport Dallas granting a Specific Use Permit for a Wrecker Service on property zoned Commercial 2 (C-2) District and Industrial 1 (I-1) District at 2521 Oakland Street as recommended by the Planning Commission and staff. Motion carried unanimously by a vote of 9 Ayes; 0 Nays; 0 Abstentions.

10.c. Held & Approved

Consider the application of Loveth/Tony requesting approval of a Specific Use Permit for a Reception Facility on property zoned Shopping Center (SC) District at 3338 Broadway Boulevard Suite 302/304. This file is zoning file Z 12-25 and property is located in City Council District 3. The proposal is for approval of a Specific Use Permit for a reception facility in a shopping center. At the May 14, 2012 meeting, the Plan Commission (by a 9 to 0 vote) recommended approval of the request for a period of 10 years tied to the applicant, Loveth/Tony.

Neil Montgomery, Senior Managing Director of Development Services provided the staff report that this is in regards to two suites in this shopping center. One has been operating with this use without issue as a legal non-conforming use. The ownership has not changed; the owners simply wish to use, as needed, part of the other suite for the reception facility use; areas of the building which are usually used for the Bridal Shop.

Mayor opened the Public Hearing at 8:58 p.m.

Loveth and Celestine 'Tony' Okwilagwe, applicants: Explained that they will continue to have the Bridal Shop but wish to also hold 'Bridal Shows' in the suite and other receptions. Mr. Okwilagwe explained that he always hires professional security whenever an event is held in his business, and that the security is present for the entire event.

Motion by MPT Edwards, seconded by Councilmember Dodson to close the public hearing at 9:09 p.m. and to approve application of Loveth/Tony requesting a Specific Use Permit for a Reception Facility on property zoned Shopping Center (SC) District located at 3338 Broadway Boulevard Suite 302/304 as recommended by the Planning Commission and city staff. Motion carried unanimously by a vote of 9 Ayes; 0 Nays; 0 Abstentions.

Consider appointments to Boards and Commissions.

Board members are selected for two-year terms by the City Council in August. Terms are usually staggered whereby at

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least half of the membership has board experience. Board members are appointed based on qualifications.

Guy W. Hull II – Board of Adjustment (Willis)

Motion was made by Councilmember Willis to nominate Guy W. Hull II to the Garland Board of Adjustments. Motion carried unanimously by 9 Ayes; 0 Nays and 0 Abstentions.

12. Citizen comments.

There were no citizen comments.

There being no further business to come before the City Council, Mayor Jones adjourned the meeting at 9:11 pm.

CITY OF GARLAND

Signed:

Mayor Ronald E. Jones

Attest:

Elaine Simpson, Interim City Secretary