

MURPHY CITY COUNCIL AGENDA  
**AMENDED**  
REGULAR CITY COUNCIL MEETING  
SEPTEMBER 3, 2013 AT 6:00 P.M.  
206 NORTH MURPHY ROAD  
MURPHY, TEXAS 75094



Eric Barna  
Mayor

Owais Siddiqui  
Mayor Pro Tem

Ben St. Clair  
Deputy Mayor Pro Tem

Scott Bradley  
Councilmember

Betty Spraggins  
Councilmember

Bernard Grant  
Councilmember

Rob Thomas  
Councilmember

James Fisher  
City Manager

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on September 3, 2013 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

**1. CALL TO ORDER**

**2. INVOCATION & PLEDGE OF ALLEGIANCE**

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

**4. PUBLIC COMMENTS**

**5. PRESENTATION ITEMS :**

- A. Receive unaudited investment and financial report as of July 31, 2013.

**6. 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 meeting minutes:
1. August 20, 2013 regular meeting minutes; and,
  2. August 22, 2013 special called meeting minutes.

**7. INDIVIDUAL CONSIDERATION**

- A. Hold a public hearing on the proposed fiscal year 2013-2014 City of Murphy budget.
- B. Hold a public hearing on the proposed tax rate of \$0.5700 per \$100 valuation.
- C. Hold a public hearing and consider and/or act on the application of RLK Engineering, Inc on behalf of Plano I.S.D, to re-plat 415 Oriole – Hunt Elementary on property zoned P/SP (Public/Semi Public). This property is located at the northwest corner of Oriole and Rolling Ridge.
- D. Consider and/or act on the application of RLK Engineering, Inc on behalf of Plano I.S.D to revise the site plan of 415 Oriole – Hunt Elementary on property zoned P/SP (Public/Semi Public). This property is located at the northwest corner of Oriole and Rolling Ridge.
- E. Consider and/or act upon a request by Aron Frydberg, on behalf of Allen Tari, to reconsider the denial of the application of Allen Tari requesting a variance to sign requirements, as stated in the Code of Ordinances, Section 28-22,

Monument Signs-Business Districts, for a sign at the business known as Tari Car Lot, located at 729 W. FM 544.

- F. Discuss amending Chapter 28, Development Standards, Article 1. Signs.
- G. Consider and/or act upon awarding construction bid to low bidder A&M Construction & Utilities, for the repairs of a public storm drainage line / easement between 319 and 323 Kentwood Drive, and authorizing the City Manager to sign the contract.
- H. Consider and/or act upon Ethics Review Commission recommendations:
  - 1. A proposed resolution establishing the Rules and Procedures for the City of Murphy Ethics Commission
  - 2. A proposed ordinance amending Chapter 2, Article IX of the Code of Ordinances entitled Code of Ethics.

#### **8. CITY MANAGER/STAFF REPORTS**

North Murphy Road Construction Update  
Murphy Central Park Construction Update  
Update on West Nile Virus  
Collin County Appraisal District Board Nominations  
Maize Days – September 28, 2013  
Fire Open House – October 5, 2013  
Texas Municipal League – October 8-11, 2013

#### **9. 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:

- A. § 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 the Texas Open Meetings act regarding:
  - 1. Zoning and subdivision regulation issues involving the Ranch/Gables subdivisions; and,
  - 2. Traffic calming measures.
- B. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate 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; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1) regarding:

Incentive agreement between Allen & Loucks Venture, LLC, C4 Enterprises, LLC and Chef Time, LLC and the City of Murphy and the Murphy Municipal Development District.

\*Amended to add items 9.C. and 9.D.

- C. §551.071 Consultation with the City Attorney and special counsel 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 contemplated or pending litigation or matters where legal advice is requested of the City Attorney on personnel matters regarding the City Manager.
- D. §551.074 Deliberations regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager or to hear a complaint or charge against the City Manager.

#### **10. RECONVENE INTO REGULAR SESSION**

The City Council will reconvene into Open Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 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 the Texas Open Meetings act regarding:
  - 1. Zoning and subdivision regulation issues involving the Ranch/Gables subdivisions; and,
  - 2. Traffic calming measures.
- B. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate 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; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1) regarding:

Incentive agreement between Allen & Loucks Venture, LLC, C4 Enterprises, LLC and Chef Time, LLC and the City of Murphy and the Murphy Municipal Development District.

\*Amended to add items 10.C. and 10.D. and renumber

- C. §551.071 Consultation with the City Attorney and special counsel 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 contemplated or pending litigation or matters where legal advice is requested of the City Attorney on personnel matters regarding the City Manager.

- D. §551.074 Deliberations regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager or to hear a complaint or charge against the City Manager.
- E. Consider and or act upon any executive session items.
- F. Consider and/or act upon approval of a resolution authorizing the City Manager to execute an Incentive agreement between Allen & Loucks Venture, LLC, C4 Enterprises, LLC and Chef Time, LLC and the City of Murphy and the Murphy Municipal Development District.

#### 11. BUDGET WORK SESSION

- A. Discuss, consider and/or act upon modifications to the FY 2014 General Fund and Utility Fund budgets.
- B. Discussion regarding the issuance of tax notes for the purpose of funding the Murphy Central Park, the Community Center and the Animal Shelter.

#### 12. ADJOURNMENT

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on August 30, 2013 by 5:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.



Kristi Gilbert, TRMC, CMC, CPM  
City Secretary

In compliance with the American with Disabilities Act, the City of Murphy will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 972.468.4011 or [kgilbert@murphytx.org](mailto:kgilbert@murphytx.org).

*Notice of Possible Quorum: There may be a quorum of the 4B Community Development Corporation, the Animal Shelter Advisory Committee, the Board of Adjustment, the Building and Fire Code Appeals Board, the Ethics Review Commission the Murphy Municipal Development District Board, the Park and Recreation Board and/or the Planning and Zoning Commission may be present at the meeting, but they will not deliberate on any city business.*

**CITY COUNCIL MINUTES  
AUGUST 20, 2013 REGULAR CITY COUNCIL MEETING**

**1. CALL TO ORDER**

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

**2. INVOCATION & PLEDGE OF ALLEGIANCE**

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

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

City Secretary, Kristi Gilbert, certified a quorum with the following Councilmembers present:

Mayor Eric Barna  
Mayor Pro Tem Owais Siddiqui  
Deputy Mayor Pro Tem Ben St. Clair  
Councilmember Scott Bradley  
Councilmember Betty Nichols Spraggins  
Councilmember Bernard Grant  
Councilmember Rob Thomas

Councilmembers absent: None

**4. PUBLIC COMMENTS –**

*Jim Tuskan, 536 Chalk Hill Lane-* Mr. Tuskan asked the Council to consider implementing the senior tax freeze and wanted to know what the next steps were in moving the item forward.

Mayor Barna stated that the item could not be discussed as it was not on the agenda, however, he would speak with Mr. Tuskan about it in the near future.

*Charlene Winter, 415 Moonlight Drive –* Ms. Winter described a sewer back-up that occurred at her residence that caused damage to personal property, as well as, business property that was being stored at her house. Ms. Winter stated that both the city's insurance and her personal homeowner's insurance had denied her claim.

City Attorney Andy Messer advised the Council that Ms. Winter's claim was an item to be discussed, as posted, in executive session.

**5. PRESENTATION ITEMS –**

Finance Director Linda Truitt presented the Council with unaudited investment and financial report as of June 30, 2013.

**6. 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 meeting minutes:

1. August 2, 2013 special called meeting minutes;
2. August 6, 2013 regular meeting minutes; and,

3. August 8, 2013 special called meeting minutes.
- B. Consider and/or act upon proposed resolution authorizing the City Manager to renew the Interlocal Agreement between the City of Murphy and the City of Plano for City of Murphy employees for employee training. *(Assigned Res. No. 13-R-776 and CLA No. 201308002)*
  - C. Consider and/or act upon authorizing the City Manager to sign an agreement with Collin County for the provision of firefighting and fire protection services. *(Assigned CLA No. 201308003)*
  - D. Consider and take action, if any, on authorizing the City Manager to execute the NCTCOG E9-1-1 and equipment Interlocal Agreement. *(Assigned CLA No. 201308004)*
  - E. Consider and/or act upon approval of a resolution authorizing the City Manager to sign the contract agreement with NCTCOG Public Works Mutual Aid Agreement. *(Assigned Res. No. 13-R-777 and CLA No. 201308005)*
  - F. Consider and take action, if any, on the approval of a Resolution authorizing the Mayor to execute a letter to the Attorney General documenting compliance with Chapter 395 of the Texas Local Government Code. *(Assigned Res. No. 13-R-778)*
  - G. Consider and/or act upon authorizing Dunkin, Sims, Stoffels Inc. to bid a landscaping installation contract for Murphy Central Park.
  - H. Consider and/or act on the application of Dowdey, Anderson and Associates, Inc. requesting approval of the Final Plat for **Maxwell Creek North, Phase 11A** on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487).

**COUNCIL ACTION (6.A -6.H.):****APPROVED**

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

**7. INDIVIDUAL CONSIDERATION**

- A. Hold a public hearing on the proposed tax rate of \$0.5700 per \$100 valuation.  
Ms. Truitt presented the Council with the proposed tax rate, as well as the effective rate and the rollback rate. Ms. Truitt stated that there would be another public hearing on the tax rate on September 3<sup>rd</sup> and the tax rate would be up for consideration at the September 17<sup>th</sup> Council meeting.

Mayor Barna opened the public hearing at 6:20 p.m.

*Keith Patton, 451 Poindexter* – Mr. Patton stated that, as a result of home values going up, Murphy residents were still having to pay more taxes. Mr. Patton commented that Murphy has continually seen an increase of 6%.

*Charles Hall, 411 Sagebrush* – Mr. Hall stated that he has been a Murphy resident for seven years and has witnessed a steady tax rate increase every year he has lived in the city. Mr. Hall

commented that, with the water rate increases, he now pays more for his water than for his cable.

Mayor Barna closed the public hearing at 6:25 p.m.

**COUNCIL ACTION (7.A.):**

**NON ACTION ITEM**

No action was taken.

- B. Hold a public hearing on the proposed fiscal year 2013-2014 City of Murphy budget. Ms. Truitt presented the Council with the general fund and utility fund budget. Ms. Truitt also reviewed proposed water and sewer rate increases with the Council. Ms. Truitt stated that there would be another public hearing on the budget on September 3<sup>rd</sup> and the budget would be up for consideration at the September 17<sup>th</sup> Council meeting.

Mayor Barna opened the public hearing at 6:32 p.m.

There were no public comments.

Mayor Barna closed the public hearing at 6:32 p.m.

**COUNCIL ACTION (7.B.):**

**NON ACTION ITEM**

No action was taken.

- C. Consider and/or act upon a recommendation by the City Manager regarding the appointment of an auditing firm to perform the annual audit for FY2013 and authorizing the City Manager to negotiate a contract for services.

Councilmember Thomas inquired as to why staff chose the recommended firm that was not the lowest cost. Ms. Truitt responded that they were selected based on their longevity, number of employees and prior work with projects similar to what the City is currently working on.

**COUNCIL ACTION (7.C.):**

**APPROVED**

Councilmember Grant moved to approve Pattillo, Brown & Hill, LLP as the certified public accounting firm to conduct an independent audit of all accounts of the City for FY2013 with the option of auditing its financial statements for each of the four subsequent fiscal years. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- D. Consider and take action, if any, on the request by Plano Sports Authority to waive the permit fees for PSA Murphy.

Kristen Roberts presented Council with the history of the fee waiver requests.

Don Blackwood, Plano Sports Authority (PSA) General Manager, presented the Council with the history of the PSA dating back to 1970 and stated that it has always been a non-profit organization.

MURPHY CITY COUNCIL MINUTES  
August 20, 2013

*Don Kirtschner, 416 Skyline Drive* – Mr. Kirtschner stated that he was opposed to waiving any actual costs and asked the Council to consider the budgetary impact of approving a waiver request.

Council held discussions with regard to the request for waiver. Councilmember Grant stated that he was a big supporter of PSA and believed that it took the City out of the youth sports business. Mayor Barna echoed Councilmember Grant's comments and stated that he was excited about the PSA coming to Murphy.

**COUNCIL ACTION (7.D.):**

**APPROVED**

Councilmember Grant moved to waive all estimated development fees for the Plano Sports Association. Councilmember Nichols Spraggins seconded the motion. For: Barna, Siddiqui, St. Clair, Nichols Spraggins, Grant and Thomas. Opposed: Bradley. The motion carried by a vote of 6 to 1.

**EXECUTIVE SESSION (Item 9 on Agenda)**

The City Council convened into Executive Session at 6:56 p.m. pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 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 the Texas Open Meetings act regarding:
  - 1. Zoning and subdivision regulation issues involving the Ranch/ Gables subdivisions;
  - 2. Traffic calming policies and measures;
  - 3. Claim against the City for sewer repairs at 415 Moonlight Dr; and,
  - 4. Personnel matters involving the City Manager.
- B. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate 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; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
- C. §551.074 Deliberation regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager or to hear a complaint or charge against the City Manager.

**RECONVENE INTO REGULAR SESSION (Item 10 on Agenda)**

The City Council reconvened into Open Session at 8:23 p.m. pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 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 the Texas Open Meetings act regarding:
  - 1. Zoning and subdivision regulation issues involving the Ranch/ Gables subdivisions;
  - 2. Traffic calming policies and measures;
  - 3. Claim against the City for sewer repairs at 415 Moonlight Dr; and,

## 4. Personnel matters involving the City Manager.

- B. § 551.087. Deliberation regarding economic development negotiations (1) to discuss or deliberate 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; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
- C. §551.074 Deliberation regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager or to hear a complaint or charge against the City Manager.

No action was taken as a result of executive session items.

**CONTINUE WITH INDIVIDUAL CONSIDERATION ITEM 7.E.:**

- E. Discuss and take action, if any, on an Ordinance addressing traffic calming measures, including the possible closure, of Moonlight Drive and/or Grant Road.

City Attorney Andy Messer stated that, per Council's direction at the previous meeting, he had drafted an ordinance closing Grant Drive to motor vehicle traffic. Mr. Messer stated that the closing would not affect pedestrian or bicycle traffic.

*Dan Turner, 167 Moonlight Drive* – Mr. Turner reminded Council that closing the road was a quality of life and safety issue. Mr. Turner stated that he was asking for a resolution tonight.

*John Bolin, 421 Pleasant Run* – Mr. Bolin stated that he lives at the corner of Mason and Grant. He stated that he understood this was an emotional issue, but asked Council to examine the facts. Mr. Bolin stated that there is no record of anyone being harmed due to traffic on Moonlight.

*Greg Matocha, 151 Moonlight Drive* – Mr. Matocha stated that closing the road was a safety issue in that the traffic has doubled over the last several years and due to the fact that Moonlight is a long, straight, narrow street with no sidewalks.

*Richard Englebert, 2700 Block of Grant Drive* - Mr. Englebert brought the City's traffic calming policy to the Council's attention. Mr. Englebert stated that, according to the policy, he should have been notified as he lived on the road subject to closure. Mr. Englebert stated that Council needs to educate the community that the community should expect increased traffic as the community is growing.

*John Langland, 2700 Block of Grant Drive* – Mr. Langland

**COUNCIL ACTION (7.E.):****APPROVED**

Mayor Pro Tem Siddiqui moved to approve the ordinance. Councilmember Thomas seconded the motion. For: Barna, Siddiqui, St. Clair, Bradley, Grant and Thomas. Opposed: Nichols Spraggins. The motion passed 6 to 1.

## F. Discuss City of Murphy watering fines.

Mayor Barna stated that he asked the item to put before Council to discuss the current fines and procedures. Mayor Barna stated that he would like a reduced fine initially, along with educating the residents. Deputy Mayor Pro Tem St. Clair stated that he also asked for the item to be discussed. St. Clair stated that he would prefer a warning be given for first time offenders. Mayor Barna concurred.

Councilmember Grant stated that issuing warnings for first time offenders would be difficult on staff and stated that the Council should not limit the judge.

Staff members provided Council with statistics related to code enforcement, citations and court actions.

**COUNCIL ACTION (7.F.):**

No action was taken.

**NON ACTION ITEM**

## G. Consider, and/or act, on Board and Commission appointments, including establishing an interview panel comprised of three council members.

**COUNCIL ACTION (7.G.):**

Mayor Pro Tem Siddiqui moved to nominate Mayor Pro Tem Siddiqui, Councilmember Grant and Councilmember Nichols Spraggins to the Interview Panel. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

**APPOINTMENTS**

Councilmember Grant moved to appoint Kim Parker to the City Official position of the Animal Shelter Advisory Committee. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

**RECONSIDER ITEM 7.A.**

Mayor Barna reopened Item 7.A. for consideration and read the following statement:

“The vote on the proposed tax rate will take place on Tuesday, September 17, 2013 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas.”

**RECONSIDER ITEM 7.B.**

Mayor Barna reopened Item 7.B. for consideration and read the following statement:

“The vote on the proposed fiscal year 2013-2014 budget will take place on Tuesday, September 17, 2013 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas.”

**CONTINUE WITH INDIVIDUAL CONSIDERATION ITEM 7.H.:**

## H. Consider and/or act upon Ethics Review Commission recommendations:

1. A proposed resolution establishing the Rules and Procedures for the City of Murphy Ethics Commission
2. A proposed ordinance amending Chapter 2, Article IX of the Code of Ordinances entitled Code of Ethics.

**COUNCIL ACTION (7.H.):**

**POSTPONE**

Councilmember Bradley moved to postpone consideration of Item 7H until the next regularly scheduled council meeting. Councilmember Nichols Spraggins seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

**8. CITY MANAGER/STAFF REPORTS**

Chief Lee provided the Council with an update on the following items:

- North Murphy Road Construction Update
- Murphy Central Park Construction Update
- ONCOR Hike and Bike Trail and Executive Visit
- Update on West Nile Virus cases in surrounding cities
- Maize Days – September 28, 2013

**9. ADJOURNMENT**

With no further business, the meeting was adjourned at 9:14 p.m.

APPROVED BY:

\_\_\_\_\_  
Eric Barna, Mayor

ATTEST:

\_\_\_\_\_  
Kristi Gilbert, City Secretary

**CITY COUNCIL MINUTES  
AUGUST 22, 2013 SPECIAL CALLED MEETING**

**1. CALL TO ORDER**

Mayor Barna called the meeting to order at 7:15 p.m.

**2. ROLL CALL & CERTIFICATION OF A QUORUM**

City Secretary, Kristi Gilbert, certified a quorum with the following Councilmembers present:

Mayor Eric Barna  
Mayor Pro Tem Owais Siddiqui  
Deputy Mayor Pro Tem Ben St. Clair  
Councilmember Scott Bradley  
Councilmember Betty Nichols Spraggins  
Councilmember Bernard Grant  
Councilmember Rob Thomas

Councilmembers absent: None

**3. EXECUTIVE SESSION**

The City Council convened into Executive Session at 7:16 p.m. pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§551.071 Consultation with the City Attorney and special counsel 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 contemplated or pending litigation or matters where legal advice is requested of the City Attorney on personnel matters regarding the City Manager.

§551.074 Deliberations regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager or to hear a complaint or charge against the City Manager.

**4. RECONVENE INTO REGULAR SESSION**

The City Council reconvened into Open Session at 8:23 p.m. pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§551.071 Consultation with the City Attorney and special counsel 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 contemplated or pending litigation or matters where legal advice is requested of the City Attorney on personnel matters regarding the City Manager.

§551.074 Deliberations regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager or to hear a complaint or charge against the City Manager.

A. Consider and act upon any executive session items.

***COUNCIL ACTION (4.A.):***

No action was taken as a result of Item 4.A.

- B. Consider and act upon results of an impartial investigation of complaint or charge against the City Manager.

Monica Valasquez introduced herself as an attorney practicing in Frisco, Texas and made the following statement:

“As you know, in late July Ms. Rheannon Boe filed a complaint against the City Manager. Under the City’s home rule charter the Council had the authority and was tasked with investigating the complaint against the City Manager. Council selected me as a third party investigator for this matter. I have conducted the investigation. The investigation has now been concluded. The allegations in the complaint against the City Manager were not substantiated. Therefore, the investigation is now closed.”

**COUNCIL ACTION (4.B.):**

Mayor Pro Tem Siddiqui moved to adopt the findings of the independent investigator that the allegations are unsubstantiated and to have both the City Manager and the Executive Assistant to the City Manager report to work tomorrow. Councilmember St. Clair seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

**5. ADJOURNMENT**

With no further business, the meeting was adjourned at 8:25 p.m.

APPROVED BY:

\_\_\_\_\_  
Eric Barna, Mayor

ATTEST:

\_\_\_\_\_  
Kristi Gilbert, City Secretary

**City Council Meeting**  
**September 3, 2013**

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**Issue**

Hold a public hearing on the proposed fiscal year 2013-2014 City of Murphy budget.

**Staff Resource/Department**

James Fisher – City Manager  
Linda Truitt – Finance Director

**Background/History**

Public Hearings on the 2013-2014 budgets are schedule for Tuesday, August 20, 2013 and Tuesday, September 3, 2013 at 6:00 PM in the Council Chambers at 206 North Murphy Road, Murphy, Texas.

Pursuant to Texas Local Government Code 102.006 and City Charter Section 7.05, the City Council has set dates for the Public Hearing on the municipal budget to be Tuesday, August 20, 2013 at 6:00 PM and a second Public Hearing on Tuesday, September 3, 2013 at 6:00 PM. The date set must be at least 15 days after the date the proposed budget is filed with the City Secretary and before the date the City makes its tax levy. The proposed budget was filed with City Secretary on August 6, 2013.

The City Council is required to provide notice of the date, time and location of the public hearing pursuant to Texas Local Government Code 102.0065.

**Financial Considerations**

See the fiscal year 2013-2014 budgets provided to City Council on August 6th. The budget is also available on the City's website.

This budget will raise more total property taxes than last year's budget by \$534,480, or 6.08%, and of that amount \$252,911 is tax revenue to be raised from new property added to the roll this year.

***Announce after Public Hearing:***

**The vote on the proposed fiscal year 2013-2014 budget will take place on Tuesday, September 17, 2013 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas.**

**Attachments**

- 1) Notice of Public Hearing on Proposed Budget
- 2) Fiscal Year 2012-2013 Budget – previously provided and available online

NOTICE OF PUBLIC HEARING  
CITY OF MURPHY  
PROPOSED OPERATING BUDGET FISCAL YEAR 2013-2014

The City of Murphy will conduct a Public Hearing on the Proposed Operating Budget for the fiscal year 2013-2014 on Tuesday, August 20, 2013 at 6:00 p.m. and on Tuesday, September 3, 2013 at 6:00 p.m. at the Murphy Municipal Complex, City Council Chambers, 206 North Murphy Road, Murphy, Texas 75094.

**This budget will raise more total property taxes than last year's budget by \$534,480, or 6.08%, and of that amount \$252,911 is tax revenue to be raised from new property added to the roll this year.**

You have a right to attend the Public Hearing and make comments. A copy of the proposed budget is on file with the City Secretary's Office located at 206 North Murphy Road, Murphy, Texas 75094. It is also available on the City's website at [www.murphytx.org](http://www.murphytx.org).

Dated this 6th day of August, 2013.

Linda Truitt

Finance Director

City of Murphy, Texas

**City Council Meeting**  
**September 3, 2013**

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**Issue**

Hold a public hearing on the proposed tax rate of \$0.5700 per \$100 valuation.

**Staff Resource/Department**

James Fisher – City Manager

Linda Truitt – Finance Director

**Background/History**

Public Hearings on the 2013-2014 budgets are schedule for Tuesday, August 20, 2013 and Tuesday, September 3, 2013 at 6:00 PM in the Council Chambers at 206 North Murphy Road, Murphy, Texas.

The City Council voted to propose a tax rate of \$0.5700 per \$100 valuation for the 2013 tax year. The proposed Maintenance and Operations (M&O) rate is \$0.341521, an increase of \$0.012026, and the debt service rate is \$0.228479, a decrease of \$0.012026 for a total tax rate of \$0.5700 per \$100 valuation.

**Financial Considerations**

The City is proposing a Maintenance and Operations (M&O) tax rate of \$0.341521 per \$100 valuation. The M&O tax rate funds a large portion of the City's operations, including Parks, Public Safety and Public Works. The second portion of the tax rate is for debt service, which provides funding for the current portion of the long-term debt. This year the debt service tax rate is set at \$0.228479 per \$100 valuation, a decrease from last year's tax rate.

***Announce after Public Hearing:***

**The vote on the proposed tax rate will take place on Tuesday, September 17, 2013 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas.**

**Attachments**

- 1) Notice of Public Hearing on Tax Increase

# Notice of Public Hearing on Tax Increase

The City of Murphy will hold two public hearings on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 3.35 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

The first public hearing will be held on August 20, 2013 at 6:00 PM at Murphy Municipal Complex, City Council Chambers, 206 North Murphy Road, Murphy, TX 75094.

The second public hearing will be held on September 3, 2013 at 6:00 PM at Murphy Municipal Complex, City Council Chambers, 206 North Murphy Road, Murphy, TX 75094.

The members of the governing body voted on the proposal to consider the tax increase as follows:

<b>FOR:</b>	Mayor Eric Barna	Mayor Pro Tem Owais Siddiqui
	Deputy Mayor Pro Tem Ben St. Clair	Councilmember Scott Bradley
	Councilmember Betty Spraggins	Councilmember Bernard Grant
	Councilmember Rob Thomas	

**AGAINST:** None

**PRESENT** and not voting: None

**ABSENT:** None

The average taxable value of a residence homestead in City of Murphy last year was \$256,903. Based on last year's tax rate of \$0.570000 per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$1,464.35.

The average taxable value of a residence homestead in City of Murphy this year is \$265,328. If the governing body adopts the effective tax rate for this year of \$0.551520 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$1,463.34.

If the governing body adopts the proposed tax rate of \$0.570000 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$1,512.37.

Members of the public are encouraged to attend the hearings and express their views.

**City Council**  
**September 3, 2013**

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**Issue**

Hold a public hearing and consider and/or act on the application of RLK Engineering, Inc on behalf of Plano I.S.D, to re-plat 415 Oriole – Hunt Elementary on property zoned P/SP (Public/Semi Public). This property is located at the northwest corner of Oriole and Rolling Ridge.

**Staff Resource/Department**

Kristen Roberts – Director of Community and Economic Development

**Board Discussion / Action**

On August 26, 2013, the Planning & Zoning Commission unanimously approved this item.

**Considerations**

The purpose of this re-plat is to accommodate the relocation of existing utilities due to classroom and cafeteria expansion of the school.

**Staff Recommendation**

Motion to approve the re-plat as submitted.

**Attachments**

Re-plat



City Council  
September 3, 2013

**Issue**

Consider and/or act on the application of RLK Engineering, Inc on behalf of Plano I.S.D to revise the site plan of 415 Oriole – Hunt Elementary on property zoned P/SP (Public/Semi Public). This property is located at the northwest corner of Oriole and Rolling Ridge.

**Staff Resource/Department**

Kristen Roberts – Director of Economic and Community Development

**Background**

On July 25, 2005, the Planning & Zoning Commission approved the Final Plat for Martha Hunt Elementary School located on Lot 1; Block A – 415 Oriole Drive.

The applicant has submitted a revised site plan identifying classroom and cafeteria expansion, totaling 9,150 square feet on the north face of the building.

**Considerations**

No trees or landscaping is being disturbed or revised by this expansion, and no landscape plan was requested of the applicant.

All site plan requirements have been met.

**Board Discussion/Action**

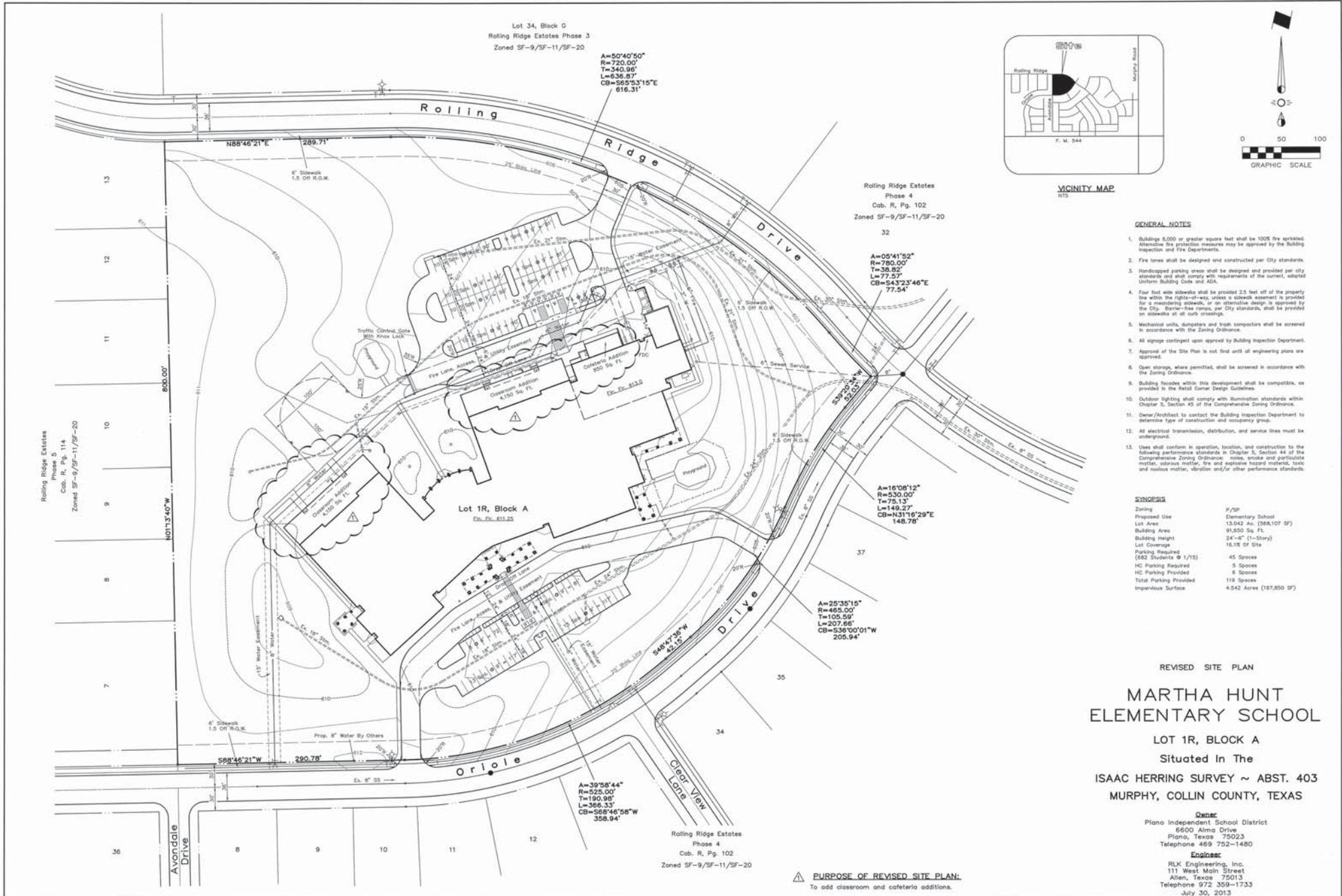
On August 26, 2013, the Planning & Zoning Commission unanimously approved this item.

**Staff Recommendation**

Staff recommends approval of the Hunt Elementary revised site plan and elevations as submitted.

**Attachments**

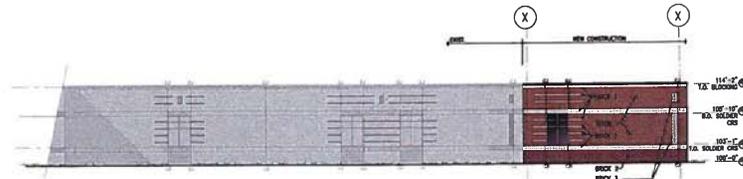
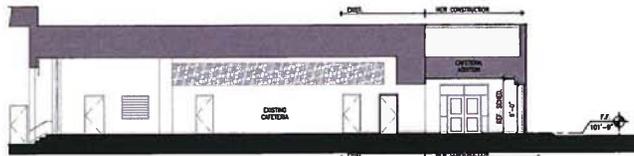
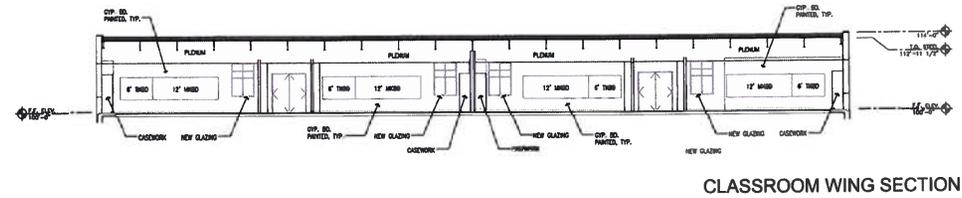
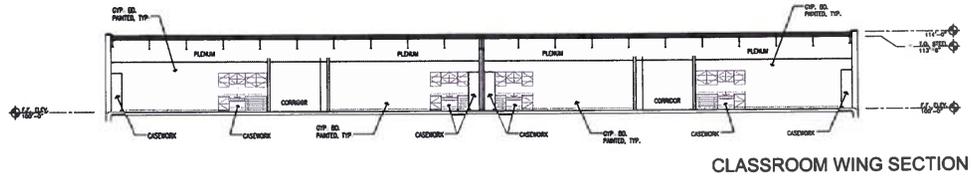
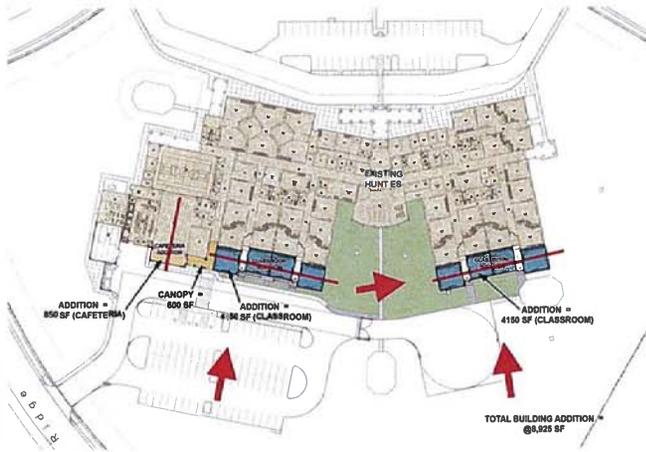
Revised Site Plan  
Building Elevation Plans



- GENERAL NOTES**
- Buildings 6,000 or greater square feet shall be 100% fire sprinkled. Alternative fire protection measures may be approved by the Building Inspection and Fire Departments.
  - Fire lanes shall be designed and constructed per City standards.
  - Handicapped parking areas shall be designed and provided per city standards and shall comply with requirements of the current, adopted Uniform Building Code and ADA.
  - Four foot wide sidewalks shall be provided 2.5 feet off of the property line within the right-of-way, unless a sidewalk easement is provided for a meandering sidewalk, or an alternative design is approved by the City. Barrier-free ramps, per City standards, shall be provided on sidewalks at all curb crossings.
  - Mechanical units, dumpsters and trash compressors shall be screened in accordance with the Zoning Ordinance.
  - All signage contingent upon approval by Building Inspection Department.
  - Approval of the Site Plan is not final until all engineering plans are approved.
  - Open storage, where permitted, shall be screened in accordance with the Zoning Ordinance.
  - Building facades within this development shall be compatible, as provided in the Retail Corner Design Guidelines.
  - Outdoor lighting shall comply with illumination standards within Chapter 5, Section 45 of the Comprehensive Zoning Ordinance.
  - Owner/Architect to contact the Building Inspection Department to determine type of construction and occupancy group.
  - All electrical transmission, distribution, and service lines must be underground.
  - Uses shall conform in operation, location, and construction to the following performance standards in Chapter 5, Section 44 of the Comprehensive Zoning Ordinance: noise, smoke and particulate matter, odorous matter, fire and explosive hazard material, toxic and noxious matter, vibration and/or other performance standards.

**SYNOPSIS**

Zoning	P/SF
Proposed Site	Elementary School
Lot Area	13,042 Ac. (568,107 SF)
Building Area	91,650 Sq. Ft.
Building Height	24'-0" (1-5 story)
Lot Coverage	18.1% Of Site
Parking Required	45 Spaces
(802 Students @ 1/15)	
HC Parking Required	5 Spaces
HC Parking Provided	6 Spaces
Total Parking Provided	119 Spaces
Impervious Surface	4,542 Acres (197,850 SF)

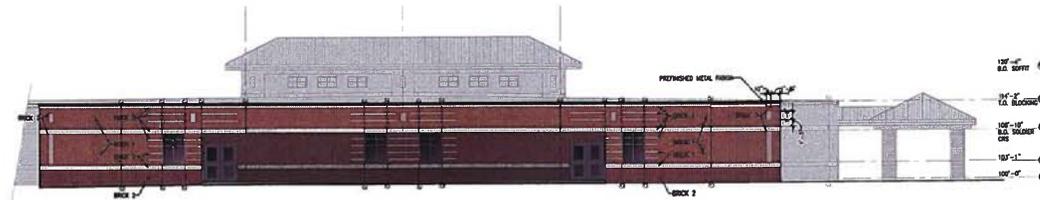


CAFETERIA SECTION

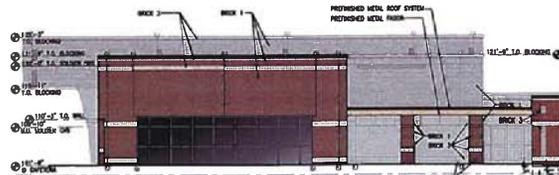
CLASSROOM WING ELEVATION



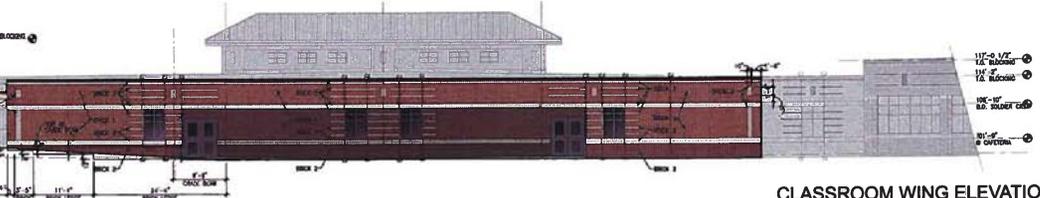
EXISTING BUILDING MATERIALS



CLASSROOM WING ELEVATION



CAFETERIA ELEVATION



CLASSROOM WING ELEVATION

**PBK Architecture**

Plano Independent School District \ Hunt Elementary School - Additions \ May 17, 2013

SCALE 1/8" = 1'-0"

SCHEMATIC ELEVATIONS AND SECTIONS

**City Council Meeting**  
**September 3, 2013**

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**Issue**

Request by Aron Frydberg on behalf of Allen Tari to reconsider the denial of the application of Allen Tari requesting a variance to sign requirements as stated in the Code of Ordinances Section 28-22, Monument Signs-Business Districts, for a sign at the business known as Tari Car Lot, located at 729 W. FM 544.

**Staff Resource/Department**

Kristen Roberts – Director of Community and Economic Development

**Background**

This item was originally denied by the Planning & Zoning Commission on June 3, 2013 and was appealed to City Council.

On July 16, 2013, the City Council denied the application of Allen Tari requesting a variance to sign requirements as stated in the Code of Ordinances Section 28-22, Monument Signs-Business Districts, for a sign at the business known as Tari Car Lot, located at 729 W. FM 544.

1. Sign construction began without a permit. There is a stone base already completed and is approximately four feet tall.
2. The applicant submitted a variance for consideration requesting the proposed sign height be allowed at 11'9".
  - a. There were a few draft alternative plans shown to Code Compliance staff regarding the height since the variance application submittal; however, the lowest sign height requested was ten feet tall.
  - b. The information as submitted with the original Planning & Zoning application (11'9") is presented for consideration.

**Consideration**

1. The applicant believes that he not did receive adequate consideration of the above mentioned variance request as his full presentation was not included in the city council packet and further, because he did not arrange in advance for it to be electronically presented; it was not able to be presented in an electronic format on July 16, 2013.
2. He is requesting reconsideration in order to have an opportunity to give City Council his presentation.
3. If the Council votes to reconsider this item, it will be advertised for a public hearing and brought back on the October 1, 2013, City Council agenda.

**City Council Meeting**  
**September 3, 2013**

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**Staff Recommendation**

Consider and/or act on a motion to reconsider the denial of the application of Allen Tari requesting a variance to sign requirements for a sign at the business known as Tari Car Lot, located at 729 W. FM 544.

**Attachments**

Denial Appeal Letter

**Kristen Roberts**

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**From:** Aron Frydberg [<mailto:aron527@yahoo.com>]  
**Sent:** Friday, August 23, 2013 12:03 AM  
**To:** Kristen Roberts  
**Subject:** Re: submittal for 9/3

Hello Mrs. Roberts.

This is my request for a hearing to be able to go back and have a presentation to City council on a variance for Car Co. car lot Sign, file was emailed with yousend it system, as it did not load with this email, if all possible like to have the hearing on September 3, 2013. please advise receiving file.

Aron Frydberg  
Striving for Excellence

214-336-2540  
[aron527@yahoo.com](mailto:aron527@yahoo.com)

**City Council**  
**May 7, 2013**

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**Issue**

Discuss amending Chapter 28 Development Standards, Article 1 Signs.

**Staff Resource/Department**

Kristen Roberts, Director of Community and Economic Development

**Background**

On May 18, 2009, City Council adopted ordinance revising existing development standards that were previously located in the Comprehensive Zoning Ordinance and creating a new chapter (Chapter 28) in the Code of Ordinances.

On October 18, 2010, the City Council initially directed staff to review Chapter 28 with the main emphasis of potential change to sign regulations, fencing, walls and screening regulations and exterior construction standards.

On June 21, 2011, City Council reviewed new recommendations to Chapter 28 and offered feedback for staff and Planning & Zoning Commission consideration.

At the July 25, 2011 Planning & Zoning meeting, the Commission made suggested changes to the Development Standards. These changes were incorporated and included for approval at the August 22, 2011, Planning & Zoning meeting. At that meeting, following discussion and receiving no comments from the public, the Commission approved the recommendations with slight edits to the verbiage in the fence permitting section and vehicular sign definition.

At the September 6, 2011 City Council meeting, Council discussed the recommendations and additional considerations for staff review.

On June 5, 2012, City Council considered and approved amendments to Section 28-10. Political Signs.

On February 13, 2013, City Council considered and approved amendments to Chapter 28, Development Standards, of the Code of Ordinances.

On May 7, 2013, the City Council amended Chapter 28 Development Standards, Article I, Signs, Section 28-2 to amend the definition of marquee signs; Chapter 28 Development Standards, Article 1 Signs, Section 28-21 to amend the general provisions applicable to signs in business zoning districts; Chapter 28 Development Standards, Article 1 Signs, Section 28-26 to amend the general provisions applicable to signs in residential zoning districts.

**City Council**  
**May 7, 2013**

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**Financial Considerations**

N/A

**Considerations**

1. The details of the May 7, 2013, amendments to Chapter 28 Development Standards, Article I, Signs are shown on the attached spreadsheet.
2. The edits to Chapter 28 created a consistency within the code of ordinances as it relates to electronic message signs.
  - a. There is a section (Section 28-6) regarding electronic signs currently in the Code of Ordinances that reads: *Changeable electronic variable message sign(s) ("CEVMS"), as defined in this chapter, are expressly prohibited within the city limits and the extraterritorial jurisdiction of the city as defined by V.T.C.A. Local Government Code, § 42.021.*
  - b. The edits amended the code to be consistent with the above mentioned section.

**Board Discussion/Action**

Pending Council direction, staff will bring requested amendments to the Planning and Zoning Commission for consideration on September 23, 2013 and then to City Council for consideration on the next available meeting.

**Staff Recommendation**

Discussion and direction

**Attachments**

Recommendations Comparison as approved on May 7, 2013

CHAPTER 28 - ARTICLE I. SIGNS		
Section	Current Ordinance	Approved amendments on May 7, 2013
<b>Section 28-2. Definitions</b>	<i>Sign, illuminated</i> means any sign which is directly lighted by any electrical light source, internal or external. This definition shall not include signs which are illuminated by street lights or other light sources owned by any public agency or light sources which are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.	It is recommended to keep this definition.
	<i>Sign, marquee</i> means any sign which has interchangeable letters (plastic, metal, magnetic, etc.) and these individual letters are changed manually.	It is recommended to add to the definition: <i>This definition also includes signs that flash, change illumination or copy, rotate, move or create an illusion of movement.</i>
<b>Section 28-21. General provisions applicable to signs in business zoning districts.</b>	<p>(a) In business zoning districts, no illuminated sign which has a sign area of 50 square feet or less shall have a luminance greater than 300-foot candles, nor shall any such sign have a luminance greater than 300-foot candles for any portion of the sign within a circle two feet in diameter. The restrictions of luminance in this section shall be determined from any other premise or from any public right-of-way.</p> <p>(b) No sign or part of any sign shall flash, change its illumination or copy, rotate, move or create an illusion of movement, except that:</p> <p>(1) Time and temperature informational signs which are oriented to be read from public ways may be allowed; provided, that no change of message occurs more than once each three seconds or less than once each five seconds.</p> <p>(2) Electronic reader boards which are oriented to be read from the public way may be allowed; provided that no change of message occurs more than once every 30 seconds.</p> <p>(c) Marquee signs which meet all the requirements of either the attached or freestanding sign provisions are allowed.</p> <p>(d) Pole signs are prohibited.</p>	<p>It is recommended to edit this Section as follows:</p> <p>(a) In business zoning districts, no illuminated sign which has a sign area of 50 square feet or less shall have a luminance greater than 300-foot candles, nor shall any such sign have a luminance greater than 300-foot candles for any portion of the sign within a circle two feet in diameter. The restrictions of luminance in this section shall be determined from any other premise or from any public right-of-way.</p> <p>(b) No sign or part of any sign shall flash, change its illumination or copy, rotate, move or create an illusion of movement.</p> <p>(1) Time and temperature informational signs which are oriented to be read from public ways are prohibited. (2) Electronic reader boards which are oriented to be read from the public way are prohibited.</p> <p>(a) Pole signs are prohibited.</p>
<b>Section 28-26 General provisions applicable to signs in residential zoning districts.</b>	(b) No sign nor part of any sign in a residential zoning district shall move, flash, rotate or change its illumination or copy. Marquee signs which meet all the requirements of either the attached or freestanding sign provision are allowed.	<p>It is recommended to edit this section as follows:</p> <p>(b) No sign nor part of any sign in a residential zoning district shall move, flash, rotate or change its illumination or copy. A sign may have interchangeable letters as defined in Sign, Marquee but must meet all the requirements of either the attached or free standing sign provisions.</p>

**City Council Meeting**  
**September 3, 2013**

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Consider and/or act upon awarding construction bid to low bidder A&M Construction & Utilities, for the repairs of a public storm drainage line / easement between 319 and 323 Kentwood Drive, and authorizing the City Manager to sign the contract.

**Staff Resource / Department**

Gary Hendricks, City Engineer  
Linda Truitt, Director of Finance  
Kim Lenoir, Director of Parks and Public Works

**Key Focus Area**

Infrastructure – Storm Drainage Repairs on Kentwood Drive public drainage easement.

**Summary**

Public bids were opened August 22, 2013. Five (5) bids were received. Low bid of \$43,278.00 was received from A&M Construction & Utilities. City engineer checked references and is recommending the low bid.

**Background/History**

In August 2012, the 319 Kentwood Drive homeowner contacted Public Works because their driveway was cracking and failing adjacent to the city drainage easement. Upon city investigation, it was discovered that the city storm drain line had separated causing the ground of the easement area to collapse / erode; thereby, causing the homeowner's driveway to crack. The city engineer prepared plans to repair the line and estimated the job at \$49,000. If a project value is \$50,000 or greater, public bidding is required. Staff proceeded to publically bid the repair project.

**Financial Considerations**

This project will be funded from the general fund.

**Action Requested / Staff Recommendation**

Motion to award the construction bid as recommended by city engineer to low bidder A&M Construction & Utilities and to authorize the City Manager to execute the contract.

**Attachments**

Engineer's Letter of recommendation & Bid Tabulation

**BIRKHOFF, HENDRICKS & CARTER, L.L.P.**  
**PROFESSIONAL ENGINEERS**

11910 Greenville Ave., Suite 600      Dallas, Texas 75243      Fax (214) 461-8390      Phone (214) 361-7900

JOHN W. BIRKHOFF, P.E.  
GARY C. HENDRICKS, P.E.  
JOE R. CARTER, P.E.  
MATT HICKEY, P.E.  
ANDREW MATA, JR., P.E.  
JOSEPH T. GRAJEWSKI, III, P.E.  
DEREK B. CHANEY, P.E.

August 27, 2013

Mr. James Fisher  
City Manager  
City of Murphy  
206 North Murphy Road  
Murphy, Texas 75094

Re: Kentwood Drive Storm Sewer Repair  
Bid Award Recommendation

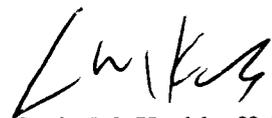
Dear Mr. Fisher:

We have checked the bids received at 3:00 p.m., Thursday, August 22, 2013 for the Kentwood Drive Storm Sewer Repair project. Five (5) contractors submitted bids on this project. We are enclosing six (6) copies of the Bid Summary and itemized Bid Tabulation, for your review and use.

A & M Construction & Utilities, Inc. of Rowlett, Texas submitted the low bid in the amount of \$43,278.00. Their bid contained no irregularities, no bid exceptions and no errors. A & M Construction & Utilities, Inc. meets the qualification requirements of the bid documents. They have a record of satisfactorily completing similar projects throughout North Texas. It is our opinion they have adequate equipment; and financial resources to properly pursue this project.

Therefore, we recommend the City accept the bid of A & M Construction & Utilities, Inc. for the Kentwood Drive Storm Sewer Repair project and award them a contact in the amount of \$43,278.00. We are available to discuss this project and our recommendation further at your convenience.

Sincerely,

  
Craig M. Kerkhoff, P.E.

Enclosures  
cc: Ms. Kim Lenoir

**CITY OF MURPHY, TEXAS**  
**Kentwood Drive Storm Sewer Repair**

**BID SUMMARY**

**Bids Received at 3:00 p.m., Thursday, August 22, 2013**

<b><u>Contractor</u></b>	<b><u>Total Amount Bid</u></b>
1. A & M Construction and Utilities, Inc. 4950 Grisham Dr. Rowlett, Texas 75088	<u>\$ 43,278.00</u>
2. R. D. Moorman, Inc. 4741 Parkwood Dr. Rockwall, Texas 75032	<u>\$ 45,525.00</u>
3. Moss Brothers 1314 W. McDermott Dr., Suite 106D Allen, Texas 75013	<u>\$ 46,779.00</u>
4. Jim Bowman Construction Company 2716 S. Rigsbee Dr. Plano, Texas 75074	<u>\$ 54,054.00</u>
5. Four Star Excavating, Inc. 6825 Levelland Rd., Suite 2B Dallas, Texas 75252	<u>\$ 58,875.00</u>

### TABULATION OF BIDS

Date: August 22, 2013

**Project:** CITY OF MURPHY, TEXAS  
 Kentwood Drive Storm Sewer Repair

**BIRKHOFF, HENDRICKS & CARTER, L.L.P.**  
 PROFESSIONAL ENGINEERS  
 Dallas, Texas

Item No.	Approximate Quantities	Unit	Description	BID OF		BID OF		BID OF	
				Unit Bid Price	Extension	Unit Bid Price	Extension	Unit Bid Price	Extension
1	72	L.F.	Furnish and Install 21-Inch RCP by Open Cut	\$265.00	\$ 19,080.00	\$300.00	\$ 21,600.00	\$235.00	\$ 16,920.00
2	1	Ea.	Connect to Existing 21-Inch RCP	\$850.00	\$ 850.00	\$7,000.00	\$ 7,000.00	\$1,000.00	\$ 1,000.00
3	1	Ea.	Furnish and Install TxDOT CH-FW-O Headwall	\$6,300.00	\$ 6,300.00	\$3,500.00	\$ 3,500.00	\$5,250.00	\$ 5,250.00
4	60	L.F.	Remove and Replace 6-Foot Wood Privacy Fence	\$48.00	\$ 2,880.00	\$35.00	\$ 2,100.00	\$97.00	\$ 5,820.00
5	17	S.Y.	Remove Concrete Driveway	\$60.00	\$ 1,020.00	\$150.00	\$ 2,550.00	\$85.00	\$ 1,445.00
6	17	S.Y.	Furnish and Install Block Sod	\$22.00	\$ 374.00	\$75.00	\$ 1,275.00	\$77.00	\$ 1,309.00
7	7	C.Y.	Earthwork: Cut	\$25.00	\$ 175.00	\$25.00	\$ 175.00	\$55.00	\$ 385.00
8	293	C.Y.	Earthwork: Fill	\$43.00	\$ 12,599.00	\$25.00	\$ 7,325.00	\$50.00	\$ 14,650.00
9	286	C.Y.	Earthwork: Net (Fill)						
			<b>TOTAL AMOUNT BID (Items 1 Through 8)</b>		\$ 43,278.00		\$ 45,525.00		\$ 46,779.00

### TABULATION OF BIDS

Date: August 22, 2013

**Project:** CITY OF MURPHY, TEXAS  
Kentwood Drive Storm Sewer Repair

**BIRKHOFF, HENDRICKS & CARTER, L.L.P.**  
 PROFESSIONAL ENGINEERS  
 Dallas, Texas

**BID OF**  
 Four Star Excavating, Inc.  
 6825 Levelland Rd., Suite 2B  
 Dallas, Texas 75252

**BID OF**  
 Jim Bowman Construction Company  
 2716 S. Riggsbee Dr.  
 Plano, Texas 75074

Item No.	Approximate Quantities	Unit	Description	BID OF		BID OF	
				Unit Bid Price	Extension	Unit Bid Price	Extension
1	72	L.F.	Furnish and Install 21-Inch RCP by Open Cut	\$200.00	\$ 14,400.00	\$301.00	\$ 21,672.00
2	1	Ea.	Connect to Existing 21-Inch RCP	\$4,000.00	\$ 4,000.00	\$3,700.00	\$ 3,700.00
3	1	Ea.	Furnish and Install TxDOT CHI-FW-O Headwall	\$7,800.00	\$ 7,800.00	\$7,300.00	\$ 7,300.00
4	60	L.F.	Remove and Replace 6-Foot Wood Privacy Fence	\$60.00	\$ 3,600.00	\$89.00	\$ 5,340.00
5	17	S.Y.	Remove Concrete Driveway	\$40.00	\$ 680.00	\$158.00	\$ 2,686.00
6	17	S.Y.	Furnish and Install Block Sod	\$30.00	\$ 510.00	\$81.00	\$ 1,377.00
7	7	C.Y.	Earthwork: Cut	\$30.00	\$ 210.00	\$56.00	\$ 392.00
8	293	C.Y.	Earthwork: Fill	\$78.00	\$ 22,854.00	\$56.00	\$ 16,408.00
9	286	C.Y.	Earthwork: Net (Fill)				
<b>TOTAL AMOUNT BID (Items 1 Through 8)</b>					\$ 54,054.00		\$ 58,875.00

*Item No. 9: Deleted via Add #1*

**City Council**  
**September 3, 2013**

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**Issue**

Consider and/or act upon Ethics Review Commission recommendations:

1. A proposed resolution establishing the Rules and Procedures for the City of Murphy Ethics Commission
2. A proposed ordinance amending Chapter 2, Article IX of the Code of Ordinances entitled Code of Ethics.

**Staff Resource / Department**

James Fisher, City Manager  
Kristi Gilbert, City Secretary  
Andy Messer, City Attorney

**Background**

The Ethics Review Commission was established in 2012 and held several meetings in order to appoint its officers, review, consider and discuss the Code of Ethics of the City of Murphy and the Commission's duties and responsibilities in this regard, and to discuss, prepare and adopt its proposed Rules and Procedures for submission to the City Council for consideration and action. On July 19, 2012, the Commission approved its proposed Rules and Procedures and also approved certain recommendations, requests and notifications to be presented to the City Council.

Council took action at their October 16<sup>th</sup> and November 11<sup>th</sup> meetings providing direction for the proposed changes.

Four new members were appointed to the Ethics Review Commission in December of 2012. The Commission held meetings in February and April to review the proposed changes with the Assistant City Attorney. The attached includes the resulting documents after final attorney review.

**Attachments**

1. Proposed Resolution establishing the Rules and Procedures – Clean Version
2. Proposed Resolution establishing the Rules and Procedures – Blackline Version
3. Proposed Ordinance amending the Code of Ethics – Clean Version
4. Proposed Ordinance amending the Code of Ethics – Blackline Version

**RESOLUTION NO. 13-R-774**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, ADOPTING CERTAIN RULES AND PROCEDURES FOR THE ETHICS REVIEW COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter authorizes the City Council to create committees deemed desirable by the City Council and those which may be necessary to carry out the functions and obligations of the City; and,

**WHEREAS**, Ordinance 10-11-863 created the Ethics Review Commission; and

**WHEREAS**, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter also provides that the City Council shall by ordinance or resolution prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or City Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS AS FOLLOWS:**

**Section 1.** That the foregoing recitals are hereby found to be true and correct findings of the City of Murphy, Texas, and are fully incorporated into the body of this resolution.

**Section 2.** Purpose and Intent. Recognizing that every legislative body needs a systematic way of conducting its business, this Resolution is to provide for the orderly conduct of business City of Murphy Ethics Review Commission.

**Section 3.** The Rules and Procedures attached as Exhibit "A" are hereby adopted as the official Rules and Procedures for the Ethics Review Commission.

**Section 4.** This resolution shall become effective from and after its passage.

**DULY RESOLVED** by the City Council of the City of Murphy, Texas, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

---

Eric Barna, Mayor  
City of Murphy

ATTEST:

---

Kristi Gilbert, City Secretary  
City of Murphy

APPROVED AS TO FORM:

---

Wm. Andrew Messer, City Attorney  
City of Murphy

## Exhibit "A"

**CITY OF MURPHY  
ETHICS REVIEW COMMISSION****RULES AND PROCEDURES****SECTION 1. INTRODUCTION**

(a) The Ethics Review Commission (the "Commission") is an advisory body of the City of Murphy, Texas, having jurisdiction over ethics complaints as described in Chapter 2, Article IX of the Code of Ordinances of the City of Murphy, Texas. The Commission is responsible for its performance of its duties and responsibilities. The development of these rules and procedures is designed to ensure effective and efficient application of these rules and procedures.

(b) These rules and procedures address Commission relations among Commission members, and with City employees and officials. By adopting these rules and procedures, we, as members of the Commission, acknowledge our responsibility to each other, to City staff and to the public. These rules and procedures will be reviewed as necessary.

**SECTION 2. MISSION**

(a) The Commission will provide for the fair and equal review of all ethics complaints.

(b) In order to ensure proper consideration of all matters brought before the Commission, members of the Commission will display behavior that demonstrates independent and impartial review of all matters addressed by them, and be duly responsible to the City Council, citizens of the City of Murphy and to each other.

**SECTION 3. INFORMATION**

(a) The Complaint Process will be followed as outlined in Article IX, Section 2-514, as amended.

(b) All Commission members shall have access to the same information with which to make decisions in the hearing and sanctions process. When one Commission member has an information request, the response may be shared with all members of the Commission so that each member may be equally informed.

(c) All correspondence or communications shall be copied to the City Attorney.

**SECTION 4. ROLES**

- (a) The Chairperson shall preside at meetings of the Commission, and shall be recognized as head of the Ethics Review Commission for all purposes. The Chairperson may participate in the discussion of all matters coming before the Commission. The Chairperson shall be entitled to vote as a member thereof unless prohibited by law, and shall have no power of veto.
- (b) The Commission shall elect from among the Commission members a Vice Chairperson who shall act as Chairperson during the absence, conflict or disability of the Chairperson.
- (c) The Chairperson shall preserve order and decorum and shall require Commission members engaged in debate to limit discussion to the question under consideration.
- (d) The Chairperson is the spokesperson for the Commission on all official positions taken unless absent, at which time the Vice Chairperson or other designee will assume the role.
- (e) The Chairperson will encourage all Commission members to fully participate in Commission discussion before an item is brought to vote.
- (f) The Chairperson may appoint a subcommittee made up of Commission members and City staff as deemed necessary by the Commission to recommend direction to the full Commission. City staff may only be used upon approval by the City Manager.
- (g) The Chairperson or designee shall act as the appointed liaison to the City Council.

## SECTION 5. MEETINGS

- (a) **Annual Meeting** – The Commission shall meet at least once a year as outlined in Article IX, Section 2-513(b)(3) as amended.
- (b) **Special Meetings** – Special Meetings may be held on any day of the week to consider items that require action prior to the annual meeting and may be called at the request of the Chairperson, or any two (2) members of the Commission as outlined in Article IX, Section 2-513(b)(3) as amended. Special meetings will be open to the public in accordance with the Texas Open Meetings Act.
- (c) **Work sessions** – Work sessions shall be held as needed. Work sessions will be open to the public in accordance with the Texas Open Meetings Act.
- (d) **Executive Sessions** – The Commission may meet in executive session in compliance with the Texas Open Meetings Act. All final actions, decisions or votes on any matter deliberated in an executive session shall be made in open session for which proper notice has been provided. All discussions in executive session shall remain confidential. Executive sessions are not open to the public in accordance with the Texas Open Meetings Act.
- (e) **Confidentiality and Nondisclosure Agreement** – Each Commission member shall sign a confidentiality and non-disclosure agreement the earlier of, thirty (30) days following

appointment by the City Council or prior to receiving any information regarding an ethics complaint.

(f) **Attendance** - Commission members are expected to attend all meetings and stay in attendance during each meeting. No member shall leave a meeting without advising the Chairperson.

(g) The Commission may create a subcommittee of two Commission members as necessary.

(h) **Punctuality and Recess** – Members of the Commission are expected to arrive at meetings at or before the scheduled time for the meeting to begin and shall advise the Chairperson or Secretary if there is an expectation that the Commission member will be delayed in attending the meeting or may need to leave the meeting before it is adjourned. At the beginning of each meeting, the Chairperson shall announce those members that are absent and shall announce the arrival time of any member arriving after the beginning of any meeting. The Chairperson may at any time, upon his or her own motion, or upon the request of a Commission member, declare a recess of the meeting. The time period of the recess shall be strictly followed.

(i) **Conflict of Interest** – A Commission member prevented from voting due to a conflict of interest shall leave the room during the debate, shall not vote on the matter, and shall otherwise comply with the state law and the Charter and ordinances concerning conflicts of interest. Any Commission member filing a conflict of interest affidavit on an item shall not thereafter confer with staff, or Commission members regarding that matter. The City Attorney may provide assistance to a Commission member in determining whether or not a conflict of interest exists.

(k) **Conduct of Meetings and Work Sessions**

1) During Commission meetings and work sessions, Commission members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the rules of the Commission.

2) A Commission member shall confine discussion to the question under debate, avoid the discussion of personalities and the use of inappropriate language, and refrain from personal attacks or from publicly criticizing a citizen, a City Councilmember, a member of any board, commission or committee of the City, an individual employee, or an operational issue. Questioning facts or the opinion of staff is allowed.

3) When there is more than one witness during a final hearing who is called to address the matter, Commission Members may delay their comments until after all witnesses on the subject have been heard.

4) The Chairperson shall state all questions submitted for a vote and announce the result.

(l) **Citizens and Visitors**

(1) Everyone attending a meeting will refrain from private conversations and turn mobile phones to silent or vibrate while the Commission is in session.

(2) Citizens and visitors attending Commission meetings, work sessions and hearings shall observe the same rules of propriety, decorum and good conduct applicable to members of the Commission. Any person making personal, impertinent, disruptive, profane or defamatory remarks or who becomes boisterous while addressing the Commission or while attending the meeting, work session or hearing, shall be removed from the room if so directed by the Chairperson. Such person shall be barred from further audience before the Commission during that session. If the Chairperson fails to act, any member of the Commission may move to require enforcement of the rules, and the affirmative vote of a majority of the Commission shall require the Chairperson to act.

(4) Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Chairperson, who may direct the removal of offenders from the room. In case the Chairperson shall fail to act, any member of the Commission may move to require enforcement of the rules and the affirmative vote of a majority of the Commission shall require the Chairperson to act.

(5) No placards, banners, or signs will be permitted in the Commission meeting room or in any other room in which the Commission is meeting. Exhibits, displays and visual aids used in connection with presentations, however, are permitted.

(m) **Motions At Meetings**

(1) At a meeting, the Commission may discuss an agenda item prior to a motion being made. This allows a motion to be crafted that will incorporate the issues discussed.

(2) A motion made and seconded will be considered the main motion. Any Commission member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion.

(3) A motion may be withdrawn or modified by its mover without asking permission until the motion is voted upon. If the mover modified the motion, the Commission member who seconded the motion may withdraw the second.

(4) A motion to reconsider any action of the Commission must be made no later than prior to the conclusion of the next regularly scheduled meeting of the Commission. Such a motion may only be made by a Commission member who voted with the prevailing side. The motion to reconsider may be seconded by any member. No issue shall be twice reconsidered except by unanimous vote of the Commission.

(i) If a motion to reconsider is made at the same meeting at which the matter was acted upon, the motion may be heard and voted upon and the original action on the matter is set aside. Deliberation may then resume on the matter at that same meeting.

- (ii) If a motion to reconsider is made at the next meeting after the matter was acted upon the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter, but it shall be placed on the next available agenda for deliberation and action.
- (n) **Suspension of Rules** – Any provision of these rules not governed by the City Charter, City Code, State or Federal law may be temporarily suspended by a majority vote of the members of the Commission present. The vote on any such suspension shall be taken by yeas and nays and entered upon the record.
- (o) **Amendment of Rules** – These rules may be amended or new rules adopted, by a majority vote of the members of the Commission and approved by the Commission and then recommended to City Council for final approval.
- (p) **Failure to Comply** - A failure to comply with these rules does not invalidate any otherwise lawful act of the Commission.
- (q) **Tabling** – An item under consideration may be tabled until a later point in the same meeting.
- (r) **Postponement** – An item may be postponed until a future meeting, a specific future date, or until a specific outside action occurs. Items may also be postponed indefinitely, which means the item is dead and cannot be brought back before the Commission.
- (s) **Retention Policy** - The document retention policy of the Commission shall be the same as that of the City.

## SECTION 6. PUBLIC CONTACT / MEDIA RELATIONS

The Commission shall refer all media inquiries to the City Manager or his or her designee as the City's official representative to the media.

**RESOLUTION NO. 13-R-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, ADOPTING CERTAIN RULES AND PROCEDURES FOR THE ETHICS REVIEW COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter authorizes the City Council to create committees deemed desirable by the City Council and those which may be necessary to carry out the functions and obligations of the City; and,

**WHEREAS**, Ordinance 10-11-863 created the Ethics Review Commission; and

**WHEREAS**, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter also provides that the City Council shall by ordinance or resolution prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or City Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS AS FOLLOWS:**

**Section 1.** That the foregoing recitals are hereby found to be true and correct findings of the City of Murphy, Texas, and are fully incorporated into the body of this resolution.

**Section 2.** Purpose and Intent. Recognizing that every legislative body needs a systematic way of conducting its business, this Resolution is to provide for the orderly conduct of business City of Murphy Ethics Review Commission.

**Section 3.** The Rules and Procedures attached as Exhibit "A" are hereby adopted as the official Rules and Procedures for the Ethics Review Commission.

**Section 4.** This resolution shall become effective from and after its passage.

**DULY RESOLVED** by the City Council of the City of Murphy, Texas, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Eric Barna, Mayor

City of Murphy

ATTEST:

\_\_\_\_\_  
Kristi Gilbert, City Secretary  
City of Murphy

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APPROVED AS TO FORM:

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Wm. Andrew Messer, City Attorney  
City of Murphy

| ~~8/27/2013 8:21 AM 7/10/2013 1:00 PM 7/10/2013 12:26 PM 7/10/2013 10:49 AM 7/9/2013 1:16 PM~~

## Exhibit "A"

**CITY OF MURPHY**  
**ETHICS REVIEW COMMISSION**

RULES AND PROCEDURES

## SECTION 1. INTRODUCTION

(a) The Ethics Review Commission (the "Commission") is an advisory body of the City of Murphy, Texas, having jurisdiction over ethics complaints as described in Chapter 2, Article IX of the Code of Ordinances of the City of Murphy, Texas. The Commission is responsible for its ~~own development, discipline, and~~ performance of its duties and responsibilities. The development of these rules and procedures is policy is designed to ensure effective and efficient application of these rules and procedures.

(b) These rules and procedures is policy addresses Commission relations among Commission members, and with City employees and officials. By adopting these rules and procedures is policy, we, as members of the Commission, acknowledge our responsibility to each other, to City staff and to the public. These rules and procedures is policy will be reviewed as necessary.

## SECTION 2. MISSION

(a) The Commission will provide for the fair and equal resolution review of all ethics complaints brought forth for its review in order to determine whether or not it should impose a sanction per Section 2-517 of the Code of Ethics.

(b) In order to ensure proper consideration ~~resolution review~~ of all matters brought before the Commission, members of the Commission will display behavior that demonstrates independent and impartial review of all matters addressed by them, and be duly responsible to the City Council, citizens of the City of Murphy and to each other.

## SECTION 3. INFORMATION

(a) The Complaint Process will be followed as outlined in Article IX, Section 2-514, as amended.

(b) All Commission members shall have access to the same information with which to make decisions in the hearing and sanctions process. When one Commission member has an information request, the response may be shared with all members of the Commission so that each member may be equally informed.

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- (c) All correspondence or communications shall be copied to the City Attorney.

#### SECTION 4. ROLES

- (a) The Chairperson shall preside at meetings of the Commission, and shall be recognized as head of the Ethics Review Commission for all purposes. The Chairperson may participate in the discussion of all matters coming before the Commission. The Chairperson shall be entitled to vote as a member thereof unless prohibited by law, and shall have no power of veto.
- (b) The Commission shall elect from among the Commission members a Vice Chairperson who shall act as Chairperson~~Presiding Officer~~ during the absence, conflict or disability of the Chairperson.
- (c) The Chairperson shall preserve order and decorum and shall require Commission members engaged in debate to limit discussion to the question under consideration.
- (d) The Chairperson is the spokesperson for the Commission on all official positions taken unless absent, at which time the Vice Chairperson or other designee will assume the role.
- (e) The Chairperson will encourage all Commission members to fully participate in Commission discussion before an item is brought to vote.
- (f) The Chairperson may appoint a subcommittee made up of Commission members and City staff as deemed necessary by the Commission to recommend direction to the full Commission. City staff may only be used upon approval by the City Manager.
- (g) The Chairperson or designee shall act as the appointed liaison to the City Council.

#### SECTION 5. MEETINGS

- (a) **Annual Meeting** – The Commission shall meet at least once a year as outlined in Article IX, Section 2-513**(b)(3)**~~(subsection 3)~~ as amended.
- (b) **Special Meetings** – Special Meetings may be held on any day of the week to consider items that require action prior to the annual meeting and may be called ~~upon~~ at the request of the Chairperson, or any two (2) members of the Commission as outlined in Article IX, Section 2-513(b)(3) as amended~~Vice Chairperson or City Manager~~. Special meetings will be open to the public in accordance with the Texas Open Meetings Act.
- (c) **Work sessions** – Work sessions shall be held as needed ~~and used to allow the Commission to discuss procedures~~. Work sessions will be open to the public in accordance with the Texas Open Meetings Act.
- (d) **Executive Sessions** – The Commission may meet in executive session in compliance with the Texas Open Meetings Act. All final actions, decisions or votes on any matter

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deliberated in an executive session shall be made in open session for which proper notice has been provided. All discussions in executive session shall remain confidential. Executive sessions are not open to the public in accordance with the Texas Open Meetings Act.

(e) ~~Each member shall sign a n~~Confidentiality and Nondisclosure Agreement. – Each Commission member shall sign a confidentiality and non-disclosure agreement the earlier of, thirty (30) days following appointment by the City Council or prior to receiving any information regarding an ethics complaint.

(f) **Attendance** - Commission members are expected to attend all meetings and stay in attendance during each meeting. No member shall leave a meeting without advising the ~~Chairperson~~Presiding Officer.

(g) The Commission may create a subcommittee of two Commission members as necessary.

(h) **Punctuality and Recess** – Members of the Commission are expected to arrive at meetings at or before the scheduled time for the meeting to begin and shall advise the Chairperson or Secretary if there is an expectation that the Commission member will be ~~tardy~~delayed in attending the meeting or may need to leave the meeting before it is adjourned. At the beginning of each meeting, the ~~Chairperson~~Presiding Officer shall announce those members that are absent and shall announce the arrival time of any member arriving after the beginning of any meeting. The ~~Chairperson~~Presiding Officer may at any time, upon his or her own motion, or upon the request of a Commission member, declare a recess of the meeting. The time period of the recess shall be strictly followed.

(i) **Conflict of Interest** – A Commission member prevented from voting due to a conflict of interest shall leave the room during the debate, shall not vote on the matter, and shall otherwise comply with the state law and the Charter and ordinances concerning conflicts of interest. Any Commission member filing a conflict of interest affidavit on an Executive Session item shall not thereafter confer with staff, or Commission members regarding that matter. The City ~~A~~ttorney may provide assistance to a Commission member in determining whether or not a conflict of interest exists.

#### **Process of Ethics Hearing: Complaint Hearing Process:**

~~The City Attorney shall perform an initial review of the submitted complaint for conformity with the requirements of Section 2-514 of the Code of Ethics. If the complaint is found to be insufficient, the City Attorney shall notify the complainant that the complaint is deficient and the matter shall be closed without prejudice to subsequent re-filing. If the complaint is found to be sufficient, it shall be forwarded to the City Manager, the Chairperson of the Ethics Review Commission, the City Secretary and the complaine, and a preliminary hearing shall be scheduled with proper notice being provided to the complaint and complaine. Complaints against the City Attorney shall be forwarded to the Municipal Judge.~~

~~An initial meeting will be held to discuss the filed complaint. The complainant and the complaine may attend the initial meeting preliminary hearing and each shall be~~

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~~allowed to make a presentation to the Commission and, but the . The complainant and the complainee must be allowed to make a presentation at the initial meeting, but the Commission may not limit the time for the presentation to no fewer than five (5) minutes.~~

~~A majority vote of the full Commission shall will be required for the Commission to continue its investigation of the complaint; otherwise, the matter will be closed.~~

~~The Chairperson or authorized designee shall send written notice following the preliminary hearing of the initial review and its outcome to both the complainant and the complainee within a reasonable amount of time five (5) business days after the initial review preliminary hearing decision is has been made made by the Commission.~~

~~The Commission will may then exercise its powers as outlined in Article IX, Section 2-5132-516 to investigate, request and gather evidence as necessary to determine if an ethics violation has occurred.~~

~~If the Commission determines that there are reasonable grounds to believe that a violation of Article IX has occurred, it shall schedule a final hearing. Otherwise, the complaint may be dismissed.~~

~~The complainant and the complainee may attend the final hearing and each shall be allowed to make a presentation to the Commission. The complainant and the complainee must be allowed to make a presentation at the final hearing and, but the Commission may not limit the time for the presentation to no fewer than five (5) minutes.~~

~~Sanctions may be imposed in accordance with Article IX, Section 2-517 as amended, by majority vote of the full Commission.~~

~~All actions of the Commission are immediately appealable by complainee only to a committee comprised of the Mayor, the City Attorney, and the Municipal Judge or with an alternate city official being appointed by a majority of the City Council official in the case of a conflict of interest. This committee shall have the authority to affirm, dismiss or remand the decision of the Commission with instructions.~~

(k) **Conduct of Meetings and Work Sessions**

- 1) During Commission meetings and work sessions, Commission members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the rules of the Commission.
- 2) A Commission member shall confine discussion to the question under debate, avoid the discussion of personalities and the use of inappropriate language, and refrain from personal attacks or from publicly criticizing a citizen, a City Councilmember, a member of any board, commission or committee of the City, an individual employee, or an operational issue. ~~QCriticism is differentiated from~~ questioning facts or the opinion of staff ~~is allowed.~~
- 3) When there is more than one ~~witness~~ ~~speaker~~ during a final hearing who is called to address the matter, Commission Members ~~may~~ ~~shall~~ delay their comments until after all ~~witnesses~~ ~~speakers~~ on the subject have been heard.

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4) The Chairperson shall state all questions submitted for a vote and announce the result.

(1) **Citizens and Visitors**

(1) Everyone attending a meeting will refrain from private conversations and turn mobile phones to silent or vibrate while the Commission is in session.

(2) Citizens and visitors attending Commission meetings, work sessions and hearings shall observe the same rules of propriety, decorum and good conduct applicable to members of the Commission. Any person making personal, impertinent, disruptive, profane or defamatory remarks or who becomes boisterous while addressing the Commission or while attending the meeting, work session or hearing, shall be removed from the room if so directed by the Chairperson Presiding Officer. Such person shall be barred from further audience before the Commission during that session. If the Chairperson Presiding Officer fails to act, any member of the Commission may move to require enforcement of the rules, and the affirmative vote of a majority of the Commission shall require the Chairperson Presiding Officer to act.

(4) Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Chairperson Presiding Officer, who may direct the removal of offenders from the room. In case the Chairperson Presiding Officer shall fail to act, any member of the Commission may move to require enforcement of the rules and the affirmative vote of a majority of the Commission shall require the Chairperson Presiding Officer to act.

(5) No placards, banners, or signs will be permitted in the Commission meeting room or in any other room in which the Commission is meeting. Exhibits, displays and visual aids used in connection with presentations, however, are permitted. ~~Video presentations requested by a citizen or visitor as visual aids will not be broadcast over any city public access cable channel.~~

~~(m)~~ **Agenda**

~~(1) The Chairperson and/or alternatively Vice Chairperson shall set the agenda. Any Commission member may request an item be placed on a future agenda at a meeting.~~

~~(2) Agenda item requests made outside of an open meeting shall be submitted to the City Secretary.~~

~~(m)~~ **Motions At Meetings**

(1) At a meeting, ~~t~~The Commission may discuss an agenda item prior to a motion being made. This allows a motion to be crafted that will incorporate the issues discussed.

(2) A motion made and seconded will be considered the main motion. Any Commission member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion.

(3) A motion may be withdrawn or modified by its mover without asking permission until the motion is voted upon. If the mover modified the motion, the Commission member who seconded the motion may withdraw the second.

(4) A motion to reconsider any action of the Commission must be made no later than prior to the conclusion of the next regularly scheduled meeting of the Commission. Such a motion may only be made by a Commission member who voted with the prevailing side. The motion to reconsider may be seconded by any member. No issue/question shall be twice reconsidered except by unanimous vote of the Commission.

(i) If a motion to reconsider is made at the same meeting at which the matter was acted upon, the motion may be heard and voted upon and the original action on the matter is set aside. Deliberation may then resume on the matter at that same meeting.

(ii) If a motion to reconsider is made at the next meeting after the matter was acted upon, ~~with the exception of any final determination of the Commission,~~ the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter, but it shall be placed on the next available agenda for deliberation and action.

**(n)** **Suspension of Rules** – Any provision of these rules not governed by the City Charter, City Code, State or Federal law may be temporarily suspended by a majority vote of the members of the Commission present. The vote on any such suspension shall be taken by yeas and nays and entered upon the record.

**(o)** **Amendment of Rules** – These rules may be amended or new rules adopted, by a majority vote of the members of the Commission and approved by the Commission and then recommended to City Council for final approval.

**(p)** **Failure to Comply** - A failure to comply with these rules does not invalidate any otherwise lawful act of the Commission.

**(q)** **Tabling** – An item under consideration may be tabled until a later point in the same meeting.

**(r)** **Postponement** – An item may be postponed until a future meeting, a specific future date, or until a specific outside action occurs. Items may also be postponed indefinitely, which means the item is dead and cannot be brought back before the Commission ~~unless there is a change~~.

**(s)** **Retention Policy** - The document retention policy of the Commission shall be the same as that of the City.

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SECTION 6. PUBLIC CONTACT / MEDIA RELATIONS

~~(a) All reporters may receive an agenda in advance and will be furnished supporting materials needed for clarification if requested.~~

(b) The Commission shall refer all media inquires to the City Manager or his or her designee as the City's official representative to the media.

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**ORDINANCE NO. 13--09-**

**AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, AMENDING CHAPTER 2 OF THE CITY OF MURPHY'S CODE OF ORDINANCES, AMENDING ARTICLE IX CODE OF ETHICS FOR CITY OFFICIALS AND EMPLOYEES, INCLUDING REGULATIONS RELATED TO STANDARDS OF CONDUCT; GIFTS AND HONORARIUMS; CONFLICTS OF INTEREST; CONFLICT DISCLOSURE STATEMENTS; INTEREST IN PROPERTY ACQUIRED WITH PUBLIC FUNDS; NEPOTISM; BRIBERY; CITY RECORDS; MISUSE OF OFFICIAL INFORMATION; ABUSE OF OFFICIAL CAPACITY; AND OFFICIAL OPPRESSION; CREATING AN ETHICS REVIEW COMMISSION; PROVIDING A COMPLAINT PROCESS FOR VIOLATIONS OF THE CODE OF ETHICS; PRESCRIBING THE ROLE OF THE CITY ATTORNEY IN THE COMPLAINT PROCESS; PROVIDING A HEARING PROCESS; PROVIDING SANCTIONS FOR VIOLATIONS OF THE CODE OF ETHICS; AND PROVIDING FOR DISTRIBUTION AND PROOF OF COMPLIANCE; AND PROVIDING FOR AN EFFECTIVE DATE, PROPER NOTICE AND MEETING; SEVERABILITY CLAUSE AND REPEALER CLAUSE.**

**WHEREAS**, statutory provisions governing the ethical conduct of public officials and employees are found in various codes including the Texas Local Government Code, the Texas Government Code and the Texas Penal Code; and

**WHEREAS**, the City Council finds it desirable and necessary to adopt a comprehensive ethics ordinance that sets out the parameters relating to the conduct of public officials and employees in one easily accessible location; and

**WHEREAS**, the City Council believes that a position in government is a position of public trust that demands a high standard of behavior, and

**WHEREAS**, each employee and official of the City of Murphy should uphold the Constitution, laws and regulations of the United States and the State of Texas and the Charter and ordinances of the City of Murphy; and

**WHEREAS**, the City of Murphy seeks to promote personal integrity, honesty and ethical conduct in all activities undertaken by City Officials and employees through the adoption of this Ordinance; and

**WHEREAS**, the City of Murphy seeks to inspire public confidence and trust in City of Murphy officials and employees through the adoption of this "Code of Ethics";

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY MURPHY, TEXAS:**

**SECTION 1. RECITALS**

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

**SECTION 2. ADOPTION OF CODE OF ETHICS**

Chapter 2, Administration, of the Code of Ordinances of the City of Murphy is hereby amended by amending Article IX, Code of Ethics:

Article IX, Code of Ethics attached hereto as Exhibit "A" and incorporated herein for all purposes is hereby enacted.

**SECTION 3. Effective Date**

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**SECTION 4. Proper Notice and Meeting**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 552 of the Texas Local Government Code.

**SECTION 5. Severability**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**SECTION 6. Repealer**

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

**PASSED AND APPROVED** by the City Council of the City of Murphy, Texas this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Eric Barna, Mayor  
City of Murphy

ATTEST:

\_\_\_\_\_  
Kristi Gilbert, City Secretary  
City of Murphy

APPROVED AS TO FORM:

\_\_\_\_\_  
Wm. Andrew Messer, City Attorney  
City of Murphy

**EXHIBIT “A”**

**ARTICLE IX  
CODE OF ETHICS**

**Section 2-501. Definitions.**

The terms used in this Article shall have the following meanings:

**Business Entity** means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

**Candidate.** This term has the meaning assigned by section 251.001, Election Code.

**City Council** means the mayor and six (6) council members elected to serve as the governing body of the City.

**City Employee** means any person employed by the City, including those individuals that are employed on a part-time or temporary basis and employees of any corporation created by the City, but such term shall not be extended to apply to any independent contractor.

**City Attorney** means the City Attorney appointed by the City Council pursuant to the City Charter.

**City Engineer** means the City Engineer appointed by the City Manager.

**City Manager** means the City Manager appointed by the City Council pursuant to the City Charter.

**City Official** means every member of the City Council, the City Manager, City Secretary, the City Attorney, the Municipal Judge, the City Engineer and all members of any board, commission, or committee appointed by the City Council, including the board members of the Murphy Municipal Development District (MDD), the Murphy Economic Development Corporation (4A) (“MEDC”) and the 4B Murphy Community Development Corporation (“MCDC”), and the executive directors of the MEDC and the MCDC.

**City Secretary** means the City Secretary appointed by the City Council pursuant to the City Charter.

**Confidential Information** means any information that a City Official would be privy to because of the official’s position but otherwise is not available to the public under the provisions of the Texas Public Information Act (Tex. Gov’t Code Ch. 552).

**Conflict Disclosure Statement** means the disclosure statement form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

**Conflict of Interest Questionnaire** means the conflicts of interest form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

**Economic Benefit** means any taxable income or any money, real or personal property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

**Economic Interest** means a legal or equitable interest in real or personal property or a fiduciary obligation to such property or contractual right in such property that is more than Two Thousand Five Hundred Dollars (\$2500.00). Service by a City Official or City Employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an Economic Interest in the property of that organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in the securities or other assets unless the City Official or City Employee participates in the management of the fund. A City Official or City Employee does not have an Economic Interest in a matter if the economic impact on the City Official or City Employee is indistinguishable from the impact on the public or on the particular group affected by the matter.

**Family Member** means a person related to a City Official in the first degree of consanguinity or affinity, as described by Subchapter B, Chapter 573 of the Government Code, except that the term does not include a person who is considered to be related to a City Official by affinity only as described by Section 573.024(b) of the Government Code. This definition would include children, spouses, parents, step-children and parents-in-law or children-in-law, except that relationships by affinity would end upon divorce.

**Gift** means a favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an *inter vivos* or testamentary trust.

**Municipal Judge** means the Municipal Judge or alternate Municipal Judge appointed by the City Council pursuant to the City Charter.

**Permissible Gift** means a thing of nominal value given (not to exceed \$100.00 in value), and not given to request a specific favor, special treatment, or influence a City Official or City Employee. Marketing advertisement items of nominal value, or certificates or plaques having no intrinsic value, are considered permissible gifts or gratuities. The purchase of meals of nominal value, provided there is a rotation of purchasing, is considered a permissible gift. The provision of training/education programs of a general nature is considered a permissible gift or gratuity. Items that exceed \$100.00 in value, if divided (e.g. holiday food or sporting event tickets distributed by lot) or donated for a City-sponsored function, are considered permissible gifts and/or gratuities.

**Qualified Voter** means a person who meets the qualifications of Section 11.002 of the Texas Election Code to vote in City elections.

**Second Degree by Affinity** is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

**Substantial Interest** means the interest that a City Official and/or a Family Member has in a business or business entity or in real property as described below:

- (a) The City Official and/or a Family Member owns ten percent (10%) or more of the voting stock or shares of the business entity; or
- (b) The City Official and/or a Family Member owns ten percent (10%) or more or \$15,000.00 or more of the fair market value of the business entity; or
- (c) Funds received by the City Official and/or a Family Member from the business entity exceed ten percent (10%) of the person's gross income for the previous year;
- (d) The City Official and/or Family Member has a Substantial Interest in real property if the interest is an equitable or legal interest with a fair market value of \$2,500 or more.

**Third Degree by Consanguinity** is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

## **Section 2-502. Standards of Conduct**

### **(a) General Provisions**

- (1) No City Official or City Employee may disclose any Confidential Information gained through the City Official’s or City Employee’s office or position concerning property, operations, policies, or affairs of the City, or use such Confidential Information to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, or their Family Member. This Subsection shall not preclude disclosure of such Confidential Information in connection with any investigation or proceeding regarding whether there has been a violation of this Code of Ethics to any investigatory, administrative or judicial authority.
- (2) No City Official or City Employee may use his or her office or position or City owned facilities, equipment, supplies, or resources of the City to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, for a political campaign of the City Official or City Employee, or for any of the City Official’s or City Employee’s Family Members. Notwithstanding the foregoing, City owned facilities, equipment, supplies or resources may be used by City Officials or City Employees to the extent such uses are customary, incidental or lawfully available to the public.

- (3) No City Official shall knowingly represent, directly or indirectly, any person, group or business entity:
- (A) Before the City Council or the board, commission or committee of which he or she is a member;
  - (B) Before a board or commission which has appellate jurisdiction over the board, commission or committee of which he or she is a member;
  - (C) In any action or proceeding against the interests of the City or in any litigation in which the City or any department, agency, board, commission or committee is a party; or
  - (C) In any action or proceeding in the municipal court(s) of the City which was instituted by a City Official or City Employee in the course of his or her official duties, or a criminal proceeding in which any City Official or City Employee is a material witness for the prosecution.
- (4) The restrictions contained in Subsection (3) do not prohibit the following:
- (A) A City Official, or his or her spouse, appearing before the City Council or a City board, commission or committee to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall personally appear before the City Council, board, commission or committee of which he or she is a member and must submit their case through an authorized representative;
  - (B) A City Official or City Employee appearing before the City Council or a City board, commission or committee to address employment matters;
- (5) No City Official may act as surety for any person or business entity that has work, business, or a contract with the City, or act as a surety on any bond required by the City for a City Official.
- (6) No City Official or City employee shall default or refuse to answer any questions pertinent to the proceedings before the City Council, or fail or refuse to obey any subpoena, or to produce any books, papers or other material issued by the City Council.
- (7) No City Official or City Employee shall deny, abridge or compromise equality of rights under state and federal law with respect to appointment to or removal of any appointed position with the City as prohibited by Sec. 14.02 of the City Charter.
- (8) No City Official or City Employee who seeks appointment or promotion with respect to any City appointed position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his or her test,

appointment or promotion with respect to any City position as prohibited by Sec. 14.03 of the City Charter.

- (9) No City Official or City Employee shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or promotion with respect to any City position, or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of the City Charter as prohibited by Sec. 14.04 of the City Charter.
- (10) No City Official, who holds any compensated, non-elective City position, or City Employee shall use their official title or position with the City to solicit any contribution or endorse the candidacy of any Candidate for public office in the City as prohibited by Sec. 14.05 of the City Charter. Any such person shall have the right to exercise his/her legal rights to participate in the election process when he/she is not on duty, in a City building, City provided uniform or attire, or using a City vehicle or equipment.
- (11) Members of the City Council shall not in any way dictate the appointment, removal or discipline of the City Officials or City Employees appointed by the City Manager or any of the City Manager's subordinates as prohibited by Sec. 3.08(2) of the Charter. Notwithstanding the foregoing, the City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such City Officials and City Employees.
- (12) Except for the purpose of inquiries and investigations provided by the Charter, the City Council shall interact with City Officials and City Employees who are subject to the direction and supervision of the City Manager in accordance with the Governance Policy adopted by the City Council. The City Council shall not give orders to any such City Official or City Employee, either publicly or privately, except as otherwise provided in the Charter.

### **SECTION 2-503. Gifts and Honorariums**

#### **(a) Prohibition:**

- (1) No City Official or City Employee may solicit or accept any Gift, favor or privilege, that is offered or given with the intention of influencing the judgment or discretion of the City Official or City Employee; or given in consideration of the favorable exercise of the City Official's or City Employee's judgment or discretion in the past.
- (2) A City Employee performing regulatory functions or conducting inspections or investigations shall not solicit, accept, or agree to accept any benefit from a person the

City Employee knows to be subject to regulation, inspection, or investigation by the City Employee or the City.

- (3) A City Employee having custody of prisoners shall not solicit, accept, or agree to accept any benefit from a person the City Employee knows to be in his custody or the custody of the City.
- (4) A City Employee or a City Official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the City shall not solicit, accept, or agree to accept any benefit from a person the City Employee or City official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion.
- (5) A City Employee or City Official who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision shall not solicit, accept, or agree to accept any Economic Benefit from a person the City Employee or City Official knows is interested in or likely to become interested in any matter before the City Employee or City Official or tribunal.
- (6) A City Official is prohibited from soliciting, accepting, or agreeing to accept an honorarium in consideration for services that the City Official would not have been requested to provide but for the City Official's official position or duties.

(b) Donation of Unsolicited Gift

A City Employee or City Official who receives an unsolicited Gift that the City Employee or City Official is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(c) Exceptions

The prohibitions set out in this section do not apply to:

- (1) a fee prescribed by law to be received by a City Employee or City Official or any other benefit to which the City Employee or City Official is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a City Employee or City Official;
- (2) a Gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or

- (3) a benefit to a City Employee or City Official required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
  - (A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
  - (B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or the City;
- (4) a political contribution as defined by Title 15, Election Code;
- (5) a Permissible Gift as defined in this Ordinance, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
- (6) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law;
- (8) any Gift or benefit otherwise excepted under section 36.10, Penal Code; or
- (9) This section does not prohibit a City Official from accepting (1) transportation expenses, (2) lodging expenses or (3) meals in connection with a conference or similar event in which the City Official renders services, such as addressing an audience or engaging in a seminar to the extent that those services are more than merely perfunctory.

**SECTION 2-504. Conflict of Interest; Recusal.**

- (a) Conflict of Interest. No City Official may vote on or participate in any decision-making process on a matter concerning property or a business entity if the official has a Substantial Interest in the real property or business entity.
- (b) Recusal.
  - (1) A City Official shall disclose the existence of any Substantial Interest in any business entity or real property involved in any decision pending before such City Official, or the body of which he or she is a member. To comply with this Subsection, a City Official shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Local Government Code § 171.004 or, if not so required, shall publicly disclose in the official records of the City to the City Secretary

the nature of the interest. To further comply with this Subsection, a City Official shall notify the City Manager, or if the City Official is the City Manager, shall notify the City Secretary, in writing of the nature of any Substantial Interest he or she may have in a Business Entity or real property which would be affected by an exercise of discretionary authority by the City Official and the City Manager or City Secretary shall assign the matter to another employee. In disclosing a Substantial Interest in a Business Entity, a City Official shall not be required to disclose the dollar amount of any income that he or she receives from the Business Entity.

- (2) The City Council shall take a separate vote on any budget item specifically dedicated to a contract with a Business Entity in which a member of the Council has a Substantial Interest. The member of the City Council that has the Substantial Interest may not participate in the separate vote.
- (3) In addition to complying with the requirements of Chapter 171 of the Local Government Code, to avoid the appearance and risk of impropriety, a City Official should abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity that the official knows is likely to affect the Economic Interest of, or confer an Economic Benefit on:
  - (i) The City Official's parent, child, step-child, spouse, or other family member within the second degree of consanguinity or affinity as defined by Chapter 573 of the Government Code, or a client of the City Official;
  - (ii) An employer of the City Official, the City Official's parent, child, step-child, or spouse;
  - (iii) A Business Entity for which the City Official serves as an officer or director or serves in any policy-making position;
  - (iv) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, received an Economic Benefit; or
  - (v) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities.

#### **SECTION 2-505. Conflict Disclosure Statements.**

- (a) A City Official shall file a sworn Conflicts Disclosure Statement with the City Secretary whenever a City Official or a Family Member (i) is receiving taxable income from an employment or other business relationship with a person or Business Entity who has contracted with the City for the sale or purchase of real property, goods or services or that is

considering contracting with the City for the sale or purchase of real property, goods or services that exceeds \$2,500.00 (not including investment income) during the twelve (12) month period preceding the date that the City Official became aware of the contract, or (ii) has received Gifts with a value of more than \$250.00 during the twelve (12) month period preceding the date that the City Official became aware of the contract from a person or Business Entity that contracts with the City for the sale or purchase of real property, goods or services or that the City is considering doing business with such person or Business Entity. The City Official shall file the Conflicts Disclosure Statement with the City Secretary no later than 5:00 p.m. on the seventh business day after the date the City Official becomes aware of the facts that require the filing of the Statement.

- (b) A City Official commits an offense if the City Official knowingly fails to file the Conflicts Disclosure Statement. An offense under the above Subsection is a Class C misdemeanor.
- (c) The City Secretary shall accept and file any and all City Official Conflict Disclosure Statements and any Vendor Conflict of Interest Questionnaires.
- (d) The City Secretary shall maintain a list of City Officials and shall make that list available to the public and any person who may be required to file a Conflict of Interest Questionnaire. The City Secretary shall maintain copies of the Conflict Disclosure Statements and Conflict Questionnaires on the City's website.
- (e) City Officials shall abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity, if, within the 12 months preceding the date of the vote, the City Official has filed, or should have filed, a Conflicts Disclosure Statement under Chapter 176 of the Local Government Code.

## **SECTION 2-506. Interest in Property Acquired with Public Funds**

### **(a) Disclosure of Interest in Property**

A City Official who has a legal or equitable interest in real property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

### **(b) Affidavit**

The affidavit must:

- (1) State the name of the City Official;
- (2) State the City Official's office, public title, or job designation;
- (3) Fully describe the property;
- (4) Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;

- (5) State the date when the person acquired an interest in the property;
- (6) Include a verification as follows: “I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code”; and
- (7) Contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the records administrator for the City.

### **SECTION 2-507. Nepotism**

#### (a) Prohibition:

- (1) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from City funds or fees of office if:
  - (A) the individual is related to the City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; or
  - (B) the City Official holds the appointment or confirmation authority as a member of a state or local Council, the legislature, or a court and the individual is related to another member of that Council, legislature, or court within the Third Degree by Consanguinity or the Second Degree by Affinity.
- (2) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual’s services are under the City Official’s direction or control and that is to be compensated directly or indirectly from City funds or fees of office if:
  - (A) The individual is related to another City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; and
  - (B) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other City Official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first City Official within the Third Degree by Consanguinity or the Second Degree by Affinity.

#### (b) Exceptions

- (1) The prohibitions in Section 2-507 do not apply to:

- (A) an appointment to the office of a notary public or to the confirmation of that appointment;
  - (B) an appointment or employment of a personal attendant by a City Official for attendance on the City Official who, because of physical infirmities, is required to have a personal attendant; or
  - (C) any other appointment excepted under Chapter 573, Government Code.
- (2) The prohibition in Section 2-507 does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:
- (A) the individual is employed in the position immediately before the election or appointment of the City Official to whom the individual is related in a prohibited degree; and
  - (B) that prior employment of the individual has been continuous for at least six (6) months.
- (3) If, under Subsection (b)(2), an individual continues in a position, the City Official to whom the individual is related in a prohibited degree may not participate in any deliberation or vote on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

### **SECTION 2-508. Bribery.**

(a) Prohibition:

A City Official or City Employee shall not:

- (1) intentionally or knowingly offer, confer, or agree to confer on another person, or solicit, accept or agree to accept from another person:
  - (A) any benefit or consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion as a City Official or City Employee;
  - (B) any benefit as consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;

- (C) any benefit as consideration for a violation of a duty imposed by law on a City Official or City Employee; or
- (D) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual interference in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this Subsection.

(b) No Defense

- (1) It is no defense to prosecution under this Section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
- (2) It is no defense to prosecution under this Section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
  - (A) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
  - (B) the City Official or City Employee ceases to be a public servant.

(c) Exceptions

- (1) It is an exception to the application of Subsections (a)(1)(A), (B) and (C) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

**SECTION 2-509. City Records**

(a) Prohibition:

A City Official or City Employee shall not:

- (1) knowingly make a false entry in, or false alteration of, a City record;
- (2) make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine City record;
- (3) intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a City record;

- (4) possess, sell, or offer to sell a City record or a blank City record form with intent that it be used unlawfully;
- (5) make, present, or use a City record with knowledge of its falsity; or
- (6) possess, sell, or offer to sell a City record or a blank City record form with knowledge that it was obtained unlawfully.

(b) Exception

It is an exception to the application of Subsection (a)(3) of this Section that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

**Section 2-510. Misuse of Official Information**

(a) Prohibition

- (1) A City Employee or City Official shall not misuse information to which he or she has access by virtue of his or her office or employment and that has not been made public, and shall not:
  - (A) acquire, attempt to acquire or aid another to acquire or attempt to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
  - (B) speculate or aid another to speculate on the basis of the information; or
  - (C) as a City Official or City Employee coerce another into suppressing or failing to report that information to a law enforcement agency.
- (2) A City Employee or City Official shall not with intent to obtain a benefit or with intent to harm or defraud another, disclose or use information for a nongovernmental purpose that:
  - (A) the City Official or City Employee has access to by means of his office or employment; and
  - (B) has not been made public.

In this section, “information that has not been made public” means any information to which the public does not generally have access, and/or that is prohibited from disclosure under Chapter 552, Government Code.

**SECTION 2-511. Abuse of Official Capacity**

## (a) Prohibition:

- (1) A City Official or City Employee commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:
  - (A) violates a law relating to the City Official's or City Employee's office or employment; or
  - (B) misuses City property, services, personnel, or any other thing of value belonging to the City that has come into the City Official's or City Employee's custody or possession by virtue of the City Official's or City Employee's office or employment.

## (b) Exceptions:

- (1) A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the City for purposes of this Section due to the administrative difficulty and cost involved in recapturing the discount or award for the City.

**SECTION 2-512. Official Oppression**

## (a) Prohibition:

- (1) A City Official or City Employee acting under color of his office or employment commits an offense if he:
  - (A) intentionally subjects another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;
  - (B) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful; or
  - (C) intentionally subjects another to sexual harassment.

(b) For purposes of this Section, a City Official or City Employee acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported activity.

(c) In this Section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power or immunity, either explicitly or implicitly.

**Section 2-513. Ethics Review Commission**

- (a) There is hereby created an Ethics Review Commission (the “Commission”) an advisory commission having jurisdiction over ethics complaints as described in this Article involving City Officials. All ethics complaints against a City Employee who is not a City Official as defined in Section 2-501 must be filed in the manner prescribed in Chapter 7 of the City of Murphy Personnel Policies and Procedures Manual, as may be amended from time to time.
- (b) The Commission is to be composed of five (5) members each serving a two (2) year term. The City Council shall appoint each member (a “Commissioner”) to the Commission. If a vacancy occurs on the Commission, the City Council shall appoint a person to fill the unexpired term. Each Commissioner shall take an oath of office comparable to that taken by Council members. Commissioners shall serve without compensation, but shall be eligible to be reimbursed for actual expenses in accordance with the City’s reimbursement policy.
- (1) Terms of Commissioners. Beginning January 1, 2013, the Commission shall be comprised of five (5) members each serving a two (2) year term. Thereafter, all members’ terms shall be two (2) years appointed to a term commencing in January of odd-numbered years. The Council may, at its discretion, extend the terms of the outgoing Commissioners for up to one hundred and eighty (180) days in order to resolve any pending complaints. The Commission members shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council. Any Commissioner who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Commission. Any Commissioner who applied for and received an excused absence from the Commission chairperson prior to the meeting(s) at issue shall not be considered absent for purposes of this Subsection. Any Commissioner who no longer resides within the corporate boundaries of the City is deemed to have automatically vacated his/her position on the Commission. A Commissioner appointed to serve on the Ethics Commission is not eligible to serve as an appointed official on another City board or commission, including, but not limited to, any development districts until the term has ended.
- (2) Commission Officers; quorum. From among its members the Commission shall elect its officers, those being the Chairperson, Vice-Chairperson, and Secretary. Officers shall be elected for terms of one (1) year. The Chairperson shall preside over all meetings and may vote. If the Chairperson fails or refuses to act, the Vice-Chairperson shall perform the duties of the Chairperson. If the Chairperson and Vice-Chairperson are absent, any Commissioner may be appointed by the remaining members of the Commission to preside over the meeting. Three (3) or more Commissioners present at a meeting shall constitute a quorum, but no action of the Commission shall be of any force or effect unless it is adopted by the favorable votes of three (3) or more of its members.

- (3) Meetings. The Commission shall have such meetings as may be necessary to fulfill its responsibilities. The Commission shall meet at least once a year. The date of the annual meeting shall be in September as set by the Commission. The Chairperson or any two (2) members of the Commission may call a meeting provided that reasonable notice is given to each Commissioner and written notice is posted in accordance with the provisions of the Texas Open Meetings Act. The Commission shall comply with the provisions of the Texas Open Meetings Act when conducting any meetings and/or hearings under this Article.
- (4) Qualifications.
- (A) Commissioners must be Qualified Voters who are residents of the City of Murphy.
  - (B) No Commissioner may be a City Official, a City Employee, an Appointed Board or Commission member or a Family Member of a City Official or City Employee.
  - (C) Commissioners shall maintain objectivity and be free of conflicts of interest in discharging their duties. Commissioners shall be independent in fact and appearance when hearing matters brought before the Commission. When a Commissioner has any reason to believe that he or she cannot be impartial, intellectually honest and free of conflicts of interest in discharging any of the duties of the Commission, such Commissioner shall disclose the facts and circumstances which create the conflict and shall not vote or otherwise participate in consideration of the matter.
  - (D) The Commission shall have the authority to review and investigate complaints filed in accordance with this Article and issue a written finding of the Commission's determination when appropriate.
  - (E) Service on the Commission does not preclude a member from filing a complaint with the Commission. The Commission member filing the complaint must recuse himself/herself from the Commission procedure.
  - (F) The Commission may make recommendations to the City Council regarding revisions and changes to this Ordinance.
  - (G) The Commission may seek any necessary assistance or resources from the City Council and City Manager regarding support needed to carry out the Commission's duties.
  - (H) The Commission shall determine its rules and procedures which shall be submitted in writing and recommended for approval of the Council. The Commission shall establish, amend and rescind its procedures and maintain

proper records of its proceedings and its opinions, subject to City Council approval.

- (I) The Commission shall have the power to investigate, request, and gather evidence necessary to determine if a violation has occurred. The Commission must request access to employees through the City Manager prior to interviewing an employee as a possible witness in a complaint. The Commission shall have the power to enforce the provisions of this Ordinance, including recommending to the City Council the prosecution of alleged violators. Nothing in this Article shall be construed, however, to prevent complainants, including the City, from instituting direct legal action on their own behalf through the appropriate judicial authority.
- (J) The Commission shall receive from the City such administrative support as reasonably necessary to carry out the duties of the Commission and shall assist the Commission with maintenance of its records in compliance with the City's records retention schedule.

#### **Section 2-514. Complaint Process**

##### **(a) Filing**

- (1) Any City Official, City Employee, or Qualified Voter of the City who believes that there has been a violation of this Ordinance may file a sworn complaint. A complaint alleging a violation of this Ordinance must meet the requirements herein and must be filed with the City Secretary. A complaint alleging a violation of this Article by the City Attorney must also be filed with the persons named in Section 2-515(f). A complaint must be filed within six (6) months from the date of the alleged violation. Please refer to Section 2-515 City Attorney (c).
- (2) Required Contents of a Complaint. A complaint must be in writing, filed on the official complaint form approved by the City, under oath and must set forth in simple, concise, and direct statements the following:
  - (A) The name of the complainant;
  - (B) The street or mailing address and the telephone number of the complainant;
  - (C) The name of the person who allegedly committed the violation;
  - (D) The position or title of the person who allegedly committed the violation;
  - (E) The nature of the alleged violation, including, if possible, the specific rule or provision of this Article alleged to have been violated;

- (F) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and must contain the following:
- (i) Documents or other material available to the complainant relevant to the allegation;
  - (ii) A list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents; if known, and
  - (iii) A list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.
- (G) If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.

- (3) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Ordinance.
- (4) Upon request, the City Secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.

(b) Confidentiality and Ex Parte Communications

- (1) No City Official or City Employee may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.
- (2) All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act (Tex. Gov. Code Ch. 552).
- (3) After a complaint has been filed, and during the consideration of a complaint by the Commission, a member of the Commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the Commission. This provision does not prevent a member of the Commission from consulting with the City Attorney, or its independent legal counsel selected by the City Council regarding procedural and legal issues.
- (4) City Council approval shall be required for legal fees, cost, and related expenses of \$5,000 or more.

(c) Notification

- (1) A copy of a complaint shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the complaint.
- (2) The person alleged in the complaint to have violated this Article shall be provided with a copy of this Code of Ethics and informed that:
  - (A) Within fourteen (14) days of receipt of the complaint, a sworn response must be filed with the City Secretary;
  - (B) Failure to file a response does not preclude the City Attorney from processing the complaint.
- (3) City Officials and City Employees have a duty to cooperate with the City Attorney, pursuant to this Section. All requests for access to City Employees throughout the course of an investigation shall be submitted to the City Manager in writing.
- (4) All members of the Commission shall receive copies of the complaint, any background documentation, and any responses at least seven (7) days before a hearing on the matter.

#### **Section 2-515. Role of the City Attorney**

- (a) The City Attorney serves as legal counsel to the Ethics Review Commission. When complaints are filed against members of the City Council, the City Manager, or the City Attorney, independent legal counsel may be utilized to advise the Commission and take part in its proceedings, subject to approval of the fee arrangement by the City Council.
- (b) The City Attorney serves as Ethics Advisor to City Officials. As Ethics Advisor, the City Attorney is available to respond to inquiries relating to the Ethics Ordinance (this Article) and may render advisory opinions on potential conflicts of interest or violation of this section at the request of a City Official or City Employee. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this section unless material facts were omitted or misstated by the person requesting the opinion.
- (c) The City Attorney shall receive all sworn complaints and, if found sufficient, shall provide a copy and a preliminary review of the complaint to the Commission for action. The City Attorney shall, within fifteen (15) days of receiving the complaint and the response of the accused person, if any, provide a written report to the Commission. The report shall state whether, in the City Attorney's opinion, the written complaint: (1) was filed timely; (2) alleges misconduct by a person whose conduct is regulated under this Code; (3) alleges the occurrence of conduct that might reasonably constitute a violation of this Article; and (4) is signed and sworn to by the person filing the complaint.
- (d) The City Attorney shall also advise the Commission whether the City Attorney has issued a written opinion or opinions to the accused person that relate to the conduct at issue and

whether, in the City Attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this Article. Where the City Attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the City Attorney shall recommend that the Commission dismiss the complaint following the preliminary hearing.

- (e) The City Attorney's recommendation that the Commission conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any City Official or City Employee has violated or not violated this Article.
- (f) If a complainant alleges a violation by the City Attorney, the complaint must be filed with the City Secretary, and be forwarded to the Municipal Judge, with a copy to the Mayor and the City Manager. The Municipal Judge will follow the procedures in this Section.

### **Section 2-516. Hearing Process**

#### **(a) Preliminary Hearing**

- (1) After the City Attorney, or independent legal counsel selected by the Commission as set out in Sec. 2-515(a) above, has found that a complaint is not defective as to form nor is insufficient (for example, because it does not allege the existence of reasonable grounds to believe that a violation of this Ordinance has occurred), the Commission, as soon as reasonably possible, but in no event later than sixty (60) days after receiving a complaint, shall conduct a Preliminary Hearing. The purpose of the Preliminary Hearing is to make an initial determination as to whether or not a violation of this Ordinance has occurred.
- (2) The complainant and the City Official named in the complaint have the right of representation by legal counsel.
  - (B) The City may pay for legal fees, cost, and related expenses for representation of the City Official, as decided by the City Council. .
- (3) Statements at a Preliminary Hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing. The Commission members may ask open-ended questions. No public comments are allowed in a preliminary hearing.
- (4) The person filing a complaint shall state the alleged violation and describe in narrative form the testimony and other evidence which are presented to prove the alleged violation as stated in the written complaint.
- (5) The City Official named in the complaint shall have the opportunity to respond but is not required to attend or make any statement. The City Official may describe in narrative form the testimony and other evidence presented to disprove the alleged violation. If the

City Official agrees that a violation has occurred, the Commission may consider the appropriate sanction.

- (6) Only members of the Commission may question the complainant, the independent counsel for the Commission, or the City Official named in the complaint.
- (7) At the conclusion of the Preliminary Hearing one of the following actions shall be taken:
  - (A) If the Commission does not determine that there are reasonable grounds to believe that a violation of this Article has occurred, the complaint shall be dismissed.
  - (B) If the Commission determines that there are reasonable grounds to believe that a violation of this Article has occurred, it shall schedule a final hearing.
  - (C) If the City Official has agreed that a violation has occurred, the Commission may proceed to determine the appropriate sanction without the necessity of a final hearing and state its findings pursuant to Subsection (b)(4) below.

(b) Final Hearing

- (1) Except as provided by Subsection 2-516(a)(7)(C) above, a final hearing shall be held as expeditiously as possible following the determination by the Commission that there are reasonable grounds to believe that a violation of this Article has occurred, but in no event shall it be held more than thirty (30) days after said determination. The Commission may grant up to two postponements, not to exceed fifteen (15) days each, upon the request of the City Official named in the complaint.
- (2) If a complaint proceeds to a final hearing, the Commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the Commission's duties or exercise of its powers, including its powers of investigation. No public comments are allowed during the final hearing.
- (3) The complainant and the City Official named in the complaint have the right of representation by legal counsel.
- (4) The issue at a final hearing is whether a violation of this Article has occurred. The Commission shall make its determination based on the preponderance of the evidence in the record. All witnesses shall make their statements under oath. Witnesses may be cross-examined. If the Commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provision(s) of this Article which have been violated, and within five (5) working days deliver a copy of the findings to the complainant, the person accused in the complaint, and the City Secretary. The City

Secretary shall deliver a copy of the findings to the Council, the City Manager and the City Attorney.

**Section 2-517. Sanctions for Violations**

- (a) If the Commission determines that a violation of this Article has occurred, it shall consider appropriate sanctions. The Commission may receive additional testimony or statements before considering sanctions, but is not required to do so.
- (b) If the Commission determines that a violation has occurred, it may impose the following sanctions.
  - (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional, or when the conduct of the person complained against was done in reliance upon an opinion of the City Attorney. The letter of notification shall advise the City Official of any steps to be taken to avoid future violations.
  - (2) A letter of admonition is the appropriate sanction when the Commission finds the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification.
  - (3) A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed intentionally or knowingly or through disregard of this Ordinance. A written reprimand directed to a City Official who also serves as a City Employee shall be included in the employee's personnel file.
  - (4) A letter of censure is the appropriate sanction when the Commission finds that a serious violation has occurred and/or more than one serious violation or repeated serious violations of this Article have been committed by a City Official.
- (c) Copies of all sanction letters issued by the Commission under this section shall be sent to the City Council.
- (d) In addition, if the violation is found by the Commission to be done willfully and the seriousness of the violation warrants, the Commission may recommend to the City Council the suspension or removal from office of any official serving in a City-appointed position.
- (e) Except with regard to violations of Chapters 171 and 176 of the Texas Local Government Code, violations of the Penal Code, or violations of the Government Code, a violation by any City Official or City Employee as designated herein of one or more of the provisions of this Article shall not be deemed to be a Class C misdemeanor under the laws of the State of Texas.

**Section 2-518. Distribution and Proof of Compliance**

The City Secretary shall provide each new City Official designated in this Article, a copy of the text of this Ordinance; Chapter 171 and Chapter 176 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Tex.Gov. Code Ch. 551); the Texas Public Information Act (Tex. Gov. Code Ch. 552) Chapter 573 of the Texas Government Code; Texas Penal Code Sections 36.02, 37.10, 39.02, 39.03 and 39.06 (collectively referred to in this section as the “Ethics Statutes”) with a signature receipt of all said documents.

## EXHIBIT "1"

## Consanguinity and Affinity

## Affinity Kinship (Marriage) Relationships

1 <sup>st</sup> Degree	2 <sup>nd</sup> Degree
Father-in-Law	Spouse's Grandfather
Mother-in-Law	Spouse's Grandmother
Son-in-Law	Spouse's Brother (Brother-in-Law)
Daughter-in-Law	Spouse's Sister (Sister-in-Law)
Spouse	Spouse's Grandson
	Spouse's Granddaughter
	Brother's Spouse (Sister-in-Law)
	Sister's Spouse (Brother-in-Law)

## Consanguinity (Blood) Relationships

1 <sup>st</sup> Degree	2 <sup>nd</sup> Degree	3 <sup>rd</sup> Degree
Father	Grandfather	Great-Grandfather
Mother	Grandmother	Great-Grandmother
Son	Brother	Nephew
Daughter	Sister	Niece
	Grandson	Great-Grandson
	Granddaughter	Great-Granddaughter
		Uncle
		Aunt

**ORDINANCE NO. 13--07-**

**AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, AMENDING CHAPTER 2 OF THE CITY OF MURPHY'S CODE OF ORDINANCES, ~~TO ESTABLISH~~ AMENDING ARTICLE IX CODE OF ETHICS FOR CITY OFFICIALS AND EMPLOYEES, INCLUDING REGULATIONS RELATED TO STANDARDS OF CONDUCT; GIFTS AND HONORARIUMS; CONFLICTS OF INTEREST; CONFLICT DISCLOSURE STATEMENTS; INTEREST IN PROPERTY ACQUIRED WITH PUBLIC FUNDS; NEPOTISM; BRIBERY; CITY RECORDS; MISUSE OF OFFICIAL INFORMATION; ABUSE OF OFFICIAL CAPACITY; AND OFFICIAL OPPRESSION; CREATING AN ETHICS REVIEW COMMISSION; PROVIDING A COMPLAINT PROCESS FOR VIOLATIONS OF THE CODE OF ETHICS; PRESCRIBING THE ROLE OF THE CITY ATTORNEY IN THE COMPLAINT PROCESS; PROVIDING A HEARING PROCESS; PROVIDING SANCTIONS FOR VIOLATIONS OF THE CODE OF ETHICS; AND PROVIDING FOR DISTRIBUTION AND PROOF OF COMPLIANCE; AND PROVIDING FOR AN EFFECTIVE DATE, PROPER NOTICE AND MEETING; SEVERABILITY CLAUSE AND REPEALER CLAUSE.**

**WHEREAS**, statutory provisions governing the ethical conduct of public officials and employees are found in various codes including the Texas Local Government Code, the Texas Government Code and the Texas Penal Code; and

**WHEREAS**, the City Council finds it desirable and necessary to adopt a comprehensive ethics ordinance that sets out the ~~statutory~~ parameters relating to the conduct of public officials and employees in one easily accessible location; and

**WHEREAS**, the City Council believes that a position in government is a position of public trust that demands a high standard of behavior, and

**WHEREAS**, each employee and official of the City of Murphy should uphold the Constitution, laws and regulations of the United States and the State of Texas and the Charter and ordinances of the City of Murphy; and

**WHEREAS**, the City of Murphy seeks to promote personal integrity, honesty and ethical conduct in all activities undertaken by City Officials and employees through the adoption of this Ordinance; and

**WHEREAS**, the City of Murphy seeks to inspire public confidence and trust in City of Murphy officials and employees through the adoption of this "Code of Ethics";

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY MURPHY, TEXAS:**

**SECTION 1. RECITALS**

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

**SECTION 2. ADOPTION OF CODE OF ETHICS**

Chapter 2, Administration, of the Code of Ordinances of the City of Murphy is hereby amended by amending Article IX, Code of Ethics:

Article IX, Code of Ethics attached hereto as Exhibit "A" and incorporated herein for all purposes is hereby enacted.

**SECTION 3. Effective Date**

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**SECTION 4. Proper Notice and Meeting**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 552 of the Texas Local Government Code.

**SECTION 5. Severability**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**SECTION 6. Repealer**

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

**PASSED AND APPROVED** by the City Council of the City of Murphy, Texas this \_\_\_\_  
day of \_\_\_\_\_, 2013.

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Eric Barna, Mayor  
City of Murphy

ATTEST:

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Kristi Gilbert, City Secretary  
City of Murphy

APPROVED AS TO FORM:

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Wm. Andrew Messer, City Attorney  
City of Murphy

**EXHIBIT “A”**

**ARTICLE IX  
CODE OF ETHICS**

**Section 2-501. Definitions.**

The terms used in this Article shall have the following meanings:

**Business Entity** means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

**Candidate.** This term has the meaning assigned by section 251.001, Election Code.

**City Council** means the mayor and six (6) council members elected to serve as the governing body of the City.

**City Employee** means any person employed by the City, including those individuals that are employed on a part-time or temporary basis and employees of any corporation created by the City, but such term shall not be extended to apply to any independent contractor.

**City Attorney** means the City Attorney appointed by the City Council pursuant to the City Charter.

**City Engineer** means the City Engineer appointed by the City Manager.

**City Manager** means the City Manager appointed by the City Council pursuant to the City Charter.

**City Official** means every member of the City Council, the City Manager, City Secretary, the City Attorney, the Municipal Judge, the City Engineer and all members of any board, commission, or committee appointed by the City Council, including; the board members of the Murphy Municipal Development District (MDD), the Murphy Economic Development Corporation (4A) (“MEDC”) and the 4B Murphy Community Development Corporation (“MCDC”), and the executive directors of the MEDC and the MCDC.

City Secretary means the City Secretary appointed by the City Council pursuant to the City Charter.

**Confidential Information** means any information that a City Official would be privy to because of the official’s position but otherwise is not available to the public under the provisions of the Texas Public Information Act (Tex. Gov’t Code Ch. 552).

**Conflict Disclosure Statement** means the disclosure statement form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

**Conflict of Interest Questionnaire** means the conflicts of interest form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

**Economic Benefit** means any taxable income or any money, real or personal property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

**Economic Interest** means a legal or equitable interest in real or personal property or a fiduciary obligation to such property or contractual right in such property that is more than Two Thousand Five Hundred Dollars (\$2500.00). Service by a City Official or City Employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an Economic Interest in the property of that organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in the securities or other assets unless the City Official or City Employee participates in the management of the fund. A City Official or City Employee does not have an Economic Interest in a matter if the economic impact on the City Official or City Employee is indistinguishable from the impact on the public or on the particular group affected by the matter.

**Family Member** means a person related to a City Official in the first degree of consanguinity or affinity, as described by Subchapter B, Chapter 573 of the Government Code, except that the term does not include a person who is considered to be related to a City Official by affinity only as described by Section 573.024(b) of the Government Code. This definition would include children, spouses, parents, step-children and parents-in-law or children-in-law, except that relationships by affinity would end upon divorce.

**Gift** means a favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an *inter vivos* or testamentary trust.

**Municipal Judge** means the Municipal Judge or alternate Municipal Judge appointed by the City Council pursuant to the City Charter.

**Permissible Gift** means a thing of nominal value given (not to exceed \$100.00 in value), and not given to request a specific favor, special treatment, or influence a City Official or City Employee. Marketing advertisement items of nominal value, or certificates or plaques having no intrinsic value, are considered permissible gifts or gratuities. The purchase of meals of nominal value, provided there is a rotation of purchasing, is considered a permissible gift. The provision of training/education programs of a general nature is considered a permissible gift or gratuity. Items that exceed \$100.00 in value, if divided (e.g. holiday food or sporting event tickets distributed by lot) or donated for a City-sponsored function, are considered permissible gifts and/or gratuities.

**Qualified Voter** means a person who meets the qualifications of Section 11.002 of the Texas Election Code to vote in City elections.

**Second Degree by Affinity** is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

**Substantial Interest** means the interest that a City Official and/or a Family Member has in a business or business entity or in real property as described below:

- (a) The City Official and/or a Family Member owns ten percent (10%) or more of the voting stock or shares of the business entity; or
- (b) The City Official and/or a Family Member owns ten percent (10%) or more or \$15,000.00 or more of the fair market value of the business entity; or
- (c) Funds received by the City Official and/or a Family Member from the business entity exceed ten percent (10%) of the person's gross income for the previous year;
- (d) The City Official and/or Family Member has a Substantial Interest in real property if the interest is an equitable or legal interest with a fair market value of \$2,500 or more.

**Third Degree by Consanguinity** is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

## **Section 2-502. Standards of Conduct**

### (a) General Provisions

- (1) No City Official or City Employee may disclose any Confidential Information gained through the City Official's or City Employee's office or position concerning property, operations, policies, or affairs of the City, or use such Confidential Information to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, or their Family Member. This Subsection shall not preclude disclosure of such Confidential Information in connection with any investigation or proceeding regarding whether there has been a violation of this Code of Ethics to any investigatory, administrative or judicial authority.
- (2) No City Official or City Employee may use his or her office or position or City owned facilities, equipment, supplies, or resources of the City to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, for a political campaign of the City Official or City Employee, or for any of the City Official's or City Employee's Family Members. Notwithstanding the foregoing, City owned facilities, equipment, supplies or resources may be used by City Officials or City Employees to the extent such uses are customary, incidental or lawfully available to the public.

- (3) No City Official shall knowingly represent, directly or indirectly, any person, group or business entity:
- (A) Before the City Council or the board, commission or committee of which he or she is a member;
  - (B) Before a board or commission which has appellate jurisdiction over the board, commission or committee of which he or she is a member;
  - (C) In any action or proceeding against the interests of the City or in any litigation in which the City or any department, agency, board, commission or committee is a party; or
  - (C) In any action or proceeding in the municipal court(s) of the City which was instituted by a City Official or City Employee in the course of his or her official duties, or a criminal proceeding in which any City Official or City Employee is a material witness for the prosecution.
- (4) The restrictions contained in Subsection (3) do not prohibit the following:
- (A) A City Official, or his or her spouse, appearing before the City Council or a City board, commission or committee to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall personally appear before the City Council, board, commission or committee of which he or she is a member and must submit their case through an authorized representative;
  - (B) A City Official or City Employee appearing before the City Council or a City board, commission or committee to address employment matters;
- (5) No City Official may act as surety for any person or business entity that has work, business, or a contract with the City, or act as a surety on any bond required by the City for a City Official.
- (6) No City Official or City employee shall default or refuse to answer any questions pertinent to the proceedings before the City Council, or fail or refuse to obey any subpoena, or to produce any books, papers or other material issued by the City Council pursuant to Sec. 3.17 of the City Charter.
- (7) No City Official or City Employee shall deny, abridge or compromise equality of rights under state and federal law with respect to appointment to or removal of any appointed position with the City as prohibited by Sec. 14.02 of the City Charter.
- (8) No City Official or City Employee who seeks appointment or promotion with respect to any City appointed position shall, directly or indirectly, give, render or pay any money,

service or other valuable thing to any person for, or in connection with, his or her test, appointment or promotion with respect to any City position as prohibited by Sec. 14.03 of the City Charter.

- (9) No City Official or City Employee shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or promotion with respect to any City position, or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of the City Charter as prohibited by Sec. 14.04 of the City Charter.
- (10) No City Official, who holds any compensated, non-elective City position, or City Employee shall use their official title or position with the City to solicit any contribution or endorse the candidacy of any Candidate for public office in the City as prohibited by Sec. 14.05 of the City Charter. Any such person shall have the right to exercise his/her legal rights to ~~participate campaign or solicit~~ participate in the election process when he/she is not on duty, in a City building, City provided uniform or attire, or using a City vehicle or equipment.
- (11) Members of the City Council shall not in any way dictate the appointment, removal or discipline of the City Officials or City Employees appointed by the City Manager or any of the City Manager's subordinates as prohibited by Sec. 3.08(2) of the Charter. Notwithstanding the foregoing, the City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such City Officials and City Employees.
- (12) Except for the purpose of inquiries and investigations provided by the Charter, the City Council shall interact with City Officials and City Employees who are subject to the direction and supervision of the City Manager in accordance with the Governance Policy adopted by the City Council. The City Council shall not give orders to any such City Official or City Employee, either publicly or privately, except as otherwise provided in the Charter.

### **SECTION 2-503. Gifts and Honorariums**

#### **(a) Prohibition:**

- (1) No City Official or City Employee may solicit or accept any Gift, favor or privilege, that is offered or given with the intention of influencing the judgment or discretion of the City Official or City Employee; or given in consideration of the favorable exercise of the City Official's or City Employee's judgment or discretion in the past.
- (2) A City Employee performing regulatory functions or conducting inspections or investigations shall not solicit, accept, or agree to accept any benefit from a person the

City Employee knows to be subject to regulation, inspection, or investigation by the City Employee or the City.

- (3) A City Employee having custody of prisoners shall not solicit, accept, or agree to accept any benefit from a person the City Employees knows to be in his custody or the custody of the City.
- (4) A City Employee or a City Official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the City shall not solicit, accept, or agree to accept any benefit from a person the City Employee or City official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion.
- (5) A City Employee or City Official who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision shall not solicit, accept, or agree to accept any Economic Benefit from a person the City Employee or City Official knows is interested in or likely to become interested in any matter before the City Employee or City Official or tribunal.
- (6) A City Official is prohibited from soliciting, accepting, or agreeing to accept an honorarium in consideration for services that the City Official would not have been requested to provide but for the City Official's official position or duties.

(b) Donation of Unsolicited Gift

A City Employee or City Official who receives an unsolicited Gift that the City Employee or City Official is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(c) Exceptions

The prohibitions set out in this section do not apply to:

- (1) a fee prescribed by law to be received by a City Employee or City Official or any other benefit to which the City Employee or City Official is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a City Employee or City Official;
- (2) a Gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or

- (3) a benefit to a City Employee or City Official required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
  - (A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
  - (B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or the City;
- (4) a political contribution as defined by Title 15, Election Code;
- (5) a Permissible Gift as defined in this Ordinance, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
- (6) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law;
- (8) any Gift or benefit otherwise excepted under section 36.10, Penal Code; or
- (9) This section does not prohibit a City Official from accepting (1) transportation expenses, (2) lodging expenses or (3) meals in connection with a conference or similar event in which the City Official renders services, such as addressing an audience or engaging in a seminar to the extent that those services are more than merely perfunctory.

**SECTION 2-504. Conflict of Interest; Recusal.**

- (a) Conflict of Interest. No City Official may vote on or participate in any decision-making process on a matter concerning property or a business entity if the official has a Substantial Interest in the real property or business entity.
- (b) Recusal.
  - (1) A City Official shall disclose the existence of any Substantial Interest in any business entity or real property involved in any decision pending before such City Official, or the body of which he or she is a member. To comply with this Subsection, a City Official shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Local Government Code § 171.004 or, if not so required, shall publicly disclose in the official records of the City to the City Secretary

the nature of the interest. To further comply with this Subsection, a City Official shall notify the City Manager, or if the City Official is the City Manager, shall notify the City Secretary, in writing of the nature of any Substantial Interest he or she may have in a Business Entity or real property which would be affected by an exercise of discretionary authority by the City Official and the City Manager or City Secretary shall assign the matter to another employee. In disclosing a Substantial Interest in a Business Entity, a City Official shall not be required to disclose the dollar amount of any income that he or she receives from the Business Entity.

- (2) The City Council shall take a separate vote on any budget item specifically dedicated to a contract with a Business Entity in which a member of the Council has a Substantial Interest. The member of the City Council that has the Substantial Interest may not participate in the separate vote.
- (3) In addition to complying with the requirements of Chapter 171 of the Local Government Code, to avoid the appearance and risk of impropriety, a City Official should abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity that the official knows is likely to affect the Economic Interest of, or confer an Economic Benefit on:
  - (i) The City Official's parent, child, step-child, spouse, or other family member within the second degree of consanguinity or affinity as defined by Chapter 573 of the Government Code, or a client of the City Official;
  - (ii) An employer of the City Official, the City Official's parent, child, step-child, or spouse;
  - (iii) A Business Entity for which the City Official serves as an officer or director or serves in any policy-making position;
  - (iv) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, received an Economic Benefit; or
  - (v) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities.

#### **SECTION 2-505. Conflict Disclosure Statements.**

- (a) A City Official shall file a sworn Conflicts Disclosure Statement with the City Secretary whenever a City Official or a Family Member (i) is receiving taxable income from an employment or other business relationship with a person or Business Entity who has contracted with the City for the sale or purchase of real property, goods or services or that is

considering contracting with the City for the sale or purchase of real property, goods or services that exceeds \$2,500.00 (not including investment income) during the twelve (12) month period preceding the date that the City Official became aware of the contract, or (ii) has received Gifts with a value of more than \$250.00 during the twelve (12) month period preceding the date that the City Official became aware of the contract from a person or Business Entity that contracts with the City for the sale or purchase of real property, goods or services or that the City is considering doing business with such person or Business Entity. The City Official shall file the Conflicts Disclosure Statement with the City Secretary no later than 5:00 p.m. on the seventh business day after the date the City Official becomes aware of the facts that require the filing of the Statement.

- (b) A City Official commits an offense if the City Official knowingly fails to file the Conflicts Disclosure Statement. An offense under the above Subsection is a Class C misdemeanor.
- (c) The City Secretary shall accept and file any and all City Official Conflict Disclosure Statements and any Vendor Conflict of Interest Questionnaires.
- (d) The City Secretary shall maintain a list of City Officials and shall make that list available to the public and any person who may be required to file a Conflicts of Interest Questionnaire. The City Secretary shall maintain copies of the Conflict Disclosure Statements and Conflict Questionnaires on the City's [internet](#) website.
- (e) City Officials shall abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity, if, within the 12 months preceding the date of the vote, the City Official has filed, or should have filed, a Conflicts Disclosure Statement under Chapter 176 of the Local Government Code.

## **SECTION 2-506. Interest in Property Acquired with Public Funds**

### **(a) Disclosure of Interest in Property**

A City Official who has a legal or equitable interest in real property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

### **(b) Affidavit**

The affidavit must:

- (1) State the name of the City Official;
- (2) State the City Official's office, public title, or job designation;
- (3) Fully describe the property;
- (4) Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;

- (5) State the date when the person acquired an interest in the property;
- (6) Include a verification as follows: “I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code”; and
- (7) Contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the records administrator for the City ~~county clerk of the county in which the City Official resides and the county clerk of each county in which the property is located.~~

### **SECTION 2-507. Nepotism**

#### (a) Prohibition:

- (1) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from City funds or fees of office if:
  - (A) the individual is related to the City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; or
  - (B) the City Official holds the appointment or confirmation authority as a member of a state or local Council, the legislature, or a court and the individual is related to another member of that Council, legislature, or court within the Third Degree by Consanguinity or the Second Degree by Affinity.
- (2) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual’s services are under the City Official’s direction or control and that is to be compensated directly or indirectly from City funds or fees of office if:
  - (A) The individual is related to another City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; and
  - (B) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other City Official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first City Official within the Third Degree by Consanguinity or the Second Degree by Affinity.

#### (b) Exceptions

- (1) The prohibitions in Section 2-507 do not apply to:

- (A) an appointment to the office of a notary public or to the confirmation of that appointment;
  - (B) an appointment or employment of a personal attendant by a City Official for attendance on the City Official who, because of physical infirmities, is required to have a personal attendant; or
  - (C) any other appointment excepted under Chapter 573, Government Code.
- (2) The prohibition in Section 2-507 does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:
- (A) the individual is employed in the position immediately before the election or appointment of the City Official to whom the individual is related in a prohibited degree; and
  - (B) that prior employment of the individual has been continuous for at least six (6) months.
- (3) If, under Subsection (b)(2), an individual continues in a position, the City Official to whom the individual is related in a prohibited degree may not participate in any deliberation or vote on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

#### **SECTION 2-508. Bribery.**

(a) Prohibition:

A City Official or City Employee shall not:

- (1) intentionally or knowingly offer, confer, or agree to confer on another person, or solicit, accept or agree to accept from another person:
  - (A) any benefit or consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion as a City Official or City Employee;
  - (B) any benefit as consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;

- (C) any benefit as consideration for a violation of a duty imposed by law on a City Official or City Employee; or
- (D) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual interference in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this Subsection.

(b) No Defense

- (1) It is no defense to prosecution under this Section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
- (2) It is no defense to prosecution under this Section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
  - (A) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
  - (B) the City Official or City Employee ceases to be a public servant.

(c) Exceptions

- (1) It is an exception to the application of Subsections (a)(1)(A), (B) and (C) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

**SECTION 2-509. City Records**

(a) Prohibition:

A City Official or City Employee shall not:

- (1) knowingly make a false entry in, or false alteration of, a City record;
- (2) make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine City record;
- (3) intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a City record;

- (4) possess, sell, or offer to sell a City record or a blank City record form with intent that it be used unlawfully;
- (5) make, present, or use a City record with knowledge of its falsity; or
- (6) possess, sell, or offer to sell a City record or a blank City record form with knowledge that it was obtained unlawfully.

(b) Exception

It is an exception to the application of Subsection (a)(3) of this Section that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

**Section 2-510. Misuse of Official Information**

(a) Prohibition

- (1) A City Employee or City Official shall not misuse information to which he or she has access by virtue of his or her office or employment and that has not been made public, and shall not:
  - (A) acquire, attempt to acquire or aid another to acquire or attempt to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
  - (B) speculate or aid another to speculate on the basis of the information; or
  - (C) as a City Official or City Employee coerce another into suppressing or failing to report that information to a law enforcement agency.
- (2) A City Employee or City Official shall not with intent to obtain a benefit or with intent to harm or defraud another, disclose or use information for a nongovernmental purpose that:
  - (A) the City Official or City Employee has access to by means of his office or employment; and
  - (B) has not been made public.

In this section, “information that has not been made public” means any information to which the public does not generally have access, and/or that is prohibited from disclosure under Chapter 552, Government Code.

**SECTION 2-511. Abuse of Official Capacity**

## (a) Prohibition:

- (1) A City Official or City Employee commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:
  - (A) violates a law relating to the City Official's or City Employee's office or employment; or
  - (B) misuses City property, services, personnel, or any other thing of value belonging to the City that has come into the City Official's or City Employee's custody or possession by virtue of the City Official's or City Employee's office or employment.

## (b) Exceptions:

- (1) A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the City for purposes of this Section due to the administrative difficulty and cost involved in recapturing the discount or award for the City.

**SECTION 2-512. Official Oppression**

## (a) Prohibition:

- (1) A City Official or City Employee acting under color of his office or employment commits an offense if he:
  - (A) intentionally subjects another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;
  - (B) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful; or
  - (C) intentionally subjects another to sexual harassment.

(b) For purposes of this Section, a City Official or City Employee acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported activity.

(c) In this Section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power or immunity, either explicitly or implicitly.

**Section 2-513. Ethics Review Commission**

- (a) There is hereby created an Ethics Review Commission (the “Commission”) ~~is~~ an advisory commission having jurisdiction over ethics complaints as described in this Article involving City Officials ~~and City Employees~~. All ethics complaints against a City Employee that who is not a ~~charter designated~~ City Official as defined in Section 2-501 must be filed in the manner prescribed in Chapter 7 of the City of Murphy Personnel Policies and Procedures Manual, as may be amended from time to time.
- (b) The Commission is to be composed of five (5) members each serving a two (2) year term. The City Council shall appoint each member (a “Commissioner”) to the Commission. If a vacancy occurs on the Commission, the City Council shall appoint a person to fill the unexpired term. Each Commissioner shall take an oath of office comparable to that taken by Council members. Commissioners shall serve without compensation, but shall be eligible to be reimbursed for actual expenses in accordance with the City’s reimbursement policy.
- (1) Terms of Commissioners. Beginning January 1, 2013, the Commission shall be comprised of five (5) members each serving a ~~single~~, two (2) year term. At the City Council meeting which creates the Commission, two (2) Commissioners shall be selected to serve an initial one (1) year term and three (3) Commissioners shall be selected to serve an initial two (2) year term. Thereafter, all members’ terms shall be two (2) years appointed to a term commencing in January of odd-numbered years. The Council may, at its discretion, extend the terms of the outgoing Commissioners for up to one hundred and eighty (180) days in order to resolve any pending complaints. The Commission members shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council. Any Commissioner who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Commission. Any Commissioner who applied for and received an excused absence from the Commission chairperson prior to the meetings(s) at issue shall not be considered absent for purposes of this Subsection. Any Commissioner who no longer resides within the corporate boundaries of the City is deemed to have automatically vacated his/her position on the Commission. A Commissioner appointed to serve on the Ethics Commission is not eligible to serve as an appointed official on another City board or commission, including, but not limited to, any development districts until the term has ended.
- (2) Commission Officers; quorum. From among its members the Commission shall elect its officers, those being the Chairperson, Vice-Chairperson, and Secretary. Officers shall be elected for terms of one (1) year. The Chairperson shall preside over all meetings and may vote. If the Chairperson fails or refuses to act, the Vice-Chairperson shall perform the duties of the Chairperson. If the Chairperson and Vice-Chairperson are absent, any Commissioner may be appointed by the remaining members of the Commission to preside over the meeting. Three (3) or more Commissioners present at a

meeting shall constitute a quorum, but no action of the Commission shall be of any force or effect unless it is adopted by the favorable votes of three (3) or more of its members.

- (3) Meetings. The Commission shall have such meetings as may be necessary to fulfill its responsibilities. The Commission shall meet at least once a year. The date of the annual meeting shall be in September as set by the Commission. The Chairperson or any two (2) members of the Commission may call a meeting provided that reasonable notice is given to each Commissioner and written notice is posted in accordance with the provisions of the Texas Open Meetings Act. The Commission shall comply with the provisions of the Texas Open Meetings Act when conducting any meetings and/or hearings under this Article.
- (4) Qualifications.
- (A) Commissioners must be Qualified Voters who are residents of the City of Murphy.
  - (B) No Commissioner may be a City Official, [a City Employee](#), [an Appointed Board or Commission member](#) or [a Family Member](#) of a City Official or City Employee.
  - (C) Commissioners shall maintain objectivity and be free of conflicts of interest in discharging their duties. Commissioners shall be independent in fact and appearance when hearing matters brought before the Commission. When a Commissioner has any reason to believe that he or she cannot be impartial, intellectually honest and free of conflicts of interest in discharging any of the duties of the Commission, such Commissioner shall disclose the facts and circumstances which create the conflict and shall not vote or otherwise participate in consideration of the matter.
  - (D) The Commission shall have the authority to review and investigate complaints filed in accordance with this Article and issue a written finding of the Commission's determination when appropriate.
  - (E) Service on the Commission does not preclude a member from filing a complaint with the Commission. The Commission member filing the complaint must recuse himself/herself from the Commission procedure.
  - (F) The Commission may make recommendations to the City Council regarding revisions and changes to this Ordinance.
  - (G) The Commission may seek any necessary assistance or resources from the City Council and City Manager regarding support needed to carry out the Commission's duties.

- (H) The Commission shall determine its rules and procedures which shall be submitted in writing and recommended for approval of the Council. The Commission shall establish, amend and rescind its procedures and maintain proper records of its proceedings and its opinions, subject to City Council approval.
- (I) The Commission shall have the power to investigate, request, and gather evidence necessary to determine if a violation has occurred. The Commission must request access to employees through the City Manager prior to interviewing an employee as a possible witness in a complaint. The Commission shall have the power to enforce the provisions of this Ordinance, including recommending to the City Council the prosecution of alleged violators. Nothing in this Article shall be construed, however, to prevent complainants, including the City, from instituting direct legal action on their own behalf through the appropriate judicial authority.
- (J) The Commission shall receive from the City such administrative support as reasonably necessary to carry out the duties of the Commission and shall assist the Commission with maintenance of its records in compliance with the City's records retention schedule.

### **Section 2-514. Complaint Process**

#### (a) Filing

- (1) Any City Official, City Employee, or Qualified Voter of the City who believes that there has been a violation of this Ordinance may file a sworn complaint. A complaint alleging a violation of this Ordinance must meet the requirements herein and must be filed with the City Secretary. A complaint alleging a violation of this Article by the City Attorney must also be filed with the persons named in Section 2-515(f). A complaint must be filed within six (6) months from the date of the alleged violation. Please refer to Section 2-515 City Attorney (c).
- (2) Required Contents of a Complaint. A complaint must be in writing, filed on the official complaint form approved by the City. ~~An ethics complaint must be in writing and~~ under oath and must set forth in simple, concise, and direct statements the following:
  - (A) The name of the complainant;
  - (B) The street or mailing address and the telephone number of the complainant;
  - (C) The name of the person who allegedly committed the violation;
  - (D) The position or title of the person who allegedly committed the violation;

- (E) The nature of the alleged violation, including, if possible, the specific rule or provision of this Article alleged to have been violated;
  - (F) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and must contain the following:
    - (i) Documents or other material available to the complainant relevant to the allegation;
    - (ii) A list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents; if known, and
    - (iii) A list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.
  - (G) If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.
- (3) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Ordinance.
- (4) Upon request, the City Secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.
- (b) Confidentiality and Ex Parte Communications
- (1) No City Official or City Employee may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.
  - (2) All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act (Tex. Gov. Code Ch. 552).
  - (3) After a complaint has been filed, and during the consideration of a complaint by the Commission, a member of the Commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the Commission. This provision does not prevent a member of the Commission from consulting with the City Attorney, or its independent legal counsel selected by the City Council regarding procedural and legal issues.

- (4) City Council approval shall be required for legal fees, cost, and related expenses of \$5,000 or more.

(c) Notification

- (1) A copy of a complaint shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the complaint.
- (2) The person alleged in the complaint to have violated this Article shall be provided with a copy of this Code of Ethics and informed that:
- (A) Within fourteen (14) days of receipt of the complaint, a sworn response must be filed with the City Secretary;
- (B) Failure to file a response does not preclude the City Attorney from processing the complaint.
- (3) City Officials and City Employees have a duty to cooperate with the City Attorney, pursuant to this Section. All requests for access to City Employees throughout the course of an investigation shall be submitted to the City Manager in writing.
- (4) All members of the Commission shall receive copies of the complaint, any background documentation, and any responses at least seven (7) days before a hearing on the matter.

**Section 2-515. Role of the City Attorney**

- (a) The City Attorney serves as legal counsel to the Ethics Review Commission. When complaints are filed against members of the City Council, the City Manager, or the City Attorney, independent legal counsel may be utilized to advise the Commission and take part in its proceedings, subject to approval of the fee arrangement by the City Council.
- (b) The City Attorney serves as Ethics Advisor to City Officials ~~and City Employees~~. As Ethics Advisor, the City Attorney is available to respond ~~confidentially~~ to inquiries relating to the Ethics Ordinance (this Article) and may render advisory opinions on potential conflicts of interest or violation of this section at the request of a City Official or City Employee. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this section unless material facts were omitted or misstated by the person requesting the opinion.
- (c) The City Attorney shall receive all sworn complaints and, if found sufficient, shall provide a copy and a preliminary review of the complaint to the Commission for action. The City Attorney shall, within fifteen (15) days of receiving the complaint and the response of the accused person, if any, provide a written report to the Commission. The report shall state whether, in the City Attorney's opinion, the written complaint: (1) was filed timely; (2) alleges misconduct by a person whose conduct is regulated under this Code; (3) alleges the

occurrence of conduct that might reasonably constitute a violation of this Article; and (4) is signed and sworn to by the person filing the complaint.

- (d) The City Attorney shall also advise the Commission whether the City Attorney has issued a written opinion or opinions to the accused person that relate to the conduct at issue and whether, in the City Attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this Article. Where the City Attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the City Attorney shall recommend that the Commission dismiss the complaint following the preliminary hearing.
- (e) The City Attorney's recommendation that the Commission conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any City Official or City Employee has violated or not violated this Article.
- (f) If a complainant alleges a violation by the City Attorney, the complaint must be filed with the ~~Chairperson of the Commission~~ City Secretary, and be forwarded to the Municipal Judge, with a copy to the Mayor and the City Manager. The Municipal Judge will follow the procedures in this Section.

## Section 2-516. Hearing Process

### (a) Preliminary Hearing

- (1) ~~When~~ After the City Attorney, or independent legal counsel selected by the Commission as set out in Sec. 2-515(a) above, has ~~rendered an opinion~~ found that a complaint is not defective as to form ~~nor is~~ insufficient (for example, because it does not allege the existence of reasonable grounds to believe that a violation of this Ordinance has occurred), the Commission, as soon as reasonably possible, but in no event later than sixty (60) days after receiving a complaint, shall conduct a Preliminary Hearing. The purpose of the Preliminary Hearing is to make an initial determination as to whether ~~or not there are reasonable grounds to believe that~~ a violation of this Ordinance has occurred.
- (2) The complainant and the City Official ~~or City Employee~~ named in the complaint have the right of representation by legal counsel.
  - (A) ~~The complainant shall pay for complainant's legal fees, cost, and related expenses. If the City Official or Employee is finally found to be in violation of this Ordinance, the City shall reimburse the complainant for his or her reasonable legal fees, costs and related expenses and the City Official or Employee shall reimburse the City for the amount paid to complainant for complainant's legal fees, costs and related expenses.~~

- (B) The City ~~may shall~~ pay for legal fees, cost, and related expenses for representation of the City Official, as decided by the City Council. ~~or Employee.~~
- (3) Statements at a Preliminary Hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing. The Commission members may ask open-ended questions. No public comments are allowed in a preliminary hearing.
- (4) The person filing a complaint shall state the alleged violation and describe in narrative form the testimony and other evidence which are presented to prove the alleged violation as stated in the written complaint.
- (5) The City Official ~~or City Employee~~ named in the complaint shall have the opportunity to respond but is not required to attend or make any statement. The City Official ~~or City Employee~~ may describe in narrative form the testimony and other evidence presented to disprove the alleged violation. If the City Official ~~or City Employee~~ agrees that a violation has occurred, the Commission may consider the appropriate sanction.
- (6) Only members of the Commission may question the complainant, the independent counsel for the Commission, or the City Official ~~or City Employee~~ named in the complaint.
- (7) At the conclusion of the Preliminary Hearing one of the following actions shall be taken:
- (A) If the Commission does not determine that there are reasonable grounds to believe that a violation of this Article has occurred, the complaint shall be dismissed.
- (B) If the Commission determines that there are reasonable grounds to believe that a violation of this Article has occurred, it shall schedule a final hearing.
- (C) If the City Official ~~or City Employee~~ has agreed that a violation has occurred, the Commission may proceed to determine the appropriate sanction without the necessity of a final hearing and state its findings pursuant to Subsection (b)(4) below.

(b) Final Hearing

- (1) Except as provided by Subsection 2-516(a)(7)(C) above, a final hearing shall be held as expeditiously as possible following the determination by the Commission that there are reasonable grounds to believe that a violation of this Article has occurred, but in no event shall it be held more than thirty (30) days after said determination. The Commission may grant up to two postponements, not to exceed fifteen (15) days each, upon the request of the City Official ~~or City Employee~~ named in the complaint.

- (2) If a complaint proceeds to a final hearing, the Commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the Commission's duties or exercise of its powers, including its powers of investigation. No public comments are allowed during the final hearing.
- (3) The complainant and the City Official ~~or City Employee~~ named in the complaint have the right of representation by legal counsel.
- (4) The issue at a final hearing is whether a violation of this Article has occurred. The Commission shall make its determination based on the preponderance of the evidence in the record. All witnesses shall make their statements under oath. Witnesses may be cross-examined. If the Commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provision(s) of this Article which have been violated, and within five (5) working days deliver a copy of the findings to the complainant, the person accused in the complaint, and the City Secretary. The City Secretary shall deliver a copy of the findings to the Council, the City Manager and the City Attorney.

### **Section 2-517. Sanctions for Violations**

- (a) If the Commission determines that a violation of this Article has occurred, it shall consider appropriate sanctions. The Commission may receive additional testimony or statements before considering sanctions, but is not required to do so.
- (b) If the Commission determines that a violation has occurred, it may impose the following sanctions.
- (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional, or when the conduct of the person complained against was done in reliance upon an opinion of the City Attorney. The letter of notification shall advise the City Official ~~or City Employee~~ of any steps to be taken to avoid future violations.
- (2) A letter of admonition is the appropriate sanction when the Commission finds the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification.
- (3) A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed intentionally or knowingly or through disregard of this Ordinance. A written reprimand directed to a City ~~Employee-Official that who also serves as an employee-~~ a City Employee shall be included in the employee's personnel file.

- (4) A letter of censure is the appropriate sanction when the Commission finds that a serious violation has occurred and/or more than one serious violation or repeated serious violations of this Article have been committed by a City Official.
- (c) Copies of all sanction letters issued by the Commission under this section shall be sent to the City Council.
- (d) In addition, if the violation is found by the Commission to be done willfully and the seriousness of the violation warrants, the Commission may recommend to the City Council the suspension or removal from office of any official serving in a City-appointed position.
- (e) Except with regard to violations of Chapters 171 and 176 of the Texas Local Government Code, violations of the Penal Code, or violations of the Government Code, a violation by any City Official or City Employee as designated herein of one or more of the provisions of this Article shall not be deemed to be a Class C misdemeanor under the laws of the State of Texas.

### **Section 2-518. Distribution and Proof of Compliance**

The City Secretary shall ~~make available to~~ provide each new City Official designated in this Article, a copy of the text of this Ordinance; Chapter 171 and Chapter 176 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Tex.Gov. Code Ch. 551); the Texas Public Information Act (Tex. Gov. Code Ch. 552) Chapter 573 of the Texas Government Code; Texas Penal Code Sections 36.02, 37.10, 39.02, 39.03 and 39.06 (collectively referred to in this section as the “Ethics Statutes”) with a signature receipt of all said documents.

## EXHIBIT "1"

## Consanguinity and Affinity

## Affinity Kinship (Marriage) Relationships

1 <sup>st</sup> Degree	2 <sup>nd</sup> Degree
Father-in-Law	Spouse's Grandfather
Mother-in-Law	Spouse's Grandmother
Son-in-Law	Spouse's Brother (Brother-in-Law)
Daughter-in-Law	Spouse's Sister (Sister-in-Law)
Spouse	Spouse's Grandson
	Spouse's Granddaughter
	Brother's Spouse (Sister-in-Law)
	Sister's Spouse (Brother-in-Law)

## Consanguinity (Blood) Relationships

1 <sup>st</sup> Degree	2 <sup>nd</sup> Degree	3 <sup>rd</sup> Degree
Father	Grandfather	Great-Grandfather
Mother	Grandmother	Great-Grandmother
Son	Brother	Nephew
Daughter	Sister	Niece
	Grandson	Great-Grandson
	Granddaughter	Great-Granddaughter
		Uncle
		Aunt