

CITY COUNCIL MINUTES
REGULAR CITY COUNCIL MEETING
MARCH 7, 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 – filed a conflict of interest for items 6G and 6H

Councilmember Betty Nichols Spraggins

Councilmember Sarah Fincanon – left the videoconference at 7:36 pm

Councilmember Don Reilly– filed a conflict of interest for items 6G and 6H

4. PUBLIC COMMENTS

Mary Pat Elledge, resident addressed Council in regards to the Murphy Veteran's Tribute project looking for an organization to sponsor this effort, possible tribute site location, and volunteers to support the project and make this project a community effort.

5. CITY MANAGER/STAFF REPORTS

- A. Radio Systems – Chief Trey Cotten stated that the project is progressing. The NICE logger system install is almost complete, engineers are working on small glitches in the system and training is to be held on March 15th and 16th for the system. USDD Bump Out system has been delayed by two weeks, they will be here to install and hold training the week of March 27 – 31st. Medical ProQA software training will be held in April. The project is about 93% complete.
- B. Sidewalk Rehabilitation Program – Public Services Director Tim Rogers provided an update to Council that the sidewalk program will begin saw-cutting this week and pouring next week. About 75% of the project funds have been expended for fiscal year 2017. Subdivisions to complete are Daniels Crossing, Stratford Crossing and Hunter's Landing from the initial list. For fiscal year 2018, staff will have a new list to prioritize.
- C. South Maxwell Creek Sewer Line –Public Service Director Tim Rogers provided an update to Council that the boring crew is working diligently but the weather has hindered the progress for the other crew to be able to complete the testing. The boring crew has completed one hundred feet (100 ft.) underneath the railroad track, they are moving slowly due to rock.
- D. Parks Master Plan – City Manager Mike Castro provided an update about the Parks Board working on the Parks Master Plan and stated that the Parks Board will be holding a Public Input Meeting in the near future. Council will be notified when the date has been set.

- E. FM544 Traffic Safety Update – City Manager Mike Castro provided an update to Council about the intersection at FM544 and Hawthorne. Brenan Honey, TxDOT Engineer conducted a site visit and provided feedback to the City. Mr. Honey stated that TxDOT will not work on a partial project, if the buttons are removed at the intersection but the striping is not removed at the same time, it could create a safety hazard to the public. The City did receive plans from TxDOT for work to be completed this summer at the intersection and a copy of those plans have been given to City Engineer, Gary Hendricks for review and a recommendation to the City.
- F. Upcoming Events –
- Newcomers Guide to Gardening in Collin County – Saturday, March 11, 2017 from 8:00 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
 - Earth Day (recognized on April 22nd) but KMB will recognize it on Friday, April 21st at the Moonlight Movie Event, *Finding Dory*, 8:00 pm, Murphy Central Park Amphitheater – 550 North Murphy Road, Murphy, Texas 75094
 - Drug Take Back (Police Department and KMB partner on this) is on Saturday, April 29th in front of the Police Station, from 10:00 am until 2:00 pm, 206 North Murphy Road, Murphy, Texas 75094
 - Tunes, Tails, & Ales on Saturday, April 29th from 1:00 pm to 8:00 pm, Murphy Central Park, 550 North Murphy Road, Murphy, Texas 75094

6. INDIVIDUAL CONSIDERATION

- A. Consider and/or act to approve the February 21, 2017 Regular Council meeting minutes. *Susie Quinn, City Secretary*

COUNCIL ACTION (6.A.):

APPROVED

Mayor Pro Tem Bradley moved to approve the February 21, 2017 Regular Council meeting minutes. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7-0.

Mayor Barna explained that items 6A, 6B and 6C would be grouped together for the Public Hearing portion of the meeting.

PUBLIC HEARING FOR ITEMS 6A, 6B, AND 6C OPENED at 6:18pm

Jana Bean, StreetLevel Investments introduced team members who were in attendance: Winkelmann & Associates, Acoustonica (sound engineer), Edge Realty Partners (Real Estate broker), and Margaret and Jim Smith (current property owners). Jana Bean and team members were present to answer any questions. The project timeline began with the city on April 6, 2016 to begin a collaboration and dialogue to understand what the city wanted and what the city needed. The application before Council is for a Jason's Deli and Andy's Frozen Custard which meets

the intent of the neighborhood services development. Jason's Deli is traditionally a sit down restaurant that meets zoned neighborhood services however, in their new concept and corporate initiative the restaurant will have a convenience window. Andy's Frozen Custard would be a great addition to zoned neighborhood services as they specialize in frozen treats not fast food. Originally the team began with three (3) applications for restaurants that had drive-thrus. We heard the concerns that presenting three (3) restaurants with drive-thrus would be too much, so we pulled one application. Another item of concern we heard is the noise level, the team requested Council to table discussion at the last city council meeting, so noise levels study could be conducted.

Myron Dornic on behalf of StreetLevel Investments addressed Council that TxDOT had reviewed the hooded left turn documents and has confirmation that the hooded left turn meets their requirements. The noise information was provided to Council as well. The Specific Use Permit (SUP) request meets all of the standards in the City's ordinance and the team respectfully requests approval of the applications.

PUBLIC HEARING FOR ITEMS 6A, 6B, AND 6C CLOSED at 6:23pm

- B. Hold a public hearing and consider and/or act on Ordinance No. 17-03-1031 approving a Specific Use Permit (SUP) allowing a drive-thru for an Andy's Frozen Custard restaurant to be located on .668 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. *Jared Mayfield, Community and Economic Development Director*

Director of Community and Economic Development, Jared Mayfield addressed Council that the item is an application for a specific use permit for an Andy's Frozen Custard with a drive-thru comprising of approximately 1800 square feet on .668 acres of the 4.696 acres in the development. A drive thru along with a drive lane, escape lane, order placement area and pick up window are all proposed. While not in conflict with the Code of Ordinances, there is only 90 feet from the ordering station to the closest residential property line. On February 13, 2017 the Planning and Zoning Commission denied approval of this item. A super majority vote by the City Council is required to approve this item. To date (March 2, 2017) the City has received the following responses via Reply Forms, emails and Public Comment forms: In favor 6; Opposed 7. Action requested is to consider the requested Specific Use Permit application, as continued from the February 21, 2017 City Council meeting.

Councilmember Berthiaume moved to deny Ordinance No. 17-03-1031 for Specific Use Permit (SUP) allowing a drive-thru for Andy's Frozen Custard. Motion died for lack of a second.

COUNCIL ACTION (6.B.):

APPROVED

Mayor Pro Tem Bradley moved to continue Item 6.B. until the March 21, 2017 Regular City Council Meeting awaiting additional conversations from the applicant and a legal opinion from the city attorney. Councilmember Reilly seconded the motion. For: Mayor Barna, Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Spraggins, Councilmember Fincanon and Councilmember Reilly. Against: Councilmember Berthiaume. The motion carried by a vote of 6-1.

- C. 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 the 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. *Jared Mayfield, Community and Economic Development Director*

Director of Community and Economic Development, Jared Mayfield addressed Council that this item is an application for a specific use permit for a Jason's Deli with a drive-thru comprising about 4800 square feet of building on 1.358 acres of the 4.696 acres in the development. A drive thru along with a drive lane, escape lane, order placement area and pick up window are all proposed. While not in conflict with the Code of Ordinances, there is only 50 feet from the order speaker to the closest residential property line. On February 13, 2017 the Planning and Zoning Commission denied approval of this item. A super majority vote by the City Council is required to approve this item. To date (March 2, 2017) the City had received the following responses via Reply Forms, emails and Public Comment forms: In favor 105; Opposed 13; Neutral 1. Action requested is to consider the requested Specific Use Permit application, as continued from the February 21, 2017 City Council meeting.

COUNCIL ACTION (6.C.)

APPROVED

Mayor Pro Tem Bradley moved to continue Item 6.C. indefinitely pending revisions from the applicant and a legal opinion from the city attorney. Councilmember Reilly seconded the motion. For: Mayor Barna, Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Spraggins, Councilmember Fincanon, and Councilmember Reilly. Against: Councilmember Berthiaume. The motion carried by a vote of 6-1.

- D. Hold a public hearing and consider and/or act on Ordinance No. 17-03-1033 amending the Development Conditions and Standards and approving a Concept Plan located for a 4.696 acre tract 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. *Jared Mayfield, Community and Economic Development Director*

Director of Community and Economic Development, Jared Mayfield addressed Council that this is a request for approval of 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 zoned Planned Development (PD) District 16-09-1021, having the legal description of ABS A0579 Henry Maxwell Survey, Tract 75. On February 13, 2017 the Planning and Zoning Commission denied approval of this item. A super majority vote by the City Council is required to approve this item. To date (March 2, 2017) the City has received the following responses via Reply Forms, emails and Public Comment forms: In favor 2; Opposed 8. Action requested is to consider the requested Concept Plan amendment, as continued from the February 21, 2017 City Council meeting.

Council discussion centered on questions relating to the pending sale of the property. Jana Bean addressed Council that StreetLevel Investments is currently under contract with owners, Jim and Margaret Smith and asked for an extension in order to meet TxDOT requirements and approvals. Currently, the inspection period expires in May with thirty (30 days) to closing which would be June. Considerations within the contract are rezoning (which have been completed), TxDOT approval (hooded left turn and two (2) driveways) and then final city approvals. The letter of intent

for Jason's Deli and Andy's Frozen Custard is to purchase the property to become permanent landowners. If approved, purchase contracts would be finalized soon. Council discussion also centered on traffic concerns and noise impact within the development.

Walid Tikriti with Acoustonica, LLC presented to Council results from the Noise Assessment at the proposed Village of Timbers commercial development and adjacent properties. The purpose of the evaluation is to assess the noise impact, if any, from the commercial development upon the adjacent residences once the development is constructed. Acoustonica, LLC conducted ambient noise measurement and examined the site conditions and recorded the exterior sound levels at the site. Multiple noise readings were conducted along the property line: each measurement was approximately ten (10) minutes in duration. Sound measurements were also taken at various drive thru restaurants including, Sonic, Taco Bell and Jason's Deli. In conclusion, installing the eight (8-foot) masonry wall by preserving existing trees and planting new trees along the property line are recommended and will help reduce the sound level from the drive through speaker to meet the city noise ordinance. In the team's judgment, the commercial development complies with the noise requirements set by the city of Murphy article 14.04 noise.

Council had a question in regards to the location of the trash dumpsters. Jana Bean addressed Council that StreetLevel Investments engineers are currently researching alternate trash dumpster locations. Additional discussion points from Council and Jana Bean with StreetLevel Investments included traffic concerns in and out of the proposed development, traffic on FM 544 in regards to the hooded left turn, and depth of the proposed property.

COUNCIL ACTION (6.D.)

APPROVED

Mayor Pro Tem Bradley moved to continue Item 6.D. indefinitely pending revisions from the applicant and a legal opinion from city attorney. Councilmember Reilly seconded the motion. For: Mayor Barna, Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Spraggins, Councilmember Fincanon, and Councilmember Reilly. Against: Councilmember Berthiaume. The motion carried by a vote of 6-1.

- E. Hold a public hearing and consider and/or act on the adoption of Ordinance No. 17-03-1034 enacting a temporary moratorium to suspend the acceptance of permits, authorizations, and approvals necessary for the subdivision of, site planning of, property development, or construction on real property within the area bounded on the north by FM 544, on the west by Murphy Road, on the south by Timbers No. 5, Phase 1 and on the east by The Timbers No. 4-A. (*Jared Mayfield, Community and Economic Development Director*) (*First Reading*)

PUBLIC HEARING OPENED at 7:55pm

PUBLIC HEARING CLOSED at 7:55pm

The second reading for Ordinance No. 17-03-1034 will be held on Monday, March 13, 2017 in a Special Council meeting.

COUNCIL ACTION (6.E.)

NO ACTION

- F. Consider and/or act on the request for grant funding for improvements in tenant space for a new RJ Mexican Cuisine Restaurant. (*Jared Mayfield, Community and Economic Development Director*)

Staff was given direction to finalized contract language.

COUNCIL ACTION (6.F.)

NO ACTION

- G. Consider and/or act on the application of the Exchange Club of Murphy for consideration of an amendment to a previously awarded Community Grant fund. (*Jared Mayfield, Community and Economic Development Director*)

The Exchange Club of Murphy applied for and was awarded a grant up to \$2,000 by the Murphy Community Development Corporation board on October 17, 2016 to fund the purchase of a "Freedom Shrine" to be installed at McMillen High School. After approval by the Murphy Community Development Corporation board, the applicant determined that McMillen High School did not have sufficient space to install the "Freedom Shrine". The applicant has secured permission from the Principal of Boggess Elementary as they have space and are eager to have the "Freedom Shrine" installed at their school. This grant was unanimously approved at the October 17, 2016 and February 20, 2017 Murphy Community Development Corporation meetings.

Marvin Williams with the Exchange Club of Murphy addressed Council that the community grant awarded to the Exchange Club for a "Freedom Shrine" of historical documents at the McMillen High School will need to be amended to reflect a new location. Unfortunately McMillen High School did not have twenty-eight (28) feet of continuous space to display the thirty (30) plaques. The Exchange Club of Murphy has received a letter of approval from Principal Marilyn Carruthers of Boggess Elementary approving the "Freedom Shrine" display at Boggess Elementary School.

COUNCIL ACTION (6.G.)

APPROVED

Mayor Pro Tem Bradley moved to approve the application of the Exchange Club of Murphy for consideration of an amendment to a previously awarded Community Grant fund. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Mayor Barna, Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui and Councilmember Spraggins. The motion carried by a vote of 4-0. Councilmember Berthiaume and Councilmember Reilly recused themselves from this item. Councilmember Fincanon had left the videoconference meeting at 7:30 pm.

- H. Consider and/or act on the application of the Murphy Community Emergency Response Team (CERT) for consideration of a Community Grant fund award. (*Jared Mayfield, Community and Economic Development Director*)

The Murphy Community Emergency Response Team (CERT) is requesting a grand award in the amount of \$1,870 to purchase a few key items that will allow the team of trained volunteer residents to continue supporting Murphy Fire Rescue with community events and resident education, enhanced member training, and emergency response scenarios. This grant was unanimously approved at the February 20, 2017 Murphy Community Development Corporation meeting.

Ron Hill with the Murphy Community Emergency Response Team (CERT) addressed Council that the community grant awarded is to purchase the following items: a canopy, eight two-way waterproof radios, five American Radio Relay League training and communication licenses, two high-powered, long-range radios, ten first aid kits and four tarps.

COUNCIL ACTION (6.H.)

APPROVED

Mayor Pro Tem Bradley moved to approve the application of the Murphy Community Emergency Response Team (CERT) for consideration of a Community Grant fund award in the amount of \$1,870. Deputy Mayor Pro Tem Siddiqui seconded the motion For: Mayor Barna, Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui and Councilmember Spraggins. The motion carried by a vote of 4-0. Councilmember Berthiaume and Councilmember Reilly recused themselves from this item. Councilmember Fincanon had left the videoconference meeting at 7:30 pm.

7. EXECUTIVE SESSION

In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council recessed into Executive Session (closed meeting) at 7:30 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; and.
- 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.

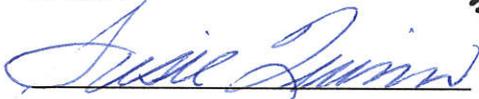
8. RECONVENE INTO REGULAR SESSION

The City Council reconvened into Regular Session at 7:53 pm, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

9. ADJOURNMENT

With no further business, a motion was entertained by the Mayor and the Council meeting adjourned at 8:01 pm.

ATTEST:


Susie Quinn, City Secretary



APPROVED BY:



Eric Barna, Mayor