

CITY COUNCIL MINUTES
REGULAR CITY COUNCIL MEETING
MAY 16, 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. PUBLIC COMMENTS

No Public Comments presented.

5. PRESENTATIONS

A. Presentation for Outgoing Mayor Eric Barna.

Mayor Pro Tem Bradley stated that Mayor Barna has served the City of Murphy for ten (10) years. He added, "as long as I have known Eric, the community and residents have been a primary focus on his mind. Finances are important but it is how our decisions will affect and impact the residents was a primary importance. It has been a pleasure to serve with you and thank you." Mayor Pro Tem Bradley presented Mayor Barna with a plaque and a Mayoral signet ring for his years of service to the City of Murphy.

B. Proclamation declaring May 21 – May 27, 2017 as National Public Works Week.

Mayor Barna recognized and presented to the Public Works staff a proclamation designating the third week in May as National Public Works Week. Mayor Barna thanked staff and appreciates what staff does to make Murphy the community that it is.

C. Proclamation declaring May 14 – May 20, 2017 as Emergency Medical Services (EMS).

Councilmember Fincanon recognized and presented a proclamation to the Emergency Medical Services (EMS) staff in official recognition of this nationwide event.

D. Proclamation declaring May 14 – May 20, 2017 as National Police Week.

Councilmember Berthiaume recognized and presented a proclamation to Murphy Police Officers

- D. Proclamation declaring May 14 – May 20, 2017 as National Police Week.
Councilmember Berthiaume recognized and presented a proclamation to Murphy Police Officers in honor of these men and woman designating May 14 – May 20, 2017 as National Police Week.
- E. Presentation of financial report for the month ending April 30, 2017.
Finance Director Montgomery presented to Council a PowerPoint slide presentation for the month ending April 30, 2017. The Account Balances slide detailed seven (7) months of historical numbers with the current month. She clarified the May 15, 2017 budget work session's stating that there are eighteen (18) bank accounts but eighteen (18) account balances are not listed as some of accounts are combined. The interest rate is at sixty-five (65) basis points and base rate is fifty (50) basis points when the city receives an earnings credit. The interest is increasing but so are the bank charges.

Sales tax slide highlighted numbers received through May 12, 2017 with the year to date at 2.6 million. Sales Tax reported for May has a two month lag and the report reflected March sales. May sales tax collections: \$1,445 less than May 2016, 99.6% of last May collections and 8% increased year to date. February only month significantly higher as same month in prior year. Five (5) out of eight (8) months of double digit increases.

General Fund Revenue slide explained that the Property taxes totaled \$7.1 million received, or 99.8% of the budget. Sales tax totaled \$1.2 million, or 59% of the budget. Other revenue: TML insurance payments of \$795,245 (not budgeted). Drainage fees of \$131,021 (187% of budget). Solid Waste Revenue \$539,311 (59% of budget). EMS Revenue \$121,593 (59% of budget). Permits & Licenses included one (1) Single Family building permit issued in April 2017; twenty-one (21) total year to date. Eight (8) single family permits issued in April 2016; thirty-six (36) total year to date for 2016.

General Fund Expenditure's slide explained that Expenditures are at 59% of the budget. Key variances from last month are still affecting YTD results: Facilities is over budget due to hail storm (FY17 - \$623,330). IT Dept. is 77% expended due to hardware purchases and equipment leases. Pay Plan increases in all departments. Timing of purchases affects variances.

Utility Fund Revenue & Expenditures slide explained that Water Revenue is at 48% of FY17 budget versus 57% of FY16 budget. Wastewater revenue is at 54% of FY17 budget versus 62% of FY16 budget. Water and sewer costs are higher than the prior year. Sales (usage) is expected to increase during the summer months (weather dependent).

6. CITY MANAGER/STAFF REPORTS

- A. South Maxwell Creek Sewer Line – Public Services Director Tim Rogers stated that the contractor has installed one hundred sixty (160) linear feet. The portion between the driveway at the RaceTrac and FM 544 has been completed which includes some air pressure testing underneath FM 544. Contractor continuously moving towards the railway and there will begin to move across the road

so there will be some traffic congestion as down to one lane during the day when traffic is lighter and open two lanes in the evening when traffic is heavier (North Maxwell Creek Road).

B. Upcoming Events

Moonlight Movies – Fridays in May from 7:30 pm to 10:00 pm Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094.

- **Finding Dory** on Friday, May 19, 2017 from 7:30 pm to 10:00 pm, Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094
- **Zootopia** on Friday, May 26, 2017 from 7:30 pm to 10:00 pm, Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094

Memorial Day Holiday – Monday, May 29, 2017 - City offices and buildings closed.

Runoff Election –Early Voting at the Murphy Community Center – 205 North Murphy Road – Murphy, Texas 75094

- Tuesday, May 30, 2017 at 8:00 am to 5:00 pm at the Murphy Community Center 205 North Murphy Road 75094
- Wednesday, May 31, 2017 at 8:00 am to 5:00 pm at the Murphy Community Center 205 North Murphy Road 75094
- Thursday, June 1, 2017 at 7:00 am to 7:00 pm at the Murphy Community Center 205 North Murphy Road 75094
- Friday, June 2, 2017 at 8:00 am to 5:00 pm at the Murphy Community Center 205 North Murphy Road 75094
- Saturday, June 3, 2017 at 8:00 am to 5:00 pm at the Murphy Community Center 205 North Murphy Road 75094
- Monday, June 5, 2017 at 7:00 am to 7:00 pm at the Murphy Community Center 205 North Murphy Road 75094
- Tuesday, June 6, 2017 at 7:00 am to 7:00 pm at the Murphy Community Center 205 North Murphy Road 75094

Runoff Election – Election Day at 7:00 am to 7:00 pm at the Murphy Community Center 205 North Murphy Road 75094

Sounds at Sundown Summer Concert Series – Fridays in June from 8:00 pm to 10:00 pm. Food trucks open at 7:00 pm. Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094.

- **Blane Howard** – Friday, June 2, 2017 from 8:00 pm to 10:00 pm Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094.
- **Texas Flood; Stevie Ray Vaughn Tribute** – Friday, June 9, 2017 from 8:00 pm to 10:00 pm Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094.
- **Powell Brothers** – Friday, June 16, 2017 from 8:00 pm to 10:00 pm Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094.
- **M80's** – Friday, June 23, 2017 from 8:00 pm to 10:00 pm. Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094.
- **Emerald City Band** – Friday, June 30, 2017 from 8:00 pm to 10:00 pm Central Park Amphitheater at 550 N. Murphy Road – Murphy, Texas 75094.

Grand Opening of the Timbers – Saturday, June 3, 2017 at 9:00 am at the Timbers Large Pavilion.

7. INDIVIDUAL CONSIDERATION

- A. Consider and/or act to approve the May 2, 2017 Regular Council meeting minutes. *Susie Quinn, City Secretary*

COUNCIL ACTION (7.A.)

APPROVED

Mayor Pro Tem Bradley moved to approve the May 2, 2017 Regular Council meeting minutes. Councilmember Fincanon 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 Ordinance Number 17-05-1039 approving the application of Margaret A. Smith for a Specific Use Permit allowing a drive-thru Jason's Deli restaurant to be located on 4.696 acres at the southwest 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 & Economic Development Director*

Community & Economic Development Director Mayfield presented to Council an application for a Specific Use Permit (SUP) for a Jason's Deli with a drive-thru service. The 4,831 square foot restaurant will occupy the western lot. Both the Planned Development (PD) district and the underlying Neighborhood Services zoning allow drive-thru restaurants with SUP approval. This is the only SUP requested for this property. The application was previously considered by the Planning and Zoning Commission on February 13, 2017 along with two other SUP applications for drive-thru restaurants and an amended Concept Plan. The applicant withdrew one application for an SUP with a drive thru for Costa Vida restaurant during the Planning & Zoning meeting on February 13, 2017. The Commission denied approval of the remaining two SUP applications and an amendment to the Concept Plan. The applicant subsequently appealed the decision to City Council. As of the March 21, 2017 City Council meeting 119 public comment forms has been returned; one hundred five (105) in favor, thirteen (13) opposed and one neutral. After three separate public hearings, the applicant requested the opportunity to go back to the Planning & Zoning Commission. In doing so, the applicant withdrew the SUP application for Andy's Frozen Custard and submitted a redesigned Concept Plan. An additional public notice was mailed out for this revised application. Seven public reply forms were received, all in objection. On April 24, 2017 the Planning & Zoning Commission recommended approval of this item with a 5-1 vote.

COUNCIL ACTION (7.B.):

APPROVED

As corrected 6-20-17 ~~Deputy Mayor Pro Tem Siddiqui~~ Mayor Pro Tem Bradley moved to approve Ordinance Number 17-05-1039 approving the application of Margaret A. Smith for a ~~Special~~ Specific Use Permit allowing a drive-thru Jason's Deli restaurant to be located on 4.696 acres at the southwest 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. Councilmember Fincanon seconded the motion. For: Mayor Barna, Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember

Spraggins, and Councilmember Fincanon. Against: Councilmember Berthiaume and Councilmember Reilly. The motion carried by a vote of 5-2.

- C. Hold a public hearing and consider and/or act on Ordinance Number 17-05-1040 approving the application of Margaret A. Smith for an amended Concept Plan for property located on 4.696 acres at the southwest 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 & Economic Development Director*

Community & Economic Development Director Mayfield presented to Council that the original Concept Plan was approved by City Council on September 20, 2016. The amended concept plan has been redesigned to show three lots instead of four lots. Jason's Deli is proposed for the western lot with additional restaurant and retail space planned for the remainder of the site. The additional changes include a deceleration lane added for the driveway on the west side of the property and all dumpsters relocated out of the fifty (50) foot rear building line. The Concept Plan continues to show preservation of the large forty-six (46") pecan tree, required landscaping buffers and screening wall. An acoustics study was also provided by the applicant showing how the proposed masonry screening wall will reduce the existing noise levels for residents whose adjoin the property. Items concerning driveway locations and the proposed hooded left turn will be addressed in further detail during the construction plat and site plan review process. While shown on the Concept Plan, these items are not approved as part of the Concept Plan. This application was previously considered by the Planning & Zoning Commission on February 13, 2017 along with three SUP applications with drive-thru restaurants. The applicant withdrew one application for an SUP with a drive thru for Costa Vida restaurant during the Planning & Zoning meeting on February 13, 2017. The Commission denied approval of the remaining two SUP applications and an amendment to the Concept Plan. The applicant subsequently appealed the decision to City Council. As of the March 21, 2017 City Council meeting ten (10) public comment forms had been returned; two (2) in favor and eight (8) opposed. After three separate public hearings, the applicant requested the opportunity to go back to the Planning & Zoning Commission. In doing so, the applicant withdrew a second SUP application (one SUP application remained) and submitted a redesigned Concept Plan. An additional public notice was mailed out for the revised application. Seven public reply forms were received, all in objection. On April 24, 2017 the Planning & Zoning Commission recommended approval of this item by a 5-1 vote.

Items 7.B. and 7.C. combined for the Public Hearing portion of the agenda items.

PUBLIC HEARING OPENED at 6:45pm

Margaret and Jim Smith, residents requested for Council to approve the Specific Use Permit (SUP) allowing a drive-thru for Jason's Deli and to amend the Concept Plan that was approved on April 24, 2017 by Planning & Zoning Commission.

Eric Langford, developer to develop property (Jason's Deli) that would include the hooded left-turn.

Kevin McIntosh, representative with Trinity Partners Commercial Real Estate handling Jason's Deli account. Speaking on their client's behalf, Jason's Deli is committed to this project and deal. Recommendation is to have the letter of intent executed first.

Marcia Seebachan, resident is opposed

Linda Millen, resident is opposed

PUBLIC HEARING CLOSED at 7:14pm

COUNCIL ACTION (7.C.):

APPROVED

Mayor Pro Tem Bradley moved to approve Ordinance Number 17-05-1040 approving the application of Margaret A. Smith for an amended Concept Plan for property located on 4.696 acres at the southwest 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. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Mayor Barna, Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, and Councilmember Spraggins. Against: Councilmember Berthiaume, Councilmember Fincanon and Councilmember Reilly. The motion carried by a vote of 4-3.

- D. Consider and/or act upon Ordinance No. 17-05-1041 approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2017 rate review mechanism filings; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring reconciliation and rate adjustments if federal income tax rates change; terminating the RRM process for 2018 pending renegotiation of RRM terms and conditions; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas open meetings act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel. *Karen Montgomery, Finance Director*

Finance Director Karen Montgomery provided to Council that Ordinance No. 17-05-1041 reflects a settlement between Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corporation, Mid-Tex Division ("Atmos" or "Company") that resolves the 2017 RRM proceeding pending with cities for a rate increase. The Ordinance approves a rate increase of \$48 million on a system-wide basis (\$38.8 million to cities), which is approximately \$4.4 million less than what the Company would be entitled to receive under the GRIP statute. The Settlement produces a result that is likely better than what would be the expected result if the Company appealed an order of the cities to the Texas Railroad Commission. In addition to Ordinance No. 17-05-1041, the new tariffs (attachment A), proof of revenues to prove that the new tariffs will produce additional base revenues of \$38.8 million (Attachment B), and a spreadsheet establishing a baseline for pensions for the next RRM filing (Attachment C) were also included. Action required is approval of Ordinance Number 17-05-1041 approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2017 rate review mechanism filings; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring reconciliation and rate adjustments if federal income tax rates change; terminating the RRM process for 2018 pending renegotiation of RRM terms and conditions; requiring the company to

reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas open meetings act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel.

COUNCIL ACTION (7.D.):

APPROVED

Deputy Mayor Pro Tem Siddiqui moved approve Ordinance Number 17-05-1041 approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2017 rate review mechanism filings; declaring exiting rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring reconciliation and rate adjustments if federal income tax rates change; terminating the RRM process for 2018 pending renegotiation of RRM terms and conditions; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas open meetings act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel. Councilmember Reilly seconded the motion. For: Unanimous. The motion carried by a vote of 6-0. (Mayor Barna excused himself).

- E. Consider and act upon approval of Ordinance Number 17-05-1042 canvassing and declaring the election results of the May 6, 2017 General Election. *Susie Quinn, City Secretary*

City Secretary Susie Quinn presented to Council consideration of an ordinance canvassing the results of the May 7, 2017 General Election. Action required is a motion to approve Ordinance Number 17-05-1042 canvassing and declaring the election results of the May 6, 2017 General Election.

COUNCIL ACTION (7.E.):

APPROVED

Mayor Pro Tem Bradley moved to approve Ordinance Number 17-05-1042 canvassing and declaring the election results of the May 6, 2017 General Election. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 7-0.

- F. Issuance of Certificate of Election to newly elected Council Members. *Susie Quinn, City Secretary*

Mayor Barna presented Councilmember-Elect Sarah Fincanon with her Certificate of Election. Mayor Barna presented Mayor-Elect Scott Bradley with his Certificate of Election.

COUNCIL ACTION (7.F.):

NO ACTION

- G. Administer Oath of Office to newly elected Mayor and Council Member for Place 5. *Susie Quinn, City Secretary*

Just prior to the meeting being called to order, City Secretary Susie Quinn administered the Statement of Oath to Councilmember-Elect Sarah Fincanon and Mayor-Elect Scott Bradley.

City Secretary Susie Quinn administered the Oaths of Office to Councilmember-Elect Sarah Fincanon for Place 5 and Mayor-Elect Scott Bradley for Mayor.

COUNCIL ACTION (7.G.):

NO ACTION

- H. Consider and act upon approval of Ordinance Number 17-05-1043 ordering a General Election Runoff for Saturday, June 10, 2017 for the purpose of electing a Council Member for Place 3 to a three (3) year term. *Susie Quinn, City Secretary*

City Secretary Susie Quinn presented to Council that a runoff election is required if the political subdivision requires majority vote (rather than plurality) and no candidate has received one vote over 50% of the total votes according to Tex. Elec. Code § 2.021. The general rule is that runoff elections are ordered for a date between twenty (20) and forty-five (45) days after the final canvass. See Tex. Elec. Code § 2.025. (As copied from Election Advisory No. 2017-02). Action required is a motion to approve Ordinance Number 17-05-1044 issuing a call for a runoff election to be held on Saturday, June 10, 2017.

COUNCIL ACTION (7.H.):

APPROVED

Councilmember Berthiaume moved to approve Ordinance Number 17-05-1043 with the amendment of Section 2. "Run-Off Election" correcting the date of June 20th to June 10th ordering a General Election Runoff for Saturday, June 10, 2017 for the purpose of electing a Council Member for Place 3 to a three (3) year term. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 6-0. (Mayor Barna excused himself).

8. ADJOURNMENT

With no further business, a motion was entertained by the Mayor Bradley and the Council meeting adjourned at 8:12 pm.

APPROVED BY:


Scott Bradley, Mayor

ATTEST:


Susie Quinn, City Secretary

