

**STATE OF TEXAS  
COUNTY OF DENTON  
CITY OF CORINTH**

On this the 15<sup>th</sup> day of November 2016 the City Council of the City of Corinth, Texas met in a Workshop Session at 5:30 pm at the Corinth City Hall, located at 3300 Corinth Parkway, Corinth, Texas. The meeting date, time place and purpose as required by Title 5, Subtitle A, Chapter 551, Subchapter C, Section 551.041, Government Code, with the following members to wit:

**Members Present:**

Bill Heidemann, Mayor  
Joe Harrison, Mayor Pro-Tem  
Scott Garber  
Sam Burke  
Don Glockel  
Lowell Johnson

**Members Absent:**

None

**Staff Members Present:**

Kimberly Pence, City Secretary  
Fred Gibbs, Planning & Development Director  
Jason Alexander, Economic Development Director  
Brenton Copeland, Technology Services Assistant Manager  
Mike Brownlee, City Engineer  
Mack Reinwand, City Attorney

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**CALL TO ORDER FOR WORKSHOP:**

**Mayor Heidemann** called the meeting to order at 5:30 pm.

- 1. Discuss Regular Meeting Items on Regular Session Agenda, including the consideration of closed session items as set forth in the Closed Session agenda items below.**

**BUSINESS AGENDA ITEMS #4-6**

4. Consider and act on a Site Plan for Panda Express Chinese Kitchen on property legally described as Lot 5, Block A, Swisher 35E Addition zoned C-2, Commercial in the City of Corinth, Denton County, Texas.
5. Consider and act the Site Plan for Arby's on property legally described as Lot 1R, Block A, Swisher 35E Addition zoned C-2, Commercial in the City of Corinth, Denton County, Texas.
6. Consider and act on the Site Plan for Popeye's Restaurant on property legally described as Lot 1R, Block A, Swisher 35E Addition zoned C-2, Commercial in the City of Corinth, Denton County, Texas.

**Councilmember Glockel** – All three had a glitch about what the recommendation was from P & Z.

**Fred Gibbs, Planning & Development Director** – Yesterday we had the Commission meeting, P & Z recommended approval of all of them, all the agenda items for tonight, as presented.

**Councilmember Glockel** – Regarding the utility easements and the fire lane, some of them were 20' & 24', is that going to be all concrete?

**Fred Gibbs, Planning & Development Director** - I believe they are all concrete in that area.

**Councilmember Glockel** – Is there going to be room on either side of them? How wide is the concrete?

**Fred Gibbs, Planning & Development Director** – It would have to be at least 24' for the fire lane.

**Mike Brownlee, City Engineer** – There is a spine road already out there, there is already water underneath that road.

**Councilmember Glockel** – The water looked like it was to the west of this new easement they were talking about.

**Mike Brownlee, City Engineer** – Everything is inside of the easement.

**Councilmember Glockel** – but there are two easements.

**Mike Brownlee, City Engineer** – There is a master developer for this project that is providing the infrastructure for all the pad site developments.

Discussion was held regarding the utility, drainage, fire lane and access easement and reference was made to a site plan that was included in the materials.

**Mike Brownlee, City Engineer** – The driveway configuration, they abandoned part of that easement and rewrote a new easement. Part of that is going to be outside of the fire lane. Part of it will be under green grass.

**Councilmember Harrison** – In the UDC it talks about the alternative compliances being requested to use a masonry material call nichiha, is that approved by the City?

**Fred Gibbs, Planning and Development Director** – Yes, all three of these had a request for alternative compliance. Panda Express had a request for nichiha, it is a fiber masonry product. Council approved a similar material for the Oxford Apartments. It's a type of look Panda Express is looking for. We don't have an issue with it, neither did P & Z.

#### BUSINESS AGENDA ITEM #7

7. Consider and act on the revised site plan for North Texas Storage on property legally described as Lot 2R, Block A, Rogers-O'Brien Business Park Addition being 4.98 acres zoned Planned Development (PD) in the City of Corinth, Denton County, Texas.

**Councilmember Glockel** – I need to excuse myself from that because I own the property right across from his driveway. It's close enough to where I received the letter for the variance.

**Councilmember Harrison** – Looking at the elevation, we've already approved the elevations for the two stories. On the third story, which is located directly behind Chicken Express, is it building A or building B?

**Fred Gibbs, Planning and Development Director** – It's both building A and building B will be the 2 (two) three story buildings and they are both directly behind Chicken Express. Building B is adjacent to the existing storage facility that is there already.

**Councilmember Harrison** – So they will be facing other, than the north wall, an A and B will be facing Cliff Oaks Drive? Is it just a solid wall or is there windows there?

**Fred Gibbs, Planning and Development Director** – Correct. They have accent windows, a false window, to add some architectural elements.

**Councilmember Harrison** – On the third story is there any windows looking at the housing addition to the north?

**Fred Gibbs, Planning and Development Director** – No Sir. This elevation gives a nice view point. Basically what you are looking at is solid. They are there for accents to break up that wall.

**Mayor Heidemann** – And that third level is within the fire regulations and everything else?

**Fred Gibbs, Planning and Development Director** – Yes Sir. The Fire Department has looked at it and are good with it. They will have to meet all the building codes and what is associated with a three story building in this area.

**2. Receive a presentation, hold a discussion and provide staff direction on the proposed Chapter 380 Economic Development Agreement Policies and Procedures.**

**Fred Gibbs, Planning and Development Director** – Jason Alexander is here to make a presentation on tonight's agenda.

**Jason Alexander, Economic Development Director** – Tonight is the first of two rewrites to the existing incentives policy. The existing policy entailed regulations and guidelines for tax abatements as well as other economic development incentives that could be offered by the City pursuant to Chapter 380, 501, and 505 of the Texas Local Government Code. That would be the development corporation act for 501 and 505 and tonight we are going to discuss the 380 and receive direction from the Council on the proposed rewrite to that policy.

Alexander presented a brief overview of Chapter 380 economic development programs to compare the existing policy with the proposed policy. He separated the Chapter 380 policy from the Tax Abatement Policy which is under Chapter 312 of the Texas Tax Code.

The provisions of Chapter 380 of the Texas Local Government Code do not limit the types of incentives that may be provided, nor the funding source (e.g., the Economic Development Fund, General Fund, et cetera); and a city may be creative in negotiating and considering incentives for a project, so long as a public purpose is served.

Incentives offered under Chapter 380 Economic Development Programs may be used for a variety of economic development projects, including:—Funding the renovation of shopping centers or other business facilities—Offering grants equivalent to the rebate of property taxes or sales taxes—Developing infrastructure or funding the same.

Although the existing incentives policy contains language that the City may enter into an incentives agreement pursuant to Chapter 380 of the Texas Local Government Code, it does not, however, provide minimum requirements that a project must meet to be considered eligible for such incentives.

The proposed policy is reflecting the flexibility conveyed both directly and indirectly in Chapter 380 of the Chapter 380 of the Texas Local Government Code, the policy establishes a framework for negotiating and considering incentives for a variety of projects, while also establishing minimum requirements for project eligibility.

Jason explained key points of the rewritten policy. These modifications include but are not limited to the following:

Section 2: Definitions, lines 101-130, This section provides definitions for terms used throughout the proposed policy. Target Industry: a business, structure or other project deemed vital to the City's current, anticipated or ongoing growth and development needs and goals. The City has discretion to determine its "needs" from time to time as the City's circumstances warrant, or as the City determines appropriate to meet or further its development or economic goals.

Section 3: Program Requirements, lines 132-177, This section establishes the minimum requirements that a project must meet in order to be considered eligible for incentives under a Chapter 380 Economic Development Program ---and a project must meet minimum requirements set forth in both Paragraphs A.1. ~Result in a minimum increased taxable value of \$250,000 (i.e., real property and/or business personal property, excluding inventory and supplies) - Is a mixed-use development intended to develop or revitalize key areas - Is specifically determined by resolution of City Council to bring public benefit~ and A.2. ~Will make a unique or unequalled contribution to development/redevelopment, will enhance the City's fiscal ability to provide high quality municipal services, will enhance the City's public infrastructure, will result in an additional increase of full-time jobs in Corinth, Is defined as a target industry (at the sole discretion of City Council) Projects will be considered on a case-by-case basis, and are not eligible for any incentives if a building permit has been issued, or if construction commenced, incentives will be provided to the extent that the revenue realized by the City equals or exceeds the minimum amount established by the agreement.

Alexander requested that the City Council, along with any other revisions that City Council seems appropriate to the proposed policy, is to strike through that language as proposed. Page 7, lines 167-171, to allow the actual agreement to take precedence to determine whether the project would be eligible for incentives.

**Councilmember Harrison – Why?**

**Jason Alexander, Economic Development Director –** It is to make it a level playing field for all of the business's.

**Councilmember Harrison –** It seems like you are going back and specifically addressing somebody else that does not have an application in and you are soliciting them to come back, is that what you are saying?

**Jason Alexander, Economic Development Director –** Not necessarily soliciting them coming back.

**Councilmember Harrison –** Anyone from this point forward would be explained the process before they get to that point, right? And they would know. So what we are doing is going back and picking up anybody else that's done something before this date. Is that what we are doing?

**Jason Alexander, Economic Development Director –** No Sir, not necessarily. Let's say you have a shopping center, the building permit has already been issued for the development, but there is a particular business and there hasn't been any incentives offered to that shopping center, there's a particular business that the community really wants and the City would really like to have, in order to land that business there might be a situation where Chapter 380 Agreement could help sway their move here.

**Councilmember Harrison –** We don't have any shopping center. If they come in now, if they do an application and get their building permit then that would all be explained to them, to apply for your 380 Agreement before you have to do it? What shopping center are you talking about?

**Jason Alexander, Economic Development Director** – I'm just speaking hypothetically, just as an example.

**Councilmember Burke** – So I understand, if the Millennium development had already had building permits issued, but we wanted to get a particular restaurant chain in there, if that language is in there they would not be eligible. But if that language is out then we could offer incentives to that specific tenant even though a building permit had already been issued for that space? Is that the difference you are worried about?

**Jason Alexander, Economic Development Director** – Yes and absolutely. It's also to make sure the policy is clear. I understand Councilmember Harrison's point.

**Councilmember Burke** – his hypothetical is also possible, but you're not concerned about that as much as you are concerned about the ability to track the new people after a development has had building permits issued.

**Jason Alexander, Economic Development Director** – Right.

**Councilmember Glockel** – I thought I understood it until you clarified it.

**Councilmember Burke** – Joe's concern is real, but I think Jason's concern is too. I think he is trying to address the latter and the question is what are you more worried about?

**Councilmember Glockel** – The Millennium is a large project but if we wanted to have a restaurant come in on a pad site, they have a project approved, if I come in as a restaurant that is already approved with this verbiage are you saying that if it's a restaurant that isn't named, on that square, that I would not be eligible under this verbiage?

**Jason Alexander, Economic Development Director** – Right, because essentially the building permit has already been issued as Councilmember Burke said. So you've already had the construction take place.

**Councilmember Glockel** – I'm talking about bare land.

**Jason Alexander, Economic Development Director** – If it's under bare land that provision wouldn't even apply. It would be a completely different situation. If the construction has already commenced, the building permit has been issued and there's that vacant space, if we want to target that particular restaurant say for the Millennium site, then that verbiage right there that would be it.

**Councilmember Harrison** – How many building permits would this apply to?

**Fred Gibbs, Planning and Development Director** – They are currently under construction right now? If you have a building permit or construction commence then you would have to define what construction commence means. Is grading the property considered construction, I would consider that a construction activity. Building permits and construction, there are other projects that are currently under construction that do not necessarily have a building permit that may qualify.

**Councilmember Burke** – It almost sounds like we need to separate the developments from businesses and how we are going to phrase eligibility. If we are trying to use it to attract development we shouldn't use it after they are already here. Millennium would not necessarily, we wouldn't want to offer them incentives because they already said they are coming. In that case, if they've been issued a building permit or they commence construction then they are out. It's the developer. In regards to particular end users, that might occupy it, we might want to still be able to offer them incentives. Maybe we ought to deal with their eligibility and distinct clauses.

**Jason Alexander, Economic Development Director** – That was part of saying to take that language out and allow the agreement to dictate that. The agreement will still have to come before City Council for approval. If City Council so desired that the project wasn't deemed worthy of incentives, then the project wouldn't receive incentives. That was the sole rationale for requesting that revision.

**Councilmember Burke** – I'm suggesting instead of taking it out that we add something so the public has some guidance that we are not soliciting them to come to us to apply, if they are already here.

**Jason Alexander, Economic Development Director** – So if I am hearing you correctly, is there a time limit or a time frame that maybe should be included as language in there? I don't know if that's 60 days, 90 days?

**Councilmember Burke** – I don't think so. The logistics of how that process occurs would dictate, for end users, you would say if a CO has been issued, something so we're sure that we are using to attract people that might not otherwise come as opposed to offering something to people that are already here or would have come anyway.

**Councilmember Garber** – Can we make an intense statement like that? With the intent of this and section C is to attract folks that would not normally have come, not to incentivize people that are already under development.

**Jason Alexander, Economic Development Director** – I'll get with the City Attorney and work on that language and it will be included in the revised policy that will come back before City Council for that section.

**Fred Gibbs, Planning and Development Director** – I assume, Jason, that you want to be able to have it to where you can still do the 380's for lots.

**Jason Alexander, Economic Development Director** – Ok, we'll make that revision.  
Section 4: Additional Considerations, lines 179-188, The number and types of jobs to be created, The market conditions and growth potential for the business activity, The financial capacity of the applicant to undertake and complete the project, Other incentive programs for which the applicant is qualified, or has applied, Any other factors that CEDC finds beneficial and/or relevant.

**Councilmember Harrison** – Going back to the addition, does the applicant have any responsibilities under these additional considerations? For example, Huffines, there was some restrictions that we established and he agreed to when we dealt with Huffines that he would do a Grandfather in developing an automobile related instant on there and there was some other things he agreed to advertise as his responsibility as being in the city. Is that unreasonable?

**Jason Alexander, Economic Development Director** – No Sir. That could be considered under the terms and conditions. With the agreement, for example, if there are certain things that EDC might fail to include in the proposed agreement, City Council could come back in and modify that agreement to include language such as that.

**Councilmember Harrison** – Would we be unreasonable to expect the businesses within the city to advertise as in the city?

**Jason Alexander, Economic Development Director** – That is part of the policy, is we want our businesses to grow and thrive in Corinth and make sure they represent Corinth regionally. If that is something that City Council would want in the agreement, then it would be included.

**Councilmember Harrison** - The way I look at it, if I'm going to give them a dime of my citizen's money, then they have a responsibility to advertise that's it's within the City of Corinth. We are here because that's the only way we're going to get a return on our money is for people to come back to his facility as part of the City of Corinth.

**Mayor Heidemann** – So if they applied for a 380 provision, that could be something we put in?

**Jason Alexander, Economic Development Director** – Absolutely.

Section 5: Incentives, lines 190-194, this section is deliberately vague because the City can negotiate and consider a wide range of incentive packages pursuant to the provisions of Chapter 380 of the Texas Local Government Code depending on the scope of the project and needs of Corinth.

**Councilmember Harrison** – Going back to the old one, tied to the tax abatement. I understand being vague and I agree with that. It seems to me that they are dealing with our funds and our tax dollars that there should be some evaluation on how long it's going to take you to get the return over the money that you gave, cost benefit analysis, something that's going to give you, in black and white, that you can present to the citizens and say we gave them this for 15 years if you will come here and then we turn it down. That still needs to be given to the citizens. In some place in this there should be some data.

**Jason Alexander, Economic Development Director** – That is with the agreement to what you are saying, that is where that information would be contained in there because it would have to reach those performance standards, if they don't then they would be in default of the agreement. That is where you also see the differences between Chapter 380 and Chapter 312. In Chapter 312 that wouldn't be possible, the type of performance standards we are discussing.

**Councilmember Harrison** – I already asked these questions. On a cost benefit analysis, there has to be some software someplace that is going to identify that. I assume that somebody is going to incur some cost for that cost benefit analysis software to give the Economic Development Corporation and the City of Corinth some data that's going to collect and there is going to be a point where subjective or not you're going to say you are going to go here.

**Jason Alexander, Economic Development Director** – With the policy, it's not the intention of the Economic Development Corporation or staff to present incomplete information or data to City Council. We will ensure that City Council is equipped with all the information to make the decision in the best interest of Corinth.

Section 6: Application Process, lines 196-213, The application process is as follows: Application submitted to CEDC; however if a target industry, City Council may elect to consider incentives prior to project approval, CEDC reviews application to determine if the minimum requirements are met, If met, the applicant and CEDC Executive Director will have at least 30 working days to propose an agreement, CEDC Board of Directors considers proposed agreement and makes a recommendation to City Council, City Council may elect to consider and take action on the proposed incentives agreement. Prior to City Council taking action on any incentives is that the EDC through staff and the City Manager will present that to City Council in Executive Session first. This way Council is aware of the incentives and can make any modifications to that agreement and staff can go back and discuss with the applicant as need be.

Application Process, lines 214-229, City Council has sole discretion to approve or deny proposed incentives, City Council may modify the terms and conditions of proposed incentives, to the extent allowed by state law (Chapter 552 of the Texas Government Code), the City will keep certain information requested by the applicant confidential.

Section 7: Agreement Terms, lines 231-268, This section establishes the minimum provisions that an agreement between the City and an applicant must contain, including:—A timetable and list of property

values, revenues, incomes and other public benefits—Access to and authorizing inspection of the property to determine compliance—Recapturing municipal funds if the applicant does not meet agreement terms.

**Key Takeaways,** As one of the more popular incentive policies available, agreements crafted pursuant to the provisions of Chapter 380 of the Texas Local Government Code allows cities to provide grants, loans, city personnel and city services for the promotion and encouragement of economic development. By separating the policy for incentives offered under Chapter 312 of the Texas Tax Code (property abatement) and Chapter 380 Economic Development Programs, the City will establish a framework for negotiating and considering project incentives for a wider range of projects. Under the proposed Chapter 380 Economic Development Program Policies and Procedures, the City: (i) may competitively negotiate and consider incentives; (ii) may consider incentives prior to project approval (should City Council determine the project is a target industry); and (iii) expedite the process for negotiating and considering incentives.

**Councilmember Harrison** – I want to point out that the 380 Agreement for Valencia, we turned that down because it could have either been a targeted industry being a residential development and that is going to come up. We turned it down because he wanted a tax relief from buying all materials.

**Councilmember Burke** – I would not consider residential construction a target industry.

**Councilmember Harrison** – We are going to have to make a decision on that.

**Mayor Heidemann** – You have a building to make that decision.

**Councilmember Johnson** - Every project stands on its own. There is nothing codified in here that says we have to or we don't have to.

**Mayor Heidemann** – If I understand, you said you take the funds out of the general fund?

**Jason Alexander, Economic Development Director** – No Sir, it would affect the general fund. If the city so desires, there could be funds that come out of the general fund. Some communities have taken some of the funds out of the general fund under Chapter 380 economic development agreements.

**Mayor Heidemann** – I would be concerned about our Capital Projects, we're going to have in January, a list for Capital Projects for the next 5 to 10 years that we're going to have to be looking at. I would think we would have to be cautious when you get into these things so that we don't overcommit to something we can't deliver.

**Councilmember Johnson** – The 380 Agreement sales tax rebates for construction materials are things we probably would have never seen sales tax recovery to begin with, it's the use side we are recovering not the sales side. Even if they bring their 2% to us and we give them 1 ¾%, we still gain ¼% of that use tax. A big project could add up to some serious money.

**Jason Alexander, Economic Development Director** – Some cities have actually used a 380 Agreement and only rebated a portion of the sales tax for the use tax that would have gone to the EDC. That way the sales tax would go to the other departments in the city that it will stay the same.

**Fred Gibbs, Planning and Development Director** – You could use it to help with some CIP partnership projects with a developer. You could have a CIP project in the area that's going to grow and you can use this for them to bridge the gap.

**Mike Brownlee, City Engineer** – In certain areas too. It would be hard for a single lot developer to pull off where the city could be able to use that funding.

**Councilmember Harrison** – That goes back to the original question I asked about tax abatements, is it expired two years ago?

**Jason Alexander, Economic Development Director** – Yes Sir it has.

**Councilmember Harrison** – It was a two year ordinance that controlled that tax abatement. I don't know if this has a time factor.

**Jason Alexander, Economic Development Director** – That's the beauty with the Chapter 380, it does not. The statute with the tax code expires September 1, 2019 unless it is extended in effect.

**Mayor Heidemann recessed the Workshop meeting at 6:22 pm. \*See Closed Session.**

#### **CLOSED SESSION**

The City Council will convene in executive (closed session) to consider any matters regarding any of the above listed agenda items as well as the following matters pursuant to Chapter 551 of the Texas Government Code:

**Section 551.071.** Private consultation with its attorney to seek advice about pending or contemplated litigation; and/or settlement offer; (2) and/or a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflicts with chapter 551.

**Council met in closed session under Section 551.071 and Section 551.072 from 6:23 P.M. until 7:05 P.M.**

**a. Planned development zoning districts.**

**Section 551.072.** To 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.

**a. Lot 18R, Block One, Pinnell Subdivision.**

**Section 551.074.** To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee.

**a. Deliberation of the employment, reassignment, or duties of the City Manager.**

**Section 551.087.** To deliberate or discuss regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect.

After discussion of any matters in closed session, any final action or vote taken will be in public by the City Council. City Council shall have the right at any time to seek legal advice in Closed Session from its Attorney on any agenda item, whether posted for Closed Session or not.

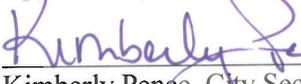
**RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON CLOSED SESSION ITEMS.**

There was no action taken from closed session.

**ADJOURN:**

**Mayor Heidemann adjourned the meeting at 7:06 pm.**

Approved by Council on the 15 day of December, 2016

  
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Kimberly Pence, City Secretary  
City of Corinth, Texas

