

CITY COUNCIL MINUTES
REGULAR CITY COUNCIL MEETING
FEBRUARY 21, 2017 AT 6:00 PM

1. CALL TO ORDER

Mayor Barna called the meeting to order at 6:00 pm.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

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

3. ROLL CALL & CERTIFICATION OF A QUORUM

City Secretary, Susie Quinn, certified a quorum with the following Councilmembers present:

Mayor Eric Barna
Mayor Pro Tem Scott Bradley
Deputy Mayor Pro Tem Owais Siddiqui
Councilmember Jennifer Berthiaume
Councilmember Betty Nichols Spraggins
Councilmember Sarah Fincanon
Councilmember Don Reilly

4. PRESENTATIONS/RECOGNITIONS

A. Presentation of financial report as of January 31, 2017.

Interim Financial Director Steven Ventura presented the financial report for January 31, 2017. Account balances ending January 31, 2017 reflects interest rates continuing to increase. Sales Tax collection through February 2017 appears down versus February last year but increased this year overall. Month to Date chart reflects numbers for General Fund Revenues, General Fund Expenditures and Utility Fund Revenue detailing last year (January 2016) to current year (January 2017) numbers for the month of January (numbers reflected state difference between January 2016 and 2017 with a variance percentage). Year to Date chart reflects numbers for General Fund Revenues, General Fund Expenditures and Utility Fund Revenues detailing totals from October through January for budget FY17, current year (January 2017) and last year (January 2016). Permits and Licenses issued five (5) single family building permits in January, for a total of fourteen (14) for the year.

FY2016 Hail Damage Report:

- Total paid for facility repairs \$641,744
- Total paid for vehicle repairs \$166,135
- Total repairs \$807,879
- TML payments received \$742,293

FY2017 Hail Damage Report:

- Total paid for facility repairs \$623,330
- Total encumbered for facility repairs \$312,112
- Total paid for vehicle repairs not applicable
- Total repairs \$935,442
- TML payments received \$795,246
- Remaining TML payment expected FY17 \$187,917

Hail Damage Summary Report:

- Property repairs \$1,577,185
- Vehicle repair \$166,135
- Repair total \$1,743,320
- TML payment total \$1,725,456 (minus deductibles)

Council thanked Steven for all of his work with the City and wished him well in his new position.

B. PUBLIC COMMENTS

No Public Comments presented.

C. CITY MANAGER/STAFF REPORTS

- A. Radio Systems – Chief Trey Cotten provided an update to Council that work is still ongoing at the Fire Station installation with another week to complete that installation prior to moving onto the Police station to connect the systems. A group of Motorola engineers were at the Police Department today to complete the install of the software into the NICE logging system, should be finished by the end of the week.
- B. Sidewalk Rehabilitation Program – Public Services Director Tim Rogers provided an update to Council that the project has stalled due to a schedule conflict for the contractor with the recent rain and contractor also services the City of Wylie but should be back on schedule in a couple of weeks. Council inquired if the sidewalk prioritization list is reassessed since this list was compiled more than a year ago. Staff responded that the prioritization list is constantly growing, staff has a set prioritization workload, the original list had about five (500) locations. Residents can call in or submit a track requestor, staff will inspect the location, add to the prioritization list but priority on the list will be determined on the assessment of the sidewalk. Currently, staff is working on the initial high priority list and the medium priority needs to be completed. Concrete panel repairs on McCreary Road have been completed and all of the barricades were removed as of Friday last week. At the request of Council, Staff is to check Waters Edge intersection with McCreary Road first thing in the morning.
- C. South Maxwell Creek Sewer Line –Public Service Director Tim Rogers provided an update to Council that progress on the project has slowed due to the rains. At North Maxwell, the contractor preparing to dig the bore pit to install the line under the railroad track. Contractor continues to cleanup and prepping for the testing on the new line.
- D. FM544 Traffic Safety Update – City Manager Mike Castro provided an update to Council that TXDOT installed three (3) of the LED lights at the intersection on FM 544. Installation began Saturday, February 11, 2017 and was completed in a week. TXDOT would like to have only one (1) sidewalk crossing on FM 544 at the western section of the intersection. During the summer, TXDOT plans to remove the striping on the eastern sidewalk side of the intersection. In the meantime, Council inquired how pedestrians and bikers will be alerted to the danger of the intersection. Staff replied that the City of Murphy does not have a plan but will inquire with TXDOT as to their plan to address the concern. A suggestion from Council in alerting residents to the intersection concerns would be to communicate on city wide publications.

E. Department Directors Vacancies

- Community and Economic Development Director, Jared Mayfield began February 13 and was welcomed.
- Finance Director –four (4) candidates were interviewed, possible decision in the next couple of days.
- IT Director – currently advertising the position, have received about sixty (60) applicants in a week.

F. Upcoming Events –

Prior to discussing upcoming events the first Daddy Daughter Dance, held February 18, 2017 was discussed and comments from the event included attendees having a great time and thought the event was amazing. The only complaint was that there were not enough tickets available.

- Rainbow Trout Round-Up – Saturday, February 25, 2017 from 9 am until 11 am at the City Hall pond, 206 North Murphy Road
- Newcomers Guide to Gardening in Collin County – Saturday, March 11, 2017 from 8 am until Noon, Allen Public Library Auditorium, 300 North Allen Drive, Allen, Texas 75013
- Reception and Announcement of the Recycling Poster Contest winners – Tuesday, March 21, 2017 from 5:30 pm until 6:15 pm at City Hall, 206 North Murphy Road, Murphy, Texas 75094
- Community Clean & Green/Great American Clean-up – Saturday, April 1, 2017 at City Hall parking lot, from 9:00 am until Noon, 206 North Murphy Road, Murphy, Texas 75094

7. 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 to approve the February 7, 2017 Regular Council meeting minutes. *Susie Quinn, City Secretary*

COUNCIL ACTION (7.A.):

APPROVED

Mayor Pro Tem Bradley moved to approve the consent agenda as presented. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7-0.

- B. Consider and/or act upon approval of Resolution No. 17-R-846 authorizing signature authority to sign and endorse checks and drafts of the City of Murphy bank accounts. *Steven Ventura, Interim Director of Finance.*

Interim Finance Director Steven Ventura addressed Council that the resolution must be updated with current signatures. The resolution will add Alan Guard, incoming Interim Finance Director and remove Steven Ventura, outgoing Interim Finance Director as authorized signatures on the City of

Murphy bank accounts. Staff requested approval of Resolution No. 17-R-846 authorizing signature authority to sign and endorse checks and drafts of the City of Murphy bank accounts.

COUNCIL ACTION (7.B.):

APPROVED

Mayor Pro Tem Bradley moved to approve Resolution No. 17-R-846 authorizing signature authority to sign and endorse checks and drafts of the City of Murphy bank accounts. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7-0.

8. INDIVIDUAL CONSIDERATION

- A. Hold a public hearing and consider and/or act on the application of Winkelmann and Associates Inc. to request approval for a Specific Use Permit (SUP) allowing a drive-thru for an Andy's Frozen Custard restaurant to be located on 4.696 acres at the south west corner of Timber Ridge Drive and FM 544 zoned Neighborhood Services (NS) in Planned Development (PD) District 16-09-1021 having the legal description of ABS A0579 Henry Maxwell Survey, Tract 75.

Community and Economic Development Director Jared Mayfield addressed Council that the application for a Specific Use Permit (SUP) for an Andy's Frozen Custard with a drive-thru comprising approximately 1800 square feet on 4.696 acres. A drive thru along with a drive lane, escape lane, order placement area and pick up window are all proposed. There is 90 feet from the ordering station to the closest residential property line, which is not in conflict with City Code. September 20, 2016, the concept plan approved by City Council for Neighborhood Services with a Planned Development overlay (original concept plan, drive thru were not detailed). Even though drive thru is allowed in the zoning district and in the Planned Development, a Specific Use Permit (SUP) is required.

On February 13, 2017, applicant presented to the Planning and Zoning Commission an application for a Specific Use Permit (SUP) for a drive-thru for an Andy's Frozen Custard, this particular request does not have a microphone or speaker system but is proposing to take orders at the window. The Planning and Zoning Commission on February 13, 2017 denied approval of this item by a vote of three votes in favor of the request with conditions and four votes in objection to the item. To date the City (February 16, 2017) has received the following responses via reply forms: In favor 6; Opposed 5. As of 4:00 pm the City (February 21, 2017) had received the following public comments. Updated results: In favor 6; Opposed 6. The applicant appealed the decision and action requested is to consider the requested Specific Use Permit (SUP) application at the next meeting.

COUNCIL ACTION (8.A.):

APPROVED

Mayor Pro Tem Bradley moved to continue the Public Hearing for Item 8.A. until the March 7, 2017 Regular City Council Meeting. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7-0.

- B. Hold a public hearing and consider and/or act on the application of Winkelmann and Associates Inc. to request approval for a Specific Use Permit (SUP) allowing a drive-thru Jason's Deli restaurant to be located on 4.696 acres at the south west corner of Timber Ridge Drive and FM 544 zoned Neighborhood Services, in Planned Development (PD) district 16-09-1021 having the legal description of ABS A0579 Henry Maxwell Survey, Tract 75.

Community and Economic Development Director Jared Mayfield addressed Council that the application for a Specific Use Permit (SUP) for a Jason's Deli with a drive-thru comprising 4800 square feet on 4.696 acres. A drive thru along with a drive lane, escape lane, order placement area and pick up window are all proposed. There is only 50 feet from the order speaker to the closest residential property line, which is not in conflict with City Code. On September 20, 2016, the concept plan approved by City Council for Neighborhood Services with a Planned Development overlay (original concept plan, drive thru were not detailed). Even though drive thru is allowed in the zoning district and in the Planned Development, a Specific Use Permit (SUP) is required.

On February 13, 2017, applicant presented to the Planning and Zoning Commission an application for a Specific Use Permit (SUP) for a drive-thru for a Jason's Deli with a traditional drive-thru setup with a speaker and menu. The Planning and Zoning Commission on February 13, 2017 denied approval of this item by a vote of two in favor of the request with conditions and five votes in objection to the item. To date the City (February 16, 2017) has received the following responses via reply forms: In favor 95; Opposed 9; Neutral 1. As of 4:00 pm the City (February 21, 2017) had received the following public comments. Updated results: In favor 108; Opposed 10; Neutral 1. The applicant appealed this decision and action requested is to consider the requested Specific Use Permit (SUP) application at the next meeting.

COUNCIL ACTION (8.B.)

APPROVED

Mayor Pro Tem Bradley moved to continue the Public Hearing for Item 8.B. until the March 7, 2017 Regular City Council Meeting. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7-0.

- C. Hold a public hearing and consider and/or act on the application of Winkelmann and Associates Inc. to request approval for an Amendment to a Concept Plan located on 4.696 acres at the south west corner of Timber Ridge Drive and FM 544 zoned Planned Development (PD) District 16-09-1021, having the legal description of ABS A0579 Henry Maxwell Survey, Tract 75.

Community and Economic Development Director Jared Mayfield addressed Council that the approval for an Amendment to a Concept Plan on a property located on 4.696 acres at the south west corner of Timber Ridge Drive and FM 544. The concept plan has been proposed for amendment in the following ways from the approved concept plan (approved by City Council on September 20 2016, original concept plan drive thru were not detailed).

1. Two drive-thru restaurants are now proposed, one with a microphone and speaker within 50 feet of existing single family development. The second is an order window that does not have speakers or microphones.
2. Two drive thru lanes and two escape lanes are now proposed.
3. Two dumpster locations are shown within 50 feet of existing single family development and are within the 50 foot setback from existing residential as required in the PD.
4. The project entry driveways have been re-configured which will change the traffic circulation of the project.
5. The layout of the hooded left turn on FM 544 has been modified.

Applicant withdrew the Specific Use Permit (SUP) drive thru for Costa Vida at the February 13, 2017 Planning and Zoning Commission meeting. On February 13, 2017 the Planning and Zoning Commission denied approval of this item by a vote of six votes in favor of denying the request and

one vote in objection to denying the item. To date the City (February 16, 2017) has received the following responses via reply forms: In favor 3; Opposed 6. As of 4:00 pm the City (February 21, 2017) had received the following public comments. Updated results: In favor 3; Opposed 7. The applicant has appealed this decision and action requested is to consider the requested amendment to concept plan.

Council inquired as to the existing pecan tree on the property if it is deed restricted and the pecan tree is protected by a deed restriction. What steps are in place to care for the tree with future construction to take place at location was also asked. StreetLevel Investments hired an Arborist to care for the tree.

Myron Dornic, Attorney on behalf of StreetLevel Investments addressed Council that the intention of StreetLevel Investments tonight is to table items 8.A., 8.B. and 8.C. until the next City Council agenda. StreetLevel Investment heard some resident concerns from the public hearing at the Planning and Zoning Commission meeting that StreetLevel Investments would need to develop and address the concerns but that the information is not available at this time. Jana Bean who is the project manager on this project was ill and could not attend the meeting. Council inquired as to what information is StreetLevel Investments waiting on, Mr. Dornic responded in particular Noise. StreetLevel investments is working with an acoustician to provide additional information to present to Council. A couple of homeowners requested changes to the screening wall, StreetLevel Investments has not had the opportunity to gather the necessary information.

Jonathan Crawford, EDGE Realty Partners, broker for the property addressed Council's question on tenant mix about having a letter of intent from prospective tenants? A signed letter of intent with Jason's Deli for Lot 1, Andy's Frozen Custard for Lot 2 with conditions. A half dozen tenants to obtain a letter of intent for the remainder of the property (a couple of casual restaurants who do not have a drive-thru, a pet store, insurance agency and inquiries from nail salons and auto parts) have not been completed. What type of contingencies are in the letters of intent from prospective tenants was asked. All tenants have stipulated a drive-thru and hooded left turn. Resident question, asked about the type of Jason's Deli would be at this location. He wondered if it would be a full service Jason's Deli or an Express Jason's Deli. For this location, the restaurant will be a full service Jason's Deli as the Express Jason's Deli concept no longer exists.

Will Winkelmann, Civil Engineer with Will Winkelman Associates provided to Council an overview on the deceleration lane that has been reviewed with staff, the Fire Marshall and last week submitted documents to TXDOT for their opinion. A question from Council was asked about how to alleviate some of the traffic flow at Timber Ridge Drive. That intersection has not been reviewed.

Todd Huntington, Project Manager with GPD Group (Architect Engineer for Jason's Deli) addressed Council about the number of seats provided in the restaurant. The building is the new prototype without an exterior patio and interior seating count is about 130 to 150. The business model function is significantly different than a Chick Fil A, Taco Bell or McDonalds as drive through is not fifty or sixty percent (50% or 60%) of their business. They have always had a "To Go" concept for customers to pick up food but orders take time to prepare. The drive through averages about ten percent (10%) of their business.

Fire Chief Del Albright and Fire Marshall Perry Elliott addressed Council on concerns of the hooded left turn that is being proposed at the location in regards to the Fire truck apparatus. When

responding to emergency situations the apparatus could be damaged and/or slowed in responding time because of the hooded left turn.

Craig Kerkoff, Consulting Engineer for the City of Murphy provided to Council information on TXDOT process in regards to submitting permits.

Brian Murphy, Managing Partner with StreetLevel Investments addressed Council in regards to the sale of the property being contingent on specific items.

PUBLIC HEARING OPENED at 7:16pm

Dave Brandon, resident – Opposed

Phillip Campbell, resident – Opposed

Margaret Andreescu, resident – Opposed

Margaret Smith, resident – In Favor

Shawn Hardy, resident – In Favor

Bob Mortonson, resident – In Favor

COUNCIL ACTION (8.C.)

APPROVED

Mayor Pro Tem Bradley moved continue the Public Hearing for Item 8.C. until the March 7, 2017 Regular City Council Meeting. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7-0.

- D. Consider and/or act on a request by RJ Mexican Cuisine Restaurant to approve an economic development grant of \$60,000 and an economic development loan of \$40,000 to be paid back in full within the next five years of the adoption of this ordinance. The grant and loan are for furniture, fixtures and equipment for a new restaurant proposed for Evans Crossing on the east side of Walmart facing Murphy Road.

Mr. Jay Khan, Manager/Partner of Chef Time, LLC submitted a request for economic assistance in the amount of \$150,000 from the Murphy Municipal Development District board for a construction assistance grant for a new Mexican food restaurant. Mr. Khan plans to open his second location of RJ Mexican Cuisine in Evans Crossing, which is currently under construction in the Wal-Mart outparcel property on North Murphy Road. The Murphy Municipal Development District board on February 6, 2017 approved an incentive to Mr. Khan for the following: A grant in the amount of \$60,000 and a loan in the amount of \$40,000 to be repaid over five (5) years with an undefined interest rate.

Council requested applicant respond to questions Council had on his request. Is there a concept plan already developed? How soon would you see the location opening if funded was approve?

Mr. Jay Khan, Manager/Partner of Chef Time, LLC addressed Council that there is no concept plan developed, just a letter of intent but a concept plan is already in place as this will be a second (2nd) location of RJ Mexican Cuisine Restaurant and plans to open in six (6) months. Menu and quality of the food still a chef driven concept but with a different price point.

Direction has been provided to the staff to move forward with a contract in preparation for the next City Council meeting.

Jim Smith, resident is opposed to the economic development grant and loan be approved for RJ Mexican Cuisine Restaurant in regards to item 8.D.

COUNCIL ACTION (8.D.)

NO ACTION

9. EXECUTIVE SESSION

In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council recessed into Executive Session (closed meeting) at 7:32 pm to discuss the following:

- A. §551. 071: Consultation with City's 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 the Texas Open Meetings Act regarding zoning, land use, and moratoriums.
- B. §551. 087: To discuss or deliberate regarding commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay, or expand in or near the territory of the City of Murphy and with which the City is conducting economic development negotiations; and/or to deliberate the offer of a financial or other incentive to the business prospect.

10. RECONVENE INTO REGULAR SESSION

The City Council reconvened into Regular Session at 8:05 pm, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

11. ADJOURNMENT

With no further business, a motion was entertained by the Mayor and the Council meeting adjourned at 8:10 pm.



APPROVED BY:

A handwritten signature in blue ink, appearing to read 'Eric Barna', is written over a horizontal line.

Eric Barna, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read 'Susie Quinn', is written over a horizontal line.

Susie Quinn, City Secretary