

MINUTES
REGULAR CITY COUNCIL MEETING
CITY OF MURPHY
206 North Murphy Road
Murphy, Texas

July 5, 2011
6:00 P.M.

CALL TO ORDER

Mayor Baldwin called the meeting to order at 6:00 p.m.

INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Baldwin gave the invocation and led the Pledge of Allegiance.

ROLL CALL & CERTIFICATION OF A QUORUM

Secretary Nemer certified a quorum with the following:

Council Present

Mayor Bret Baldwin
Mayor Pro Tem John Daugherty
Deputy Mayor Pro Tem Colleen Halbert
Councilmember Dennis Richmond
Councilmember Bernard Grant
Councilmember Scott Bradley
Councilmember Dave Brandon

PUBLIC COMMENTS

No public comments were submitted.

CONSENT AGENDA

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

- A. Consider and/or act upon declaring approximately 24 MTS 2000 portable radios and accessories as surplus and donating these items to the Nevada Volunteer Fire Department.**
- B. Consider and/or act upon approval of adopting the amendment to the agreement with Collin County regarding housing of prisoners at the county jail.**

Council Action

Councilmember Daugherty requested to pull Item A from the Consent Agenda. Councilmember Halbert moved to approve Item B as presented. A vote was taken and passed, 7-0.

- A. Consider and/or act upon declaring approximately 24 MTS 2000 portable radios and accessories as surplus and donating these items to the Nevada Volunteer Fire Department.**

Council Action

After clarification on the usability of the radios to be donated and the number of available radios for Public Works/Parks and special events, Councilmember Daugherty moved to declare approximately 24 MTS 2000 portable radios and accessories as surplus and donating these items to the Nevada Volunteer Fire Department. Councilmember Richmond seconded the motion. A vote was taken and passed, 7-0.

INDIVIDUAL CONSIDERATION

1. **Hold a public hearing and consider and/or act upon approval of an ordinance amending Chapter 86 (Zoning) of the City of Murphy Code of Ordinances regarding Alternative Financial Establishments (aka check cashing business, payday advance or loan business or a car title loan business).**

Council Action

Mayor Baldwin opened the Public Hearing at 6:13 p.m. With no public comments submitted, Mayor Baldwin closed the Public Hearing at 6:13 p.m. Councilmember Halbert moved to approve an ordinance amending Chapter 86 (Zoning) of the City of Murphy Code of Ordinances regarding Alternative Financial Establishments changing Section 4 from 50% to 25% and adding the requirement that they be free-standing and 1500 feet apart from each other from property line to property line. Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

2. **Consider and/or act on the application of the Plano Independent School District requesting approval of the Final Plat for McMillen High School on property zoned PD (Planned Development) District for Public School, Stadium and Other School District Support Uses on property located on North Murphy Road, north of Spring Ridge Drive.**

Council Action

Councilmember Daugherty moved to approve a final plat for McMillen High School on property zoned PD (Planned Development) District for Public School, Stadium and Other School District Support Uses on property located on North Murphy Road, north of Spring Ridge Drive. Councilmember Richmond seconded the motion. A vote was taken and passed, 7-0.

3. **Consider and/or act upon the purchase of Solar Trash Compactors and Recycle Bins from the recycle rebate funds.**

Council Action

Councilmember Brandon moved to approve the purchase of Solar Trash Compactors and Recycle Bins from the recycle rebate funds not to exceed \$10,000. Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

4. **Consider and/or act upon a citizen's request for exemption of Chapter 14 "Animals", section 14-51 under The Murphy City Code.**

Council Action

Councilmember Brandon moved to approve a citizen's request for exemption of Chapter 14 "Animals", section 14-51 under The Murphy City Code. Councilmember Grant seconded the motion. After further questions, Council requested to speak to the applicant and Councilmember Brandon withdrew his motion with the consent of Councilmember Grant. There was no action on this item.

5. **Consider and/or act upon a petition for referendum filed involving Ordinance 11-05-881 amending the comprehensive zoning ordinance and map, CHAPTER 86 of the City of Murphy Code of Ordinances by amending an existing Planned Development District for Retail Uses on a 24.032 acre tract of land located on the northwest quadrant of FM 544 and North Murphy Road (Wal-Mart).**

Council Action

Andy Messer, City Attorney, advised Council to convene into Executive Session prior to the consideration of this item. Councilmember Grant stated that he was recusing himself from discussion and deliberation on this item due to his previous work as an attorney for Walmart. Councilmember Grant was not present for the discussion of this item in Open or Closed Session. Mayor Baldwin convened into Executive Session at 6:19 p.m. under Section §551.071 - 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 development and referendum issues.

Mayor Baldwin reconvened into Regular Session at 6:41 p.m. Mr. Fisher stated for the record as a reminder that Councilmember Grant had recused himself from discussion and deliberation on this item.

Staff Comments

City Secretary Nemer informed Council that a referendum petition was filed on June 21, 2011 by Mr. Jerry Davidson requesting that an amended Planned Development ordinance for Walmart approved by City Council on May 24th be submitted to the voters for approval or disapproval. Ms. Nemer stated that the petition contained 485 signatures of which 395 were confirmed and determined to be legally sufficient as to form pursuant to City Charter and the Texas Election Code.

Andy Messer, City Attorney, addressed Council and spoke generally about referendum petitions and reviewed case law regarding similar petitions. Mr. Messer specifically stated that it is his opinion that Council should take no action on the referendum petition that is on the agenda for Council consideration.

Public Comments

Mayor Baldwin called for public comments. Mr. Jerry Davidson addressed Council stating that 395 signatures were submitted to Council and requesting an answer to the petition. Mr. Davidson stated that he would take this to court if necessary.

Council Action

After comments and recommendations from the City Attorney, Mayor Baldwin opened the matter for any motions; no motion was made and Council took no action on this item.

Public Comments

Mr. Davidson left the Council Chambers and stated, "I will see you in court."

6. Consider and/ or act upon authorizing the City Manager to approve change orders 1-12 for the Murphy Community Center.

Council Action

Motion 1 - Councilmember Halbert moved to approve the following Change Orders:

- #1 Replace gym floor with all new maple \$15,000 (salvage gym floor for dance room)
- #4 Install electric hot water heater for animal shelter vs gas line \$2,200
- #7 Reclaim brick from the back of building for the front wall \$3,000
- #9 Add a double front door vs single door \$3,000

Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

Motion 2 - Councilmember Halbert moved to approve Change Order #3 Expose Brick on north lobby wall, drywall furring all other interior walls \$15,000. Councilmember Daugherty seconded the motion. A vote was taken and passed, 6-1 with Councilmember Brandon opposed.

Motion 3 – Councilmember Halbert moved to approve Change Order #8 Install cast stone below back windows where brick was removed \$7,000. Councilmember Richmond seconded the motion. A vote was taken and passed, 6-1 with Councilmember Grant opposed.

Motion 4 – Councilmember Halbert moved to approve Change Order #10 Upgrade basketball goals with electric adjusters, wench and bolted padding \$3,000. Councilmember Bradley seconded the motion. A vote was taken and passed, 5-2 with Councilmember Halbert and Grant opposed.

Motion 5 – Councilmember Brandon moved to approve Change Order #11 to remove the oven only. Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

There was no motion made for the remaining Change Orders listed below. Additional information is needed. Regarding Changer Order #5, Councilmember Halbert stated she preferred to paint the doors versus stain. Council was in agreement. Regarding Change Order #6, Councilmember Halbert stated she preferred to purchase a door that matched the existing historical door. Council was in agreement.

- #2 Expose Brick in gym behind bleachers in the 3 small bays, price quote needed
- #5 Paint all interior and exterior doors vs stain
- #6 Purchase historical interior hall doors for rooms with windows, price quote needed
- #12 Lobby area – change to open concept, price quote needed

Council Comments

Councilmember Halbert stated that she was disappointed that the oak tree was left on the property after the other trees were removed, giving the impression that it would remain in the landscape. She stated that is not what Council approved. Mr. Fisher explained that it was his decision to provide a more thorough review of the tree before removing it.

DISCUSSION ITEMS

7. Discussion regarding the design and phase 1 construction plans for Murphy Central Park Project

Council Discussion

Dennis Sims, the consultant on the project, reviewed conceptual construction plans for the amphitheater, picnic pavilion, playground, spray park, and restroom/concession building.

Councilmember Brandon requested that the general purpose fields be shown on the designs as general purpose fields and not marked for lacrosse. Councilmember Brandon also requested additional information on the technical aspects of the amphitheater.

Councilmember's Grant and Brandon expressed concerns regarding the spray park due to liability and health/safety issues.

There was discussion regarding recapturing the water from the spray park and three options were discussed. Option 1 is to sewer the water, Option 2 is to install an underground pump for irrigation use,

and Option 3 is to treat the water for re-use. Councilmember Halbert expressed a preference to use the recaptured water for irrigation purposes.

There was discussion regarding the fill dirt needed to build up the slope for the amphitheater. Councilmember Bradley expressed a preference to increase the slope to 14% rather than 7%.

Councilmember Halbert mentioned initiating a capital campaign with the community to raise the funds for the amphitheater.

Council requested additional budgeting information and all alternates listed separately.

CITY MANAGER/STAFF REPORTS

- **July 8 City Council Budget Work Session**
- **July 19 City Council meeting**

EXECUTIVE SESSION

The City Council will hold a closed Executive Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.

§551.071 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 development and referendum issues.

Council Action

As noted under Item 5, Mayor Baldwin convened into Executive Session regarding development and referendum issues at 6:19 p.m.

§551.072. Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.

Council Action

Mayor Baldwin convened into Executive Session regarding contemplated litigation and deliberation on real property at 8:57 p.m.

RECONVENE INTO REGULAR SESSION

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

§551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.

§551.071 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 development and referendum issues.

Council Action

As noted under Item 5, Mayor Baldwin reconvened into Regular Session regarding development and referendum issues at 6:41 p.m. No action was taken as a result of the Executive Session.

§551.072. Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.

Council Action

Mayor Baldwin reconvened into Regular Session regarding contemplated litigation and deliberation on real property at 9:39 p.m. No action was taken as a result of the Executive Session.

ADJOURNMENT

With no further business, the meeting was adjourned at 9:40 p.m.

APPROVED BY:

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary