



MURPHY CITY COUNCIL AGENDA
REGULAR CITY COUNCIL MEETING
JANUARY 18, 2011 AT 6:00 PM
206 NORTH MURPHY ROAD
MURPHY, TEXAS 75094

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 January 18, 2011 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.

CALL TO ORDER

INVOCATION & PLEDGE OF ALLEGIANCE

Bret Baldwin
Mayor

ROLL CALL & CERTIFICATION OF A QUORUM

John Daugherty
Mayor Pro Tem

PUBLIC COMMENTS

Colleen Halbert
Deputy Mayor Pro Tem

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.

Dennis Richmond
Councilmember

- A. Approval of the Minutes from the January 4, 2011 Regular Meeting and the January 10, 2011 Special Work Session.

Scott Bradley
Councilmember

INDIVIDUAL CONSIDERATION

Mike Daniel
Councilmember

1. Consider and/or act upon approval of a resolution authorizing Texas Coalition for Affordable Power (TCAP) to negotiate an extension to the current electric supply and necessary related services agreement with Next Era for a fixed price per KWh that is lower than contract rates for 2011-2013, said extension to continue until December 31, 2018; authorizing TCAP to act as an agent on behalf of the city to enter into a contract for electricity; authorizing the chairman of TCAP to execute an extension to the current electric supply agreement for deliveries of electricity effective January 1, 2011 or as soon after finalization of a contract as possible; committing to budget for energy purchases and to honor the city's commitments to purchase power through TCAP for its electrical needs through December 31, 2018.

Dave Brandon
Councilmember

2. Consider and/or act on approval of an ordinance annexing a tract of land totaling 18.00 acres located in the Isaac Herring Survey, Abstract No. 403 and the McMillan Survey, Abstract No. 588 located on FM 2551 (North Murphy Road), north of Rolling Ridge Drive.

James Fisher
City Manager

3. Consider and/or act on approval of an ordinance annexing a tract of land totaling 4.82 acres located in the Mary Scott Survey, Abstract No. 859, located on Dublin Road, north of FM 544.

4. Consider and/or act on approval of an ordinance annexing a tract of land totaling 12.22 acres located in the Daniel Herring Survey, Abstract No. 402, located on Moonlight Drive, east of South Murphy Road.
5. Consider and/or act on approval of an ordinance annexing a tract of land totaling 17.00 acres located in the Mary Scott Survey, Abstract No. 859, located on Heritage Parkway, north of Ashley Drive.

WORK SESSION

- North Murphy Road Project
- Council Calendar

CITY MANAGER/STAFF REPORTS

- Jan 20 - CLC Quarterly Meeting
- Jan 28 – Chamber Banquet
- February 14 –First Day to File
- Financial Update

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, TX 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on January 14, 2011 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.

Aimee Nemer, TRMC, CMC
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 anemer@murphytx.org.

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

January 4, 2011
6:00 P.M.

CALL TO ORDER

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

INVOCATION & PLEDGE OF ALLEGIANCE

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

ROLL CALL & CERTIFICATION OF A QUORUM

Secretary Nemer certified a quorum with the following:

Council Present

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

PUBLIC COMMENTS

Public comments were submitted by the following:

Mr. Tye Holmes addressed Council requesting careful consideration of the proposed Murphy Central Park design and the impact it will have on the roads and residents in Willow Wood.

Mr. Kevin Hablity addressed Council with concerns about traffic from Willow Wood, specifically residents from Willow Wood accessing North Murphy Road.

Ms. Margaret Malone addressed Council requesting Council to consider the proposed Murphy Central Park design and location of parking lots.

Ms. Cathy Murphy addressed Council with concerns about the proposed Murphy Central Park and the parking emptying into the Willow Wood neighborhood and traffic flow through the neighborhood.

Mr. Brad Lapsley addressed Council with concerns about the proposed Murphy Central Park and the City's recent property purchases.

City Manager Fisher clarified that the recent land purchase of Plano Independent School District property was necessary to fulfill a requirement from the Federal Highway Administration to mitigate incorrectly acquired Right-of-Way for North Murphy Road several years ago.

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.

Council Action

Councilmember Richmond requested to remove Item B from the Consent Agenda. Councilmember Halbert requested to remove Item E from the Consent Agenda. These items will have action noted separately below. Councilmember Halbert moved to approve the remaining Consent Agenda Items A, C, and D as presented. Councilmember Daugherty seconded the motion. A vote was taken and passed, 6-1 with Councilmember Brandon voting in opposition. Councilmember Brandon stated he was opposed to a fee being charged for non-profit groups. (Item D)

- A. **Approval of December 6 and December 13, 2010 Minutes.**
- B. **Consider and/or act upon the Construction Plat (Replat) for Murphy Village Addition, Lot 2R, 4 and 5, Block A on property zoned PD (Planned Development) District No. 09-12-823 and No. 09-12-824 for Retail and Office Uses on property located at the southeast quadrant of West FM 544 and Brand Road.**

Council Action

After some clarification regarding parkland dedication fees and hearing from the applicant, Councilmember Daugherty moved to approve the Construction Plat subject to the parkland dedication fees being reduced to \$500 per unit. Councilmember Richmond seconded the motion. A vote was taken and passed, 7-0.

- C. **Consider and/or act upon approval of an ordinance approving modifications to Section 30-53 of the City of Murphy Code of Ordinances as it relates to noise abatement regarding concrete batch plants.**
- D. **Consider and/or act upon approval of an ordinance to amend the fee schedule for private use of park pavilions and community meeting rooms and policies, as needed.**
- E. **Consider and/or act upon approval of an ordinance closing of the portion of Tom Clevenger Drive between North Murphy Road (FM 2551) and the Municipal Complex ring road.**

Council Action

Councilmember Halbert moved to postpone the closing of Tom Clevenger Drive until there is an approved park plan and location of N. Murphy Road median cuts are identified. Councilmember Brandon seconded the motion. Councilmember Halbert amended her motion to remove "approved" from the motion. Councilmember Brandon seconded the amendment to the motion. A vote on the amendment was taken and passed, 7-0. A vote was then taken on the main amended motion and passed, 7-0.

INDIVIDUAL CONSIDERATION

- 1. **Discussion regarding neighborhood concerns with traffic on Hawthorne Drive, specifically speeding and accidents and possible solutions.**

Council Action

There was no action on this item. Public comments were submitted by Lacy White, Tamberly Guillory, and Maggie Whitt; all in favor of speed cushions being installed on Hawthorne Drive. Council directed Staff to bring back a traffic calming policy similar to the City of Richardson's.

- 2. Consider and/or act on the application of Matt Neher requesting an exception to Section 28-132 (a) (2) of the City of Murphy Code of Ordinances to allow an alternative exterior building material for an addition to a single family dwelling on property located at 178 Sunset Drive.**

Council Action

Councilmember Richmond moved to approve a request by Matt Neher for an exception to Section 28-132 (a) (2) of the City of Murphy Code of Ordinances to allow an alternative exterior building material for an addition with the change of adding brick to the portion of the front elevation above the bay window. Councilmember Halbert seconded the motion. A vote was taken and passed, 5-2 with Councilmember Daugherty and Councilmember Daniel voting in opposition.

- 3. Consider and/or act on the application of the City of Murphy requesting 1) an exception to Section 28-181 (b) of the City of Murphy Code of Ordinances to remove and relocate protected trees; 2) an exception to Section 28-156 (b) of the Code of Ordinances to relocate the requirement of landscape buffer trees along North Murphy Road and 3) an exception to Section 28-52 (b) of the Code of Ordinances to allow a fence in the front yard for the Murphy Community Center on property located at 205 North Murphy Road.**

Council Action

There was no action on this item. After discussion on the landscape plan and the removal of trees, Council requested the consultant to provide additional landscape renderings.

- 4. Hold a public hearing and consider and/or act upon approval of an ordinance amending PD (Planned Development) District No. 09-12-825 for Retail and Office Uses on property located on East FM 544, west of McCreary Road. (Zoning File 2010-10)**

Council Action

After hearing from Staff and the applicant, Mayor Baldwin opened the Public Hearing at 8:43. Mr. Don Kiertscher addressed Council in favor of the development of O'Reilly's. With no further comments, Mayor Baldwin closed the Public Hearing at 8:45 p.m. Councilmember Halbert moved to approve and ordinance amending PD District No. 09-12-825 for Retail and Office Uses on property located on East FM 544 with auto parts store by Special Use Permit (SUP) only and with 2 pad sites. Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

- 5. Consider and/or act upon the Construction Plat for Rolling Ridge Estates, Phase 6 on property zoned PD (Planned Development) District No. 04-01-599 and No. 04-09-622 for Single Family Uses on property located at the northwest corner of West Betsy Lane and Oriole Drive.**

Council Action

Councilmember Halbert moved to approve the Construction Plat for Rolling Ridge Estates, Phase 6 on property zoned PD (Planned Development) District No. 04-01-599 and No. 04-09-622 for Single Family Uses on property located at the northwest corner of West Betsy Lane and Oriole Drive. Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

- 6. Consider and/or act on a recommendation to officially name the Murphy Community Center, the Murphy Activity Center, and the Murphy Central Park.**

Council Action

Councilmember Halbert moved to approve the names as recommended. Councilmember Richmond seconded the motion. A vote was taken and passed, 7-0.

7. Consider and/or act upon a proposed resolution approving the City of Murphy Policies and Procedures, including the addition of Electronic Communications and Social Media policies.

Council Action

Councilmember Daugherty moved to approve the policies as presented subject to review by the City Attorney. Councilmember Daniel seconded the motion. A vote was taken and passed, 6-1 with Councilmember Brandon voting in opposition. Councilmember Brandon stated he voted in opposition because all of the policies were lumped together in one motion.

CITY MANAGER/STAFF REPORTS

City Manager Fisher reported on the following:

- **Website Update** –the new website has been significantly delayed but IT is working swiftly to get the new site up for a test run in February and full run in March. The calendars have been removed from the current site and will not be available until the new site is up.
- **Jan 10 Utility Fund Work Session 6 pm – Community Room** –North Municipal Water District will be attending to discuss the City’s contract.
- **Jan 17 – City Offices Closed in Observance of MLK Day**
- **Jan 18 – Regular Council Meeting**
- **Jan 21 CLC – New Quarterly Meeting Schedule**
- **Jan 28 - Chamber Banquet** -let staff know if you will be attending
- **November Financial Report** – City is doing good with sales tax; property taxes will be coming in this month, November report reflects one time expenditure in Administration for employee salary adjustments as approved in the budget, and November election expenses.
- City is working with the Texas Department of Transportation (TxDOT) and Kansas City Southern (KCS) to correct FM 544 railroad issues. TxDOT is stating it is not their project and they are not responsible. They are estimating 2-4 months to correct the issues. Staff has notified KCS and will work to get the issues resolved as soon as possible.

EXECUTIVE SESSION

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

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

Council Action

This Executive Session was not held.

§551.074 Personnel matters; to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: Sam Elliston.

Council Action

There was no action or votes taken in Executive Session.

RECONVENE INTO REGULAR SESSION

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

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

§551.074 Personnel matters; to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: Sam Elliston.

Council Action

Councilmember Halbert moved to authorize the City Manager to pay 50% of accrued sick leave as of December 31, 2010 to Sam Elliston as part of his retirement package. Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

ADJOURNMENT

With no further business, the meeting was adjourned at 9:47 p.m.

APPROVED BY:

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary

MINUTES
SPECIAL CITY COUNCIL WORK SESSION
CITY OF MURPHY
206 North Murphy Road
Murphy, Texas

JANUARY 10, 2011
6:00 P.M.

CALL TO ORDER

Mayor Pro Tem John Daugherty called the meeting to order at 6:00 pm.

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL & CERTIFICATION OF A QUORUM

Secretary Nemer certified a quorum with the following:

Council Present

Mayor Pro Tem John Daugherty
Deputy Mayor Pro Tem Colleen Halbert
Councilmember Scott Bradley
Councilmember Dave Brandon
Councilmember Dennis Richmond
Councilmember Mike Daniel

Absent

Mayor Bret Baldwin

PUBLIC COMMENTS

No public comments were submitted.

WORK SESSION

- 1. Presentation by North Texas Municipal Water District (NTMWD).**
- 2. Update on NTMWD Water and Wastewater Services.**
- 3. Discussion regarding NTMWD Contracts.**

Presentation and Discussion

Judd Sanderson, Director of Finance for NTMWD and Jim Parks, Executive Director for NTMWD presented information to Council and staff on the North Texas Municipal Water District system, specifics to Murphy, and existing contracts between Murphy and NTMWD. There was discussion regarding the rate structure and formula and the benefits of conservation.

- 4. Discussion regarding the newly updated Drought Contingency and Water Emergency Response Plan and required ordinance.**
- 5. Discussion regarding the Water Conservation Plan and utility rate structure.**

Discussion

Staff explained that both the Drought Contingency/Water Emergency Response Plan and the Water Conservation Plan ordinances are required by state and federal mandates and required for the City to receive Texas Commission on Environmental Quality (TCEQ) permits. Staff explained that the NTMWD provides model plans through their consultant Freese and Nichols, Inc. City Manager Fisher requested Council to review the proposed plans and submit questions over the next three weeks. Staff will bring the proposed ordinances to Council for consideration at the February 1st meeting.

6. Discussion regarding Utility Fund.

Discussion

There was discussion regarding updating the rate study with current numbers including a pass-through rate from NTMWD. Council requested to look at what the City is paying NTMWD, what the City's cost is, and develop a rate structure that is accurate and fair for all customers.

It was determined that a separate Work Session would be scheduled that would be dedicated to discussing the utility rate structure.

ADJOURNMENT

With no further business, the meeting was adjourned at 8:11 p.m.

APPROVED BY:

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary

Issue

Consider and/or act upon approval of a resolution authorizing Texas Coalition for Affordable Power (TCAP) to negotiate an extension to the current electric supply and necessary related services agreement with Next Era for a fixed price per KWh that is lower than contract rates for 2011-2013, said extension to continue until December 31, 2018; authorizing TCAP to act as an agent on behalf of the city to enter into a contract for electricity; authorizing the chairman of TCAP to execute an extension to the current electric supply agreement for deliveries of electricity effective January 1, 2011 or as soon after finalization of a contract as possible; committing to budget for energy purchases and to honor the city's commitments to purchase power through TCAP for its electrical needs through December 31, 2018.

Background

At the February 21, 2005 Council meeting, a resolution was approved authorizing the City of Murphy to be a member of the Cities Aggregation Power, Project, Inc. (CAPP), appoint the city manager as the representative and approve the membership fee, the articles of incorporation and the bylaws.

On February 20, 2006, a resolution was approved by the City Council in support of Cities Aggregation Power Project's (CAPP) efforts to contract for long term electrical capacity; specifying certain parameters to be met, to contract for long term capacity; and approve CAPP's financing structure to fund acquisition of long term electrical needs.

At the July 3, 2006 Council meeting a resolution was approved authorizing Cities Aggregation Power Project (CAPP) to negotiate an electric supply agreement, authorize CAPP to act as an agent for the city to enter into a contract, authorize the chairman to execute an agreement, commit budgeted funds for energy purchase in 2007 and 2008 and to honor the city's commitments to purchase power for its electrical need in 2007 and 2008 through CAPP.

On November 3, 2008, a resolution was approved by the City Council authorizing the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an electric supply agreement for deliveries of electricity and necessary related services effective January 1, 2009; authorize CAPP to act as an agent on behalf of the city to enter into a contract for electricity; approve CAPP contracting with FPL Energy and Direct Energy; and to commit budgeted funds for energy purchases to purchase power through CAPP for its electrical needs beginning January 1, 2009 through December 31, 2013.

On November 5, 2010 a memo was received from Geoffrey Gay informing CAPP cities of the possible opportunity to reduce electrical prices for 2011 and achieve significant savings for the next three years by amending and extending the existing contract for electricity.

The following is an excerpt from the November 5th memo detailing the impact of amending and extending the current contract:

*"Your supplier, Next Era, has offered to liquidate the natural gas futures contracts it secured in 2008 to give CAPP and STAP fixed electric rates for five years. Next Era would then purchase new gas futures contracts to secure fixed pricing for an eight-year period at rates less than rates that must be paid next year under the existing terms and conditions of the contract with Next Era. **For most CAPP and STAP members, Next Era's offer to "blend and extend" would reduce 2011 prices by approximately 1¢ per kWh.** For the small users who consume less than 1 million kWh annually, that reduction should result in savings of between \$2,500 and \$30,000 over the remainder of the current five-year agreement. For the largest user, the savings should approximate \$5 million*

The current contract is referred to as a four-party agreement. It contractually commits CAPP and STAP to Next Era (aka, Florida Power & Light) as supplier and Direct Energy Business Services ("DEBS") as retail electric provider responsible for customer accounts and billing. Each CAPP and STAP member was required to pass a resolution agreeing to be bound by the four-party agreement and pledging to sign an individual customer energy supply agreement with DEBS. The current contract became effective on January 1, 2009 and will expire December 31, 2013. Under ordinary circumstances, bids for power to meet member needs in 2014 and beyond would not have commenced until sometime in 2012.

In June, CAPP and STAP received an unsolicited offer for a block of base load energy to be available in 2014 from distressed generation assets to be purchased by some West Texas investors and backed by J.P. Morgan. The indicative pricing looked favorable for a five-to-twelve-year commitment.

Both Boards were interested in the proposal. The CAPP Board directed R.J. Covington Consulting to perform a due diligence evaluation of the proposed pricing. Consultants were able to obtain several comparable offers, including an offer from Next Era. However, Next Era indicated that while they were willing to discuss the block power commitment, better pricing could be offered in a blend and extend arrangement. Indeed, their blend and extend proposal contained more favorable pricing with less risk than any other offer. Next Era proposed to liquidate the gas futures contracts obtained in 2008 to serve CAPP and STAP load through 2013 and to purchase new gas futures contracts at lower prices to serve CAPP's and STAP's full requirements through 2018. The energy price offered to members would be fixed for eight years subject to the same adjustment provisions (for ancillary services, nodal market prices and changes to total member load) in the current contract. Generally speaking, members in the North, South, and Houston ERCOT Zones would see a reduction in next year's price of about 1¢ per kWh. Multiplying each member's annual consumption by 1¢ yields a savings estimate for next year.

In 2008, the excess supply in West Texas permitted CAPP members in the West Zone of ERCOT to realize about a 2¢ reduction off of North Zone prices during the five-year contract. Over the last year, pricing differentials between zones have narrowed significantly. Under the blend and extend arrangement, West Zone members, including Wichita Falls, Abilene, San Angelo, and Odessa and others should see some reduction in contract prices currently set

for 2011-2013, but not nearly as great as the 1¢ per kWh price reduction that should be available in the other three zones.

Do Near-Term Savings Justify a Five Year Extension?

Two factors largely determine electric prices in the Texas deregulated market: natural gas futures prices and heat rates which are in turn influenced by market perceptions of available generation capacity. At this point in time, natural gas prices are low and stable and there is excess capacity. Whether natural gas prices will remain low and stable through 2013 depends a great deal upon the future of shale gas extraction. If environmental factors such as potential groundwater contamination limit the production of shale gas or if the economy recovers and industrial and electric company demand for gas increases, natural gas prices will rise. Most analysts of population growth predict significant expansion of the population of Texas. How soon such growth will cause demand for electricity to grow faster than supply is unknown, but some forecasts suggest that the reserve margins for generation of electricity may dip below a reasonable level by as early as 2013. If that happens, electric prices will rise above current levels.

An optimistic forecast would indicate that natural gas prices will remain around current levels for the next three or four years. To pass on an offer to reduce current contract rates and achieve a fixed price guarantee for eight years, one has to count on gas prices continuing to decline and for electric generation supply to remain comfortably greater than peak demand at least through the end of 2013. Even if gas prices decline so as to justify a lower rate in 2013 for the 2014-2016 period, it is unlikely that the rate would be sufficiently lower to justify foregoing the potential near-term savings afforded by a blend and extend arrangement.

Your Option

Your political subdivision is under contract through 2013. You may reject the blend and extend opportunity and remain under the current terms and conditions. If you desire to take advantage of a blend and extend offer that produces both immediate savings and price stability for the next eight years, your governing body will need to authorize someone to sign an amended agreement with Next Era, if and when the CAPP and STAP Boards approve and recommend an amendment.

Explanation of the Contracting Process

The contracting process for the blend and extend agreement is exactly like the process used in the last several contracting periods. Your council will need to approve one of the two attached model resolutions. One resolution (Model Resolution A) authorizes CAPP to act as an agent to negotiate and execute a contract for the member's electricity needs while the other resolution (Model Resolution B) requires the city to contract with CAPP to purchase power for the member through CAPP and to designate an individual with the power to execute the contract.

The resolutions streamline contracting procedures. The resolutions empower the Chairman of CAPP to sign a blend and extend agreement with the current power provider on behalf of all CAPP members for 2011-2018 energy needs. A majority of CAPP members previously authorized the CAPP Chairman to execute the 2007 and the 2008 energy contracts on their behalf. Model Resolution A accomplishes that objective for 2011-2018. Model Resolution B is to be adopted by those cities whose charters prevent the cities from delegating contracting power to anyone but the mayor or other designated city representative. For those cities, the resolution directs the city to contract with CAPP for the city's 2011-2018 electricity needs. In addition, both resolutions reiterate that each member is obligated only for its proportionate share of the contracted load. Every CAPP member should expeditiously adopt one of the two resolutions and provide a copy of the resolution to my office."

Financial Considerations

Savings of approximately \$0.01 per kWh

Staff Recommendation

Approval of the resolution authorizing Texas Coalition for Affordable Power (TCAP) to negotiate an extension to the current electric supply and necessary related services agreement with Next Era for a fixed price per kWh that is lower than contract rates for 2011-2013, said extension to continue until December 31, 2018; authorizing TCAP to act as an agent on behalf of the city to enter into a contract for electricity; authorizing the chairman of TCAP to execute an extension to the current electric supply agreement for deliveries of electricity effective January 1, 2011 or as soon after finalization of a contract as possible; committing to budget for energy purchases and to honor the city's commitments to purchase power through TCAP for its electrical needs through December 31, 2018.

Attachments

- 1) Resolution
- 2) Email from Caitlin Bowdish with 2011 Energy Rates
- 3) Minutes of the Board of Directors of CAPP – regarding the blend and extend contract
- 4) Email and Memo from Geoffrey Gay – regarding the blend and extend contract
- 5) Memo of November 9th from Geoffrey Gay – regarding the blend and extend contract
- 6) Email of December 8th from Geoffrey Gay – regarding participation in the blend and extend contract
- 7) Email of December 20th from Geoffrey Gay – regarding participation in the blend and extend contract
- 8) Minutes of City Council and Resolutions approved in regards to CAPP

Linda Truitt, Finance Director
Submitted By

City Manager Approval

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUCNIL OF THE CITY OF MURPHY, TEXAS, AUTHORIZING THE TEXAS COALITION FOR AFFORDABLE POWER (TCAP) TO NEGOTIATE AN EXTENSION TO THE CURRENT ELECTRIC SUPLY AND NECESSARY RELATED SERVICES AGREEMENT WITH NEXT ERA FOR A FIXED PRICE PER KWH THAT IS LOWER THAN CONTRACT RATES FOR 20112013, SAID EXTENSION TO CONTINUE UNTIL DECEMBER 31,2018; AUTHORIZING TACP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A COTRACT FOR ELECTRICITY; AUTHORIZING THE CHAIRMAN OF TCAP TO EXECUTE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AGREEMENT FOR DELIVERIEIS OF ELECTRICITY EFFECTIVE JANUARY 1, 2011 OR AS SOON AFTGER FINALIZATION OF A CONTRACT AS POSSIBLE; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TOHONOR THE CITY'S OMMITMENTS TO PURCHASE POWER THROUGH TCAP FOR ITS ELECTRICAL NEEDS THROUGH DECEMBER 31, 2018.

WHEREAS, the City of Murphy, Texas (City) is a member of Texas Coalition for Affordable Power (TCAP), a nonprofit political subdivision corporation dedicated to securing electric power for its 102 political subdivision members in the competitive retail market; and

WHEREAS, TCAP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and

WHEREAS, the City's current contract for power with Next Era arranged though TCAP expires December 31, 2013; and

WHEREAS, the TCAP Board of Directors is currently considering a blend and extend contract with Next Era with indicative retail energy prices that will reduce the prices under the current contract for the next three years and extend a fixed price for energy through December 31, 2018; and

WHERAS, the current contract is a master agreement between TCAP and the Nest Era endorsed by contract with individual TCAP members; and

WHEREAS, TCAP must be able to commit contractually to prices in a blend and extend contract amendment within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for TCAP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, suppliers demand assurance that TCAP will pay for all contracted load; and

WHEREAS, the City must assure TCAP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through TCAP for the period beginning January 1, 2011, and extending through December 31, 2018; and

WHEREAS, TCAP intends to continue to contract with Next Era (power supply) and Direct Energy (billing, administrative and other customer services); and

WHEREAS, the current contractual relationships between TCAP and Next Era and Direct Energy have been beneficial and cost effective for TCAP members and the City.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS;

Section 1:

That the TCAP Board and its consultants and advisors are agents authorized to negotiate for the City's electric power needs as a member of YCAP and extend the current supply agreement through December 31, 2018.

Section 2:

That the City approves TCAP extending its current contract with next Era for the supply of electric power and related, necessary services for the City for a term to begin January, 2011 or as soon after finalization of a contract as possible and extending up to December 31, 2018, so long as the extension results in savings over the current contract term of 2011-2013 and results in fixed prices through December 31, 2018.

Section 3:

That the Chairman of TCAP is hereby authorized to sign a Commercial Electricity Supply Agreement ("CESA") for the City pursuant to the contract approved and recommended by the TCAP Board of Directors within 24 hours of said approval and recommendation, provided that the energy price to be paid per kWh in 2011-2013 is less than the current contract price for 2011-2013 resulting in savings for the City and that the fixed price for the period 2011-2013 will continue through December 31, 2018.

Section 4:

That the City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement arranged by TCAP and ECSA signed by the Chairman of TCAP on behalf of the City for the term beginning January 1, 2011 or as soon after finalization on a contract as possible and extending up to December 31, 2018.

Section 5:

That a copy of the resolution shall be sent to Mark Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to TCAP.

PRESENTED AND PASSED on the 18th day of January, 2011, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Murphy, Texas.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

Linda Truitt

From: Caitlin Bowdish [cbowdish@rjcovington.com]
Sent: Friday, March 12, 2010 2:15 PM
To: Aimee Nemer; Linda Truitt
Subject: CAPP FY 2011 Budget Info - North Zone

As a reminder, your electric bill is made up of the following components:

$$\text{TOTAL BILL} = \text{Energy Rate (per kWh)} + \text{TDSP Charges (per kWh)} + \text{Agg Fee (\$0.0013 per kWh)} + \text{TAXES (0.75\% - 2.17\%)}$$

TDSP charges typically average in the 3 – 6 cent range per kWh. Taxes are a combination of the PUC Tax of 0.1667% and Gross Receipts Tax which ranges from 0.581% - 1.997% depending on area population.

In an effort to assist CAPP members with budget planning for FY 2011, I have included below a reminder of your 2010 and 2011 CAPP energy rates, as well as your individual average TDSP charge per kWh in 2009 and a breakout of your 2009 usage for the terms of Jan – Sep and Oct – Dec.

Member	2010 Energy Rate	2011 Energy Rate	2009 Avg TDSP/kWh	Jan - Sep 2009 kWh	Oct - Dec 2009 kWh
MURPHY	\$0.07708	\$0.07895	\$0.055	1,035,444	257,470

Please keep in mind that this your usage from calendar year 2009 and variables such as weather, new construction, expanding facilities, etc. should be considered when structuring your FY11 electric budget.

Thank you,

Caitlin Bowdish

Consultant Engineer
R.J. COVINGTON, LLC
Energy Consulting
11044 Research Blvd., Suite D-230
Austin, TX 78759
512-331-4949 x104
Fax: 512-331-5743
Email: cbowdish@rjcovington.com
Website: <http://www.RJCovington.com>

**Minutes of the
Board of Directors of
Cities Aggregation Power Project, Inc.**

November 4, 2010

On Thursday, November 4, 2010, at approximately 10 a.m., CAPP Chair Jay Doegey convened a meeting of the Board of Directors of Cities Aggregation Power Project, Inc. (“CAPP”) in Addison, Texas. CAPP Board members present were Mike Foreman, Mark Israelson, Ann Honza, Randy Moravec, David Ragsdale, Bob Sparkman, Stephen Massey, and Jay Doegey. Odis Dolton joined the meeting (by phone) shortly after the meeting in progress. James Zentner was absent. Also present were Bill Starnes, Pat Wilkins, and Caitlin Bowdish of Covington Consulting, Inc. (“RJC”), attorneys Geoffrey Gay and Thomas Brocato, Jordan Wollman and Bethany Ruhnnow of Aria, Christy Hedrick of ista and Denise Architetto (by phone) and Steven Aiello (by phone) of ista, and CAPP Secretary-Treasurer Mary Bunkley (by phone).

Approval of Agenda for November 4, 2010 Regular Board Meeting and Setting of Tentative End Time

Motion: Bob Sparkman made a motion to approve the November 4, 2010 agenda and set a tentative end time of 1:30 p.m. Mike Foreman seconded the motion which passed 8 to 0 (Dolton and Zentner absent).

Approval of Minutes of October 7, 2010 Special CAPP Membership Meeting and Minutes of October 7, 2010 Regular Board Meeting

Motion: Randy Moravec made a motion to approve the minutes of the October 7, 2010 Special CAPP Membership meeting and to approve the minutes of the October 7, 2010 Regular Board meeting with the following correction—on page 5, last sentence under the heading “Direct Energy Account Management” to read “Ms. Bowdish said that this will be checked to insure accuracy.” Mark Israelson seconded the motion which passed 8 to 0 (Dolton and Zentner absent).

Treasurer’s Report November, 2010

Cash on hand October 31, 2010 totaled **\$1,920,716**. Activity since the last board meeting included:

REVENUE

<u>Date</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
10/31/2010	Texpool	Interest	53
10/31/2010	TexStar	Interest	39
10/31/2010	Frost	Checking & Money Market Interest	102
10/14/2010	Direct Energy	August 2010 Actual Aggregation fee before true-up	127,295
10/14/2010	Direct Energy	3Q10 Ancillary Services Refund	813,209
		TOTAL	940,698

UNPAID BILLS

<u>Date</u>	<u>Num</u>	<u>Memo</u>	<u>Open Balance</u>
		Ariamedia	
10/14/2010	12582	Public Relations-expenses-November contract fee	8,000
10/28/2010	Inv. 12605	Public Relations-expenses-December contract fee	8,000
			<u>16,000</u>
		Axyon Consulting.com	
11/03/2010	Inv. 1455	Oct2010 billing period-Elec billing project-Business and Technical Analyst	1,050
			<u>1,050</u>
		James Zentner	
10/07/2010	Exp Report	Aug&Sep2010 CAPP Bd Mtg travel	463
			<u>463</u>
		Lloyd Gosselink	
10/25/2010	Inv. 48348	Sep2010 billing period-General	19,486
10/25/2010	Inv. 48344-2	Sep2010 billing period-ERCOT Participation	3,395
10/25/2010	Inv. 48379-1	Sep2010 billing period-2009 Legislative Advocacy	4,866
			<u>27,747</u>
		Town of Addison_	
11/01/2010	11-1 email	October 4, 2010 CAPP Bd Mtg-Host	725
			<u>725</u>
			<u><u>45,985</u></u>

Mr. Moravec stated that the Finance Subcommittee reviews the invoices from the consultants each month. He suggested to the subcommittee that it was not necessary for consultants to submit the backup receipts for their CAPP related expense items. It would be sufficient to just list them as line item entries on the itemized invoices.

Motion: Mr. Moravec made a motion to accept the Treasurer's report. Mr. Sparkman seconded the motion which passed 8 to 0 (Dolton and Zentner absent).

Status of CAPP-STAP Merger

Geoffrey Gay reported that the memberships of CAPP and STAP have approved the merger into TCAP. The STAP Board met on October 28, 2010 and canvassed the STAP vote on the merger. There were no CAPP or STAP members that voted in opposition to the merger. The Merger Plan for TCAP has been signed and will be sent to the Secretary of State. Jordan Wollman has set up a new website domain name for TCAP.

TCAP Nominating Committee (Odis Dolton joins the meeting by phone)

David Ragsdale and Mary Bunkley reported that the Nominating Committee has been reviewing a sample ballot for the upcoming TCAP election. As of November 4, there has been no candidate from a Houston Zone CAPP member that has indicated an interest in running. Efforts will be made to recruit an eligible candidate from the Houston Zone to run to assure that all four zones are represented on the TCAP Board.

Preliminary 2011 TCAP Budget Discussion

The Board reviewed a draft of a preliminary 2011 TCAP budget. Mr. Moravec walked the Board through the draft and Mr. Starnes and Mr. Gay explained the basis of the consultants' estimates for 2011. The draft assumed a usage of 1,324,000,000 kWh, with CAPP members consuming 70% and STAP members consuming 30% of the total. After discussion, Mr. Doegey and other Board members observed that it would probably be necessary for the Board to set an administrative fee of at least 1.2 mils per kWh on CAPP members in order to provide necessary funding flexibility, especially if TCAP decided to hire an Executive Director. It also appeared necessary to increase the expenditure for corporate secretary-treasurer functions with the merger of CAPP and STAP into TCAP. The Board asked Mr. Gay to share the draft preliminary 2011 TCAP budget with the STAP Board and discuss it in a joint meeting conference call with the CAPP and STAP Board members on November 15, 2010.

Discussion of Executive Director for TCAP

Mr. Doegey reported that he would distribute a draft TCAP Executive Director Profile to the CAPP and STAP Boards at the joint CAPP-STAP Board meeting in Austin in December.

e:so Portal Project Update (Steven Aiello and Denise Architetto joined the meeting by phone)

Ms. Architetto reported on testing of 15 projects (encompassing the 58 issues identified by Axyon in April) that occurred. On October 11, the ista team delivered 214 test scripts to Axyon that included testing each of the 15 development projects. Axyon tested the e:so portal using the test scripts provided. Eleven of the 214 test cases (5%) failed. Ms. Hedrick said that ista did another round of tests on the 11 failed test cases and it appeared those have now been resolved. Ms. Hedrick said that ista would like to release the 15 CAPP projects to production the week of November 29 in the 4.4 product release. This release will be a coordinated effort

between the ista release management, development, QA, and client services teams. Once deployment is complete, the CAPP system will receive a smoke test to ensure successful deployment. Mr. Gay said that Axyon reports vast improvement. If tests are successful, then a training schedule announcement will be made thereafter. The Arlington Library Conference Room was suggested in January. (Mr. Aiello and Ms. Architetto departed the meeting by phone.)

Public Relations Update

Jordan Wollman advised that his public relations firm name has been changed to "Aria". He said that the booth at the TML annual conference had one of the highest impacts at the conference. Regarding the on-line advertising after the first month, the banner ads seemed to have the highest impact. The on-line advertising, together with the booth exposure received at the TML annual conference, boosted the number of petitions submitted through www.recharge texas.com by 406.6%. Mr. Wollman also said that www.tcap tx.com has been reserved as TCAP's domain.

New Members Report

Ms. Bowdish informed DART the results of the load analysis and potential savings. DART was advised that it would need to join CAPP and pay the initial fee in order to receive additional pricing information. No further DART response has been received.

Direct Energy Account Management

The change to rolling invoicing proposed by Direct Energy in a formal mail out to the membership last month has been postponed indefinitely. Ms. Bowdish discussed Haltom City's invoicing situation.

Direct Energy Contract Administration

Pat Wilkins told the Board that the 3Q auxiliary services refund of \$813,209.30 has been received. The year-to-date AS refunds received for 2010 is \$1,758,362.26 and \$3,815,567.30 since inception of the current contract in January 2009. RJC estimates a 4Q AS refund of approximately \$700,000. He also reported having discussions with NextEra regarding possible contract adjustments due to the start of nodal on December 1, 2010. Under nodal there will be a new AS called Reliability Unit Commitment (RUC) targeted to the supplier. No one knows yet what it will be in terms of potential financial exposure. Although the 4Q will have one month of RUC, Mr. Wilkins said he expects the significant AS balance will cover it.

Energy Price Update

Mr. Starnes said that spot prices have been down by 47 cents/per MMBtu, and natural gas futures markets also continued to fall in October by 25 cents. OPEC oil prices, on the other hand, rose to \$82/bbl in the first days of November. Natural gas storage is 96.5%, a 5 year peak. The Oil-to-Gas Price Ratio is 25.5 to 1. The October 2010 ERCOT monthly average zonal balancing energy prices are:

North Zone	South Zone	West Zone	Houston Zone
\$29.85/MWh	\$30.15/MWh	\$24.67/MWh	30.42/MWh

These prices are approximately \$3/MWh lower than September 2010 average prices, except in the West zone which is approximately \$5.50/MWh lower than September prices.

The commercial wholesale rate for the Dallas area fell to \$40.82/MWh in September 2010. The Houston area commercial wholesale rate also fell to \$44.07. The lowest price on the Power-to-Choose September 2010 archives for residential service at 1500 kWh/month of usage declined to 6.77 cents/kWh in September while the high price was steady at 12.93 cents/kWh.

Mr. Starnes also reported that on October 28 the STAP Board directed the preparation of council resolutions to begin the approval process for a blend and extend contract with NextEra.

Status of PUC and Railroad Commission Rulemakings, Projects, and Rate Case Proceedings (Mr. Dolton departed the meeting by phone)

Thomas Brocato distributed a *Dallas Morning News* article dated October 30, 2010 stating that Oncor will be seeking another rate increase with a filing expected in January 2011. Oncor spokespersons state that reduced growth, a struggling economy, and under earnings are prompting the request. This past fall, the PUC granted Oncor a \$155 million increase. The cities argued that Oncor was over earning by nearly \$175 million annually. Oral argument was just completed in that case in the appeal to the state district court. The Oncor announcement followed shortly after news reports of serious financial problems with EFH, Oncor's holding company. The Oncor Cities Steering Committee (OCSC) will hold its quarterly meeting at 2 p.m., December 13 at the Arlington Convention Center at which the latest information on the anticipated Oncor rate filing will be discussed. Mr. Brocato also mentioned that hearing on the TNP \$20 million rate request will begin on December 2, 2010. Hearing on CenterPoint Energy Electric's \$111 million rate case was held October 11-15. A Proposal for Decision by the ALJ is expected in late December. In other news, CAPP policy analyst Jake Dyer testified before the Senate Committee on Business and Commerce that deregulated residential electricity prices in Texas remain higher than neighboring states, the national average, and areas in Texas that are subject to "competition". Chris Brewster also appeared before the same committee and expressed caution about the transition to nodal which is set to take place on December 1, 2010.

Members were also encouraged to send in their applications to join or renew their memberships in ERCOT. Last year 127 cities and other political subdivisions joined ERCOT. The deadline to apply is November 12. The cost is \$100. Last year the cities were able to elect two members to the Technical Advisory Committee and one member to the Board of Directors of ERCOT. Regarding the Oncor Energy Efficiency Cost Recovery Factor, Steve Massey reported that the City of Allen participated in the program and obtained over \$200,000 from it and used it to leverage other energy efficiency projects. Mike Foreman of Grand Prairie said his city got over \$300,000 from the program and is reinvesting it into more projects, saying that it will even rebate on LED street lighting. Mr. Gay reported that he has still received no response from Oncor regarding electric utility relocation issues that were discussed with Oncor last fall. Finally, Mr. Brocato said that the Atmos Pipeline rate case will go to hearing at the Railroad Commission in late June 2011.

Energy Supply Alternatives

Mr. Gay told the Board that to date he has received no negative feedback regarding the blend and extend contract modification concept since sending out his communication to the twenty largest CAPP-STAP members a few weeks ago. He will now proceed to send a communication to all of the CAPP and STAP members explaining the proposal and providing a model resolution to adopt to authorize negotiations with NextEra for a blend and extend agreement and authorizing the CAPP and STAP chairs, respectively, to execute an agreement to lock in rates if they prove to be economically beneficial. He said that it will be difficult to get a blend and extend contract in place until 2Q of 2011. The goal will be to try to obtain the necessary authorizing resolutions from the CAPP and STAP members by mid-December 2010.

Further Discussion of e:so Portal (Confidential – To Be Redacted from Publicly Available Board Minutes)

Mr. Gay said that he had told Dave Roberts of Direct Energy that DE had put CAPP and STAP in an awkward situation if DE pulled the plug on ista and transferred all customers to the Strategic platform. He told Mr. Roberts that CAPP will insist it wants to do an independent examination of the impact of being transferred to that platform. He said that there seemed to be some uncertainty at DE of a sound contractual basis for its transfer plans. Ms. Bowdish reported what she saw related to the Strategic billing platform. Mr. Moravec questioned why DE would drop ista.

Motion: Mr. Moravec made a motion authorizing Mr. Gay to draft a letter for the CAPP Chair's signature to someone at Direct Energy management above the level of Dave Roberts informing DE that CAPP prefers the ista platform because it has been thoroughly vetted; that DE has put CAPP in an awkward position; that CAPP will have no other communications with DE on the subject of a platform transfer unless DE communicates its intentions to ista; and that if DE does not inform ista of its plans by a certain date, then CAPP will assume that DE will be going

forward with its transfer plans and CAPP will inform ista of DE's plans. Mr. Sparkman seconded the motion which passed 8 to 0 (Dolton and Zentner absent).

Sunset Review Process

Mr. Gay said that the Sunset Advisory Commission staff recommendation is close to being released. He said that the Atmos Cities Steering Committee (ACSC) draft report on the Texas Railroad Commission is being circulated for review and that it will go to the printer tomorrow. It will be distributed publicly in December sometime after the Sunset Advisory Commission public hearing on the Railroad Commission scheduled to take place on December 15-16.

Future Meetings and Agenda Topics

There will be a special joint CAPP-STAP Board meeting by conference call at 10 a.m. on November 15, 2010 to discuss the draft 2011 TCAP budget, bank account transfers, election ballot, the first annual TCAP Membership meeting, and other merger issues. The next regular CAPP Board meeting will be a joint meeting with the STAP Board in Austin, Texas, on December 9, 2010 at 10 a.m. at the Austin Airport Hilton Hotel. Topics to be discussed at the December 9th CAPP Board meeting are expected to include a further discussion and a recommendation on the 2011 TCAP budget and administrative fee, a status report on the CAPP-STAP merger, discussion of engaging an executive director for TCAP, update on e:so portal, discussion of DE billing policy, public relations update, Sunset review and legislative session, PUC and Railroad Commission activities, and status of blend and extend initiative.

Adjournment

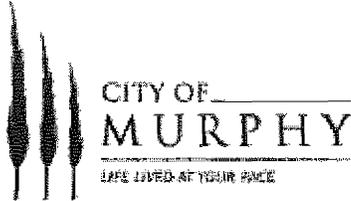
The meeting adjourned at approximately 1 p.m.

Mary Bunkley
Secretary-Treasurer

Jay Doegey
Chair

Linda Truitt

From: James Fisher
Sent: Friday, November 05, 2010 3:33 PM
To: Linda Truitt
Subject: FW: Electric Rates for 2011 and Beyond
Attachments: 2010.11.02 Memo to CAPP & STAP Members re Electric Rates for 2011 and Beyond.DOC; 2010.10.26 Model Resolution A - Resolution authorizing CAPP negotiate and contract for power.DOC; 2010.10.26 Resolution B CAPP Contract with NextEra.DOC



James Fisher, City Manager

(972) 468-4007 direct
(214) 690-8576 mobile
murphytx.org

Visit our Citizen Action Center at www.murphytx.org for questions or requests regarding city services

From: Geoffrey Gay [<mailto:gmg@lglawfirm.com>]
Sent: Friday, November 05, 2010 3:19 PM
To: Abilene (Daniel Santee); Abilene (Larry Gilley); Abilene (Mindy Patterson); Abilene (Odis Dolton) ; Addison (Randy Moravec); Allen (Stephen Massey); Allen (Wes Pierson); Anna (Natha Wilkison); Anna (Philip Sanders); Aquilla Water Supply (Henry Moore); Arlington (Jay Doegey); Arlington (Mary Bunkley); Bellmead (Victor Pena); Belton (Cristy Daniell); Benbrook (David Ragsdale); Benbrook Library District (Michael Baldwin); Benbrook Water & Sewer Authority (Crystal Ramsey); Brownwood (Bobby Rountree); Brownwood (Pat Chesser); Burkburnett (Mike Slye); Burleson (Rhett Clark); Cedar Hill (Greg Porter); Cedar Hill (Melissa Stephens); Cedar Hill (Patty Parks); Celina (Jay Toutouchian); Cisco (Jim Baker); Cleburne (Kim Galvin); Clyde (Jean Gilmore); Clyde (Roger Nelson); Colleyville (Christine Loven); Colleyville (Terry Leake); Colorado City (Donna Madrid); Comanche (Bill Flannery); Commerce (Marc Clayton); Copperas Cove (Andrea Gardner); Copperas Cove (Imelda Rodriguez); Corinth (Debra A. Drayovitch); Corinth (Jim Berzina); Corinth (Lee Ann Bunselmeyer); Crockett (Ron Duncan)
Cc: Geoffrey Gay; Barbara Kimmell
Subject: Electric Rates for 2011 and Beyond

Attached is a memo regarding electric rates for 2011 and beyond. Also, attached are two resolutions (A & B) for your consideration if you are interested in a blend and extend agreement. Your council will need to approve one of the two attached model resolutions. For a more detailed explanation of the resolutions, please read "explanation of the contracting process" on page 3 of the attached memo. If you have any questions, please feel free to contact me.

Geoffrey M. Gay

Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701

(512) 322-5800 phone
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ggay@lglawfirm.com

If you would like more information about the firm, please visit our website at <http://www.lglawfirm.com>, or about our **Utilities Practice Group**, please visit http://www.lglawfirm.com/PracticeAreas_Utility.asp

Mr. Gay's Direct Line: (512) 322-5875
Email: ggay@lglawfirm.com

MEMORANDUM

TO: All CAPP and STAP Members

FROM: Geoffrey M. Gay

DATE: November 5, 2010

RE: Electric Rates for 2011 and Beyond

Things are on track for the merger of CAPP and STAP, effective January 1, 2011, and for the assumption of the new identity, Texas Coalition for Affordable Power ("TCAP"). The merger will have no impact on existing contractual relationships with Next Era and Direct Energy.

As all of you are aware, the current energy supply agreement expires December 31, 2013. Energy prices for each year of the current five-year contract were locked on at the time the contract was signed in the fall of 2008. Prices vary by ERCOT zone and for 2011, the energy prices are scheduled to be only slightly higher than 2010 prices. The contractually scheduled prices for 2011 are:

North Zone	7.895¢ per kWh
South Zone	8.044¢ per kWh
West Zone	5.914¢ per kWh
Houston Zone	8.447¢ per kWh

New Offer Results in Savings

The purpose of this memorandum is not so much to remind you of next year's energy prices as it is to inform you that you have a rare opportunity to reduce next year's prices and achieve significant savings over the next three years by amending and extending the existing supply agreement.

Your supplier, Next Era, has offered to liquidate the natural gas futures contracts it secured in 2008 to give CAPP and STAP fixed electric rates for five years. Next Era would then purchase new gas futures contracts to secure fixed pricing for an eight-year period at rates less than rates that must be paid next year under the existing terms and conditions of the contract with Next Era. **For most CAPP and STAP members, Next Era's offer to "blend and extend" would reduce 2011 prices by approximately 1¢ per kWh.** For the small users who consume less than 1 million kWh annually, that reduction should result in savings of between \$2,500 and \$30,000 over the remainder of the current five-year agreement. For the largest user, the savings should approximate \$5 million.

Background

The current contract is referred to as a four-party agreement. It contractually commits CAPP and STAP to Next Era (aka, Florida Power & Light) as supplier and Direct Energy Business Services ("DEBS") as retail electric provider responsible for customer accounts and billing. Each CAPP and STAP member was required to pass a resolution agreeing to be bound by the four-party agreement and pledging to sign an individual customer energy supply agreement with DEBS. The current contract became effective on January 1, 2009 and will expire December 31, 2013. Under ordinary circumstances, bids for power to meet member needs in 2014 and beyond would not have commenced until sometime in 2012.

In June, CAPP and STAP received an unsolicited offer for a block of base load energy to be available in 2014 from distressed generation assets to be purchased by some West Texas investors and backed by J.P. Morgan. The indicative pricing looked favorable for a five-to-twelve-year commitment.

Both Boards were interested in the proposal. The CAPP Board directed R.J. Covington Consulting to perform a due diligence evaluation of the proposed pricing. Consultants were able to obtain several comparable offers, including an offer from Next Era. However, Next Era indicated that while they were willing to discuss the block power commitment, better pricing could be offered in a blend and extend arrangement. Indeed, their blend and extend proposal contained more favorable pricing with less risk than any other offer. Next Era proposed to liquidate the gas futures contracts obtained in 2008 to serve CAPP and STAP load through 2013 and to purchase new gas futures contracts at lower prices to serve CAPP's and STAP's full requirements through 2018. The energy price offered to members would be fixed for eight years subject to the same adjustment provisions (for ancillary services, nodal market prices and changes to total member load) in the current contract. Generally speaking, members in the North, South, and Houston ERCOT Zones would see a reduction in next year's price of about 1¢ per kWh. Multiplying each member's annual consumption by 1¢ yields a savings estimate for next year.

In 2008, the excess supply in West Texas permitted CAPP members in the West Zone of ERCOT to realize about a 2¢ reduction off of North Zone prices during the five-year contract. Over the last year, pricing differentials between zones have narrowed significantly. Under the blend and extend arrangement, West Zone members, including Wichita Falls, Abilene, San Angelo, and Odessa and others should see some reduction in contract prices currently set for

2011-2013, but not nearly as great as the 1¢ per kWh price reduction that should be available in the other three zones.

Do Near-Term Savings Justify a Five Year Extension?

Two factors largely determine electric prices in the Texas deregulated market: natural gas futures prices and heat rates which are in turn influenced by market perceptions of available generation capacity. At this point in time, natural gas prices are low and stable and there is excess capacity. Whether natural gas prices will remain low and stable through 2013 depends a great deal upon the future of shale gas extraction. If environmental factors such as potential groundwater contamination limit the production of shale gas or if the economy recovers and industrial and electric company demand for gas increases, natural gas prices will rise. Most analysts of population growth predict significant expansion of the population of Texas. How soon such growth will cause demand for electricity to grow faster than supply is unknown, but some forecasts suggest that the reserve margins for generation of electricity may dip below a reasonable level by as early as 2013. If that happens, electric prices will rise above current levels.

An optimistic forecast would indicate that natural gas prices will remain around current levels for the next three or four years. To pass on an offer to reduce current contract rates and achieve a fixed price guarantee for eight years, one has to count on gas prices continuing to decline and for electric generation supply to remain comfortably greater than peak demand at least through the end of 2013. Even if gas prices decline so as to justify a lower rate in 2013 for the 2014-2016 period, it is unlikely that the rate would be sufficiently lower to justify foregoing the potential near-term savings afforded by a blend and extend arrangement.

Your Option

Your political subdivision is under contract through 2013. You may reject the blend and extend opportunity and remain under the current terms and conditions. If you desire to take advantage of a blend and extend offer that produces both immediate savings and price stability for the next eight years, your governing body will need to authorize someone to sign an amended agreement with Next Era, if and when the CAPP and STAP Boards approve and recommend an amendment.

Explanation of the Contracting Process

The contracting process for the blend and extend agreement is exactly like the process used in the last several contracting periods. Your council will need to approve one of the two attached model resolutions. One resolution (Model Resolution A) authorizes CAPP to act as an agent to negotiate and execute a contract for the member's electricity needs while the other resolution (Model Resolution B) requires the city to contract with CAPP to purchase power for the member through CAPP and to designate an individual with the power to execute the contract.

The resolutions streamline contracting procedures. The resolutions empower the Chairman of CAPP to sign a blend and extend agreement with the current power provider on behalf of all CAPP members for 2011-2018 energy needs. A majority of CAPP members previously authorized the CAPP Chairman to execute the 2007 and the 2008 energy contracts on

November 5, 2010

Page 4

their behalf. Model Resolution A accomplishes that objective for 2011-2018. Model Resolution B is to be adopted by those cities whose charters prevent the cities from delegating contracting power to anyone but the mayor or other designated city representative. For those cities, the resolution directs the city to contract with CAPP for the city's 2011-2018 electricity needs. In addition, both resolutions reiterate that each member is obligated only for its proportionate share of the contracted load. Every CAPP member should expeditiously adopt one of the two resolutions and provide a copy of the resolution to my office.

If you have any questions or need more information, please contact Geoffrey Gay (512/322-5875, ggay@lglawfirm.com).

PLEASE NOTE: Passage of one of the attached resolutions does not guarantee that the Next Era contract will be extended. That will only happen if both Boards conclude that significant near-term savings and fixed prices will result. Passage of a resolution just ensures your political subdivision the right to participate in the blend and extend agreement, if it is finalized, approved, and recommended by the CAPP and STAP Boards.

MODEL RESOLUTION A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF _____, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AND NECESSARY RELATED SERVICES AGREEMENT WITH NEXT ERA FOR A FIXED PRICE PER KWH THAT IS LOWER THAN CONTRACT RATES FOR 2011-2013, SAID EXTENSION TO CONTINUE UNTIL DECEMBER 31, 2018; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2011 OR AS SOON AFTER FINALIZATION OF A CONTRACT AS POSSIBLE; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS THROUGH DECEMBER 31, 2018.

WHEREAS, the City of _____, Texas (City) is a member of Cities Aggregation Power Project, Inc. ("CAPP"), a nonprofit political subdivision corporation dedicated to securing electric power for its 102 political subdivision members in the competitive retail market; and

WHEREAS, CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and

WHEREAS, the City's current contract for power with Next Era arranged through CAPP expires December 31, 2013; and

WHEREAS, the CAPP Board of Directors is currently considering a blend and extend contract with Next Era with indicative retail energy prices that will reduce the prices under the current contract for the next three years and extend a fixed price for energy through December 31, 2018; and

WHEREAS, the current contract is a master agreement between CAPP and Next Era endorsed by contract with individual CAPP members; and

WHEREAS, CAPP must be able to commit contractually to prices in a blend and extend contract amendment within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for CAPP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, suppliers demand assurance that CAPP will pay for all contracted load; and

WHEREAS, the City must assure CAPP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through CAPP for the period beginning January 1, 2011, and extending through December 31, 2018; and

WHEREAS, CAPP intends to continue to contract with Next Era (power supply) and Direct Energy (billing, administrative and other customer services); and

WHEREAS, the current contractual relationships between CAPP and Next Era and Direct Energy have been beneficial and cost effective for CAPP members and the City.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS:

Section 1:

That the CAPP Board and its consultants and advisors are agents authorized to negotiate for the City's electric power needs as a member of CAPP and extend the current supply agreement through December 31, 2018.

Section 2:

That the City approves CAPP extending its current contract with Next Era for the supply of electric power and related, necessary services for the City for a term to begin January 1, 2011 or as soon after finalization of a contract as possible and extending up to December 31, 2018, so long as the extension results in savings over the current contract term of 2011-2013 and results in fixed prices through December 31, 2018.

Section 3:

That the Chairman of CAPP is hereby authorized to sign a Commercial Electricity Supply Agreement ("CESA") for the City pursuant to the contract approved and recommended by the CAPP Board of Directors within 24 hours of said approval and recommendation, provided that the energy price to be paid per kWh in 2011-2013 is less than the current contract price for 2011-2013 resulting in savings for the City and that the fixed price for the period 2011-2013 will continue through December 31, 2018.

Section 4:

That the City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement arranged by CAPP and the CESA signed by the Chairman of CAPP on behalf of the City for the term beginning January 1, 2011 or as soon after finalization of a contract as possible and extending up to December 31, 2018.

Section 5:

That a copy of the resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

PRESENTED AND PASSED on this _____ day of _____, 2010, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of _____, Texas.

Mayor

ATTEST:

MODEL RESOLUTION B

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF _____, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AND NECESSARY RELATED SERVICES AGREEMENT WITH NEXT ERA FOR A FIXED PRICE PER kWh THAT IS LOWER THAN CONTRACT RATES FOR 2011-2013, SAID EXTENSION TO CONTINUE UNTIL DECEMBER 31, 2018; APPROVING CAPP CONTRACTING WITH NEXT ERA AND AUTHORIZING THE MAYOR OR OTHER DESIGNATED CITY OFFICIAL TO SIGN A CONTRACT WITH CAPP FOR THE CITY'S ELECTRICITY NEEDS FOR THE PERIOD BEGINNING JANUARY 1, 2011 OR AS SOON AFTER FINALIZATION OF A CONTRACT AS POSSIBLE AND EXTENDING UP TO DECEMBER 31, 2018; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS THROUGH DECEMBER 31, 2018.

WHEREAS, the City of _____, Texas (City) is a member of Cities Aggregation Power Project, Inc. (CAPP), a nonprofit political subdivision corporation dedicated to securing electric power for its 102 political subdivision members in the competitive retail market; and

WHEREAS, CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and

WHEREAS, the City's current contract for power with Next Era arranged through CAPP expires December 31, 2013; and

WHEREAS, the CAPP Board of Directors is currently considering a blend and extend contract with Next Era with indicative retail energy prices that will reduce the prices under the current contract for the next three years and extend a fixed price for energy through December 31, 2018; and

WHEREAS, the current contract is a master agreement between CAPP and Next Era endorsed by contract with individual CAPP members; and

WHEREAS, CAPP must be able to commit contractually to prices in a blend and extend contract amendment within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for CAPP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, suppliers demand assurance that CAPP will pay for all contracted load; and

WHEREAS, the City must assure CAPP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through CAPP for the period beginning January 1, 2011 and extending through December 31, 2018; and

WHEREAS, CAPP intends to continue to contract with Next Era (power supply) and Direct Energy (billing, administrative and other customer services); and

WHEREAS, the current contractual relationships between CAPP and Next Era and Direct Energy have been beneficial and cost effective for CAPP members and the City.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____,
TEXAS:**

Section 1:

That the CAPP Board and its consultants and advisors are agents authorized to negotiate for the City's electricity needs as a member of CAPP and extend the current supply agreement through December 31, 2018.

Section 2:

That the City approves CAPP extending its current contract with Next Era for the supply of electric power and related, necessary services for the City for a term to begin January 1, 2011 or as soon after finalization of a contract as possible and extending up to December 31, 2018, so long as the extension results in savings over the current contract term of 2011-2013 and results in fixed prices through December 31, 2018.

Section 3:

That the Mayor or other designated city official will execute a contract with CAPP that permits the Chairman of CAPP to sign a Commercial Electricity Supply Agreement ("CESA") for the City's electricity needs and related, necessary services beginning January 1, 2011 and extending up to December 31, 2018, as a member of CAPP and commits its load for the same period pursuant to the contract recommended and approved by the CAPP Board of Directors, provided that the energy price to be paid per kWh in 2011-2013 is less than the current contract price for 2011-2013 resulting in savings for the City and that the fixed price for the period 2011-2013 will continue through December 31, 2018.

Section 4:

That the City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement arranged by CAPP and signed by the Chairman of CAPP on behalf of all CAPP members for the term beginning January 1, 2011 and extending up to December 31, 2018.

Section 5:

That a copy of the resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

PRESENTED AND PASSED on this _____ day of _____, 2010, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of _____, Texas.

Mayor

ATTEST:

MEMORANDUM

TO: All CAPP & STAP Members

FROM: Geoffrey M. Gay

DATE: November 9, 2010

RE: Blend and Extend Power Agreement

Regarding last week's communication of a possible fixed price extension to your current power supply agreement in exchange for lower energy prices than the scheduled prices for 2011-2013 under the existing contract, I have had several questions which I should answer generically.

First, what is the deadline for passage of a resolution authorizing the signing of a blend and extend contract? Realizing that we cannot do much in terms of actually nailing down prices and finalizing a contract until we know who wants to participate, the most correct answer to the question of when do you need the authorizing resolution is, "the sooner the better." Electric price reductions depend upon being able to take advantage of an historically aberrant condition of low and stable natural gas prices. We have to act before gas market conditions change, and no one can reliably predict if or when that will occur. My response to the deadline question then is that resolutions must be received by mid-December—say December 15th to have any hope of completing a contract price revision and extension effective January 1st. Even if all resolutions are returned by December 15th, it is likely that a contract cannot be executed until sometime in January. Let us hope natural gas futures prices continue to be in their current range for months to come.

Second, how can we guarantee that blend and extend prices for 2014-2018 are going to be lower than prices we might find available for that period around the time the current five-year agreement is scheduled to expire? No one could make such a guarantee. The issue becomes, "does the combination of savings over scheduled prices in the current contract and the perpetuation of those prices through 2018 seem less risky than betting that natural gas prices will be lower in 2013 than they are today and that the ERCOT reserve margins will remain higher than necessary into 2015?" The objective of a blend and extend agreement is to achieve current savings, insure against price volatility, manage risk, and stabilize budgets.

Electricity prices are primarily governed by natural gas futures prices set by NYMEX. Gas prices at the well-head or delivered to gas-fired generation stations in Texas do not matter. The NYMEX futures prices are influenced by world politics, global weather patterns, and market

1813/00/1223831

perceptions of supply and demand. Currently, there is a perception that there is an abundance of natural gas because of shale gas recovery. Current relative price stability in the natural gas market could return to historically volatile patterns if a legislative body or a court determines that shale fracturing pollutes water supplies. War in the mid-East or hurricanes in the Gulf could similarly cause gas prices to spike.

The second primary driver behind deregulated market prices for electricity is the electric market's perception of available generation capacity in Texas. Our Governor wants to lure new industry to Texas. Will new businesses and population growth cause the demand for electricity to rise faster than supply? Shall CAPP and STAP members assume the risk that current generation plants may fail, that demand may outstrip supply, that facturing may pollute, and that hurricanes and wars may affect gas prices? The blend and extend contract potential is equivalent to an insurance policy with the offer of a reduction in premium. Will a better deal be available two years from now? The answer can only be found in wild guesses.

Third, assuming authorization to participate in a blend and extend agreement is granted by passing a resolution, may the authorization be withdrawn? The answer probably lies in the "no harm, no foul" rule. Nothing precludes authorization for participation in a contract once given from being revoked so long as there has been no adverse (as in creating financial harm) reliance on the authorization. All the terms and conditions of the existing contract, except price and length of term, should remain the same in the blend and extend agreement. There will not be much for any member to evaluate other than price risk. Whether and when the contract amendment moves forward depends first upon the degree of interest by members and second upon price and resulting savings. There will be no extension unless the CAPP and STAP Boards, and perhaps ultimately the TCAP Board believes near-term savings are significant. Members will be provided updates on indicative prices and potential savings after it appears appropriate to start asking Next Era for such information upon reaching some, as yet unknown, threshold of member support through resolutions.

Fourth, is it possible for some members to reject the blend and extend option while other members take advantage of the offer? Yes, and the decision to proceed depends not as much on the percentage of the 154 CAPP and STAP members that promptly act on the resolution, but rather on the percentage of total contract load that is made available for the extension. Twenty members consume roughly two-thirds of the total 1.4 billion kWh annual usage. It is unlikely that Next Era will require 100% of the CAPP and STAP load to commit to the blend and extend contract amendment, but it is probably reasonable to expect that Next Era will require 75%-95% of the load to be supported by authorizing resolution before it is willing to finalize a contract.

Fifth, if the contract extension does not occur before December 31st, should the resolution refer to "TCAP" as well as "CAPP" and "STAP"? Reference to "TCAP" need not be included in the resolution unless a governing body does not intend to pass the resolution until next year. All contractual commitments, revenues, assets and liabilities with both CAPP and STAP will pass to TCAP on January 1, 2011.

If you have other questions, concerns or comments, please feel free to get in touch with me.

Linda Truitt

From: James Fisher
Sent: Wednesday, December 08, 2010 1:22 PM
To: Linda Truitt; Shelley Goodknight
Subject: FW: CAPP & STAP Lists of Blend & Extend
Attachments: ~OTB505P000F.PDF

From: Geoffrey Gay [<mailto:gmg@lglawfirm.com>]

Sent: Wednesday, December 08, 2010 11:32 AM

To: Abilene (Daniel Santee); Abilene (Larry Gilley); Abilene (Mindy Patterson); Abilene (Odis Dolton) ; Addison (Randy Moravec); Allen (Stephen Massey); Allen (Wes Pierson); Anna (Natha Wilkison); Anna (Philip Sanders); Aquilla Water Supply (Henry Moore); Arlington (Jay Doegey); Arlington (Mary Bunkley); Bellmead (Victor Pena); Belton (Cristy Daniell); Benbrook (David Ragsdale); Benbrook Library District (Michael Baldwin); Benbrook Water & Sewer Authority (Crystal Ramsey); Brownwood (Bobby Rountree); Brownwood (Pat Chesser); Burkburnett (Don Ives); Burleson (Rhett Clark); Cedar Hill (Greg Porter); Cedar Hill (Melissa Stephens); Cedar Hill (Patty Parks); Celina (Jay Toutouchian); Cisco (Jim Baker); Cleburne (Kim Galvin); Clyde (Jean Gilmore); Clyde (Roger Nelson); Colleyville (Christine Loven); Colleyville (Terry Leake); Colorado City (Donna Madrid); Comanche (Bill Flannery); Commerce (Marc Clayton); Copperas Cove (Andrea Gardner); Copperas Cove (Imelda Rodriguez); Corinth (Debra A. Drayovitch); Corinth (Jim Berzina); Corinth (Lee Ann Bunselmeyer); Crockett (Ron Duncan)

Cc: Bill Starnes

Subject: FW: CAPP & STAP Lists of Blend & Extend

Please find attached the most recent update on passage of resolutions approving participation in a blend and extend agreement. Geoffrey

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CAPP 2010 Membership (104)

Abilene – rec'd 12/6/10 (A)
Addison – rec'd 12/1/10 (B)
Allen – rec'd 12/1/10 (B)
Anna
Aquila WSD
Arlington – adopted 12/7 (A)
Bellmead
Belton – agenda 12/14
Benbrook – agenda 12/16 (A)
Benbrook Library District
Benbrook WSA – rec'd 12/8/10 (A)
Brownwood
Burkburnett – rec'd 11/29/10 (B)
Burleson – agenda 12/6
Cedar Hill
Celina
Cisco
Cleburne – rec'd 12/2/10 (B)
Clyde – agenda 12/14 (A)
Colleyville
Colorado City
Comanche – agenda 12/13
Commerce – rec'd 11/29/10 (A)
Coppens Cove – rec'd 11/19/10 (B)
Corinth – agenda 12/9 or 12/16
Crockett – rec'd 12/7/10 (B)
De Soto
Decatur
Denison
Dickinson – agenda 12/14
Dublin – agenda 12/13
Duncanville – agenda 12/7
Eastland
Edgecliff Village
Eules – agenda 12/14 (A)
Everman
Flower Mound – agenda 12/6
Forest Hill
Fort Stockton
Frisco – agenda 12/7
Gainesville – agenda 12/7
Grand Prairie
Grapevine
Haltom City – rec'd 11/23/10 (A)
Hamilton – rec'd 11/12/10 (A)
Harker Heights – agenda 12/14
Henrietta

Highland Park – agenda 12/13
Howe – rec'd 11/29/10 (B)
Hurst
Jessie County M.D. – rec'd 11/11/10
Kaufman – rec'd 11/29/10 (A)
Kennedale
La Marque
Lake Jackson – approved 11/15
Lancaster
Lewisville – agenda 12/6
Lorena
Lovelady
Mansfield
Merkel
Midlothian – agenda 12/14 (A)
Missouri City – agenda 12/6
Murphy
Nacogdoches
North Richland Hills
Oak Point
Odessa – agenda 12/14
Palestine
Pantego
Paris
Pearland – rec'd 11/29/10 (A)
Plano
Prosper – agenda 12/14
Red Oak
Richland Hills
Robinson
Rockwall
Rotan
Rowlett – approved 12/7/10
Sachse
Saginaw rec'd 11/22/10 (B)
San Angelo
Sherman – rec'd 11/19/10 (A)
Snyder
Spring Valley – agenda 12/15
Springtown – agenda 12/16
Sugar Land
Sunnyvale
Sweetwater
Terrell
The Colony – adopted 12/7
Trophy Club

University Park – agenda 12/7
Upper Leon River MWD
Vernon – rec'd 11/30/10 (A)
Watauga
Webster – approved 12/7/10
West Central Texas MWD
White Settlement
Whitney
Wichita Falls – rec'd 11/22/10 (A)
Woodway – agenda 12/6
Wylie – agenda in Dec. (A)

STAP MEMBERS AS OF OCTOBER 2010 (52)

Alamo
Alice – agenda 1/12/11
Alton – agenda 12/14
Aransas County MUD
Aransas Pass – adopted 12/6/10 (A)
Austwell
Beeville
Bishop
Calhoun Port Authority
Carrizo Springs
Charlotte – rec'd 11/17/10 (A)
Corpus Christi – rec'd 12/7/10 (A)
Corpus Christi Housing Authority – rec'd 11/29/10 (A)
Corpus Christi Regional Transit Authority
Dilley
Edna – rec'd 12/2/10 (B)
Falfurrias
Fulton – rec'd 11/24/10 (B)
George West – rec'd 11/30/01 (A)
Harlingen
Harlingen Housing Authority
Ingleside – rec'd 12/3/10 (A)
Ingleside on the Bay – rec'd 12/8/10 (A)
Kingsville – rec'd 11/9/10 (A)
La Feria – rec'd 12/2/10 (A)
Laguna Vista
Los Fresnos – rec'd 11.12.10 (A)
Lyford – rec'd 11.10.10 (A)
McAllen – agenda 11/22
McAllen Housing Authority – rec'd 11/23/10 (A)
Mercedes
Mission – rec'd 11.15.10 (A)
Mission Housing Authority
Odem – approved 12/7
Orange Grove – rec'd 11/24/10 (B)
Pleasanton – rec'd 11/23/10 (A)
Point Comfort
Port Aransas – agenda 12/16 (A)
Port Lavaca
Portland
Premont
Refugio
Rio Grande City – rec'd 11/23/10 (B)
Rockport – rec'd 11/18/10 (A)
San Juan – agenda 12/14
Seadrift rec'd 11/19/10 (B)
Sinton
South Padre Island – agenda 12/1
South Texas Water Authority – rec'd 11.11.10 (A)
Taft
Victoria – agenda 12/7
Woodsboro – rec'd 12/8/10 (A)

CAPP 2010 Membership (104)

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Henrietta
Highland Park – agenda 12/13
Howe – rec'd 11/29/10 (B)
Hurst
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Kaufman – rec'd 11/29/10 (A)
Kennedale
La Marque
Lake Jackson
Lancaster
Lewisville – agenda 12/6
Lorena
Lovelady
Mansfield
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Midlothian
Missouri City – agenda 12/6
Murphy
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White Settlement
Whitney
Wichita Falls – rec'd 11/22/10 (A)
Woodway – agenda 12/6
Wylie – agenda in Dec. (A)

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Fulton – rec'd 11/24/10 (B)
George West – rec'd 11/30/01 (A)
Harlingen
Harlingen Housing Authority
Ingleside – approved (A) 11/23/10
Ingleside on the Bay
Kingsville – rec'd 11/9/10 (A)
La Feria
Laguna Vista
Los Fresnos – rec'd 11.12.10 (A)
Lyford – rec'd 11.10.10 (A)
McAllen – agenda 11/22
McAllen Housing Authority – rec'd 11/23/10 (A)
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Orange Grove – rec'd 11/24/10 (B)
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Port Aransas
Port Lavaca
Portland
Premont
Refugio
Rio Grande City – rec'd 11/23/10 (B)
Rockport – rec'd 11/18/10 (A)
San Juan
Seadrift rec'd 11/19/10 (B)
Sinton
South Padre Island – agenda 12/1
South Texas Water Authority – rec'd 11.11.10 (A)
Taft
Victoria – agenda 12/7
Woodsboro

Linda Truitt

From: James Fisher
Sent: Monday, December 20, 2010 1:54 PM
To: Linda Truitt; Shelley Goodknight
Subject: FW: Blend and Extend Update and Notice of Potential For Contracting in First Quarter of 2011

From: Geoffrey Gay [mailto:gmg@lglawfirm.com]
Sent: Monday, December 20, 2010 1:39 PM
To: Abilene (Daniel Santee); Abilene (Larry Gilley); Abilene (Mindy Patterson); Abilene (Odis Dolton) ; Addison (Randy Moravec); Allen (Stephen Massey); Allen (Wes Pierson); Anna (Natha Wilkison); Anna (Philip Sanders); Aquilla Water Supply (Henry Moore); Arlington (Jay Doegey); Arlington (Mary Bunkley); Bellmead (Victor Pena); Belton (Cristy Daniell); Benbrook (David Ragsdale); Benbrook Library District (Michael Baldwin); Benbrook Water & Sewer Authority (Crystal Ramsey); Brownwood (Bobby Rountree); Brownwood (Pat Chesser); Burkburnett (Don Ives); Burleson (Rhett Clark); Cedar Hill (Greg Porter); Cedar Hill (Melissa Stephens); Cedar Hill (Patty Parks); Celina (Jay Toutouchian); Cisco (Jim Baker); Cleburne (Kim Galvin); Clyde (Jean Gilmore); Clyde (Roger Nelson); Colleyville (Christine Loven); Colleyville (Terry Leake); Colorado City (Donna Madrid); Comanche (Bill Flannery); Commerce (Marc Clayton); Copperas Cove (Andrea Gardner); Copperas Cove (Imelda Rodriguez); Corinth (Debra A. Drayovitch); Corinth (Jim Berzina); Corinth (Lee Ann Bunselmeyer); Crockett (Ron Duncan)
Cc: Bill Starnes; Pat Wilkins; Caitlin Bowdish
Subject: FW: Blend and Extend Update and Notice of Potential For Contracting in First Quarter of 2011

The level of CAPP/STAP load willing to commit to a blend and extend agreement is approaching the necessary threshold of participation, but current gas prices suggest that we will not complete the transaction until sometime in the first quarter of 2011.

Update on Member Action on Resolutions Approving Participation

The goal has been to execute an extension to the current contract whenever prices will lead to meaningful savings anytime after at least 75% of the total CAPP/STAP load commits to the transaction. As of today, 69% of the total load has committed to the blend and extend goal by passing a resolution of support. Another 10% of total load is expected to commit before the end of this week, putting us in a position to sign an agreement when gas prices support meaningful reductions to current contract prices over the next three years and fixed prices for the subsequent five years. Members who have not passed resolutions of support prior to the execution of the contract extension will not participate in price reductions or savings that result from the blend and extend. Later in this memorandum, I will identify the members from whom I have not heard whether they have considered a resolution endorsing the blend and extend concept.

TCAP as Successor in Interest

Assuming that the 75% threshold is reached by the middle of this week, we will only have about six work days in which to pull together a contract extension. While possible, it is unlikely that a blend and extend agreement will be reached before the end of the year, primarily because current natural gas prices do not support the level of savings over the next three years that the CAPP and STAP Boards desire. That means that we will move into the first quarter of 2011, ready to pull the trigger on a blend and extend as soon as natural gas prices fall back to the level where they were a couple of months ago. All of the resolutions supporting the contract extension were drafted with the expectation of completing the blend and extend prior to December 31, 2010 and thus, the wording of the resolutions reflects authorization for either CAPP or STAP to contract on behalf of the member. On January 1, 2011, both CAPP and STAP will be merged into the Texas Coalition for Affordable Power (TCAP) which will be successor in interest to all the assets, liabilities and contracts of both CAPP and STAP. In my opinion as legal counsel to CAPP, STAP and TCAP, action by governing bodies of CAPP and STAP members to authorize an extension to their current power agreement with NextEra is also authorization for TCAP to pursue the same contract extension. **NOTICE: Assuming CAPP and STAP Boards are unable to**

complete a blend and extend agreement prior to December 31, 2010, efforts to achieve price reductions and savings through a blend and extend agreement will be pursued by TCAP after January 1, 2011, and resolutions adopted in support of such efforts by CAPP and STAP members will continue to support similar efforts by TCAP in the first quarter of 2011. Any member who disagrees with or is troubled by this notice should take action to amend their resolution or withdraw their support for the blend and extend efforts.

Summary of Action on Resolutions by CAPP Members

Only one CAPP member has indicated opposition to the blend and extend efforts. Most of the largest CAPP loads have passed resolutions supporting a blend and extend agreement, including: Arlington, Abilene, Plano, Wichita Falls, Sugar Land and Pearland. Approximately 22 members have passed resolutions but have not yet provided a signed copy of their resolution. Of primary concern is the fact that 44 members have not indicated what, if any, action they intend to take. These include: **Anna, Bellmead, Brownwood, Cedar Hill, Celina, Cisco, Colleyville, Colorado City, De Soto, Decatur, Eastland, Edgecliff Village, Everman, Forest Hill, Fort Stockton, Grand Prairie, Grapevine, Henrietta, Hurst, Kennedale, La Marque, Lancaster, Lorena, Lovelady, Merkel, Murphy, Nacogdoches, Oak Point, Palestine, Pantego, Paris, Red Oak, Richland Hills, Robinson, Rotan, Sachse, Snyder, Sunnyvale, Sweetwater, Terrell, Upper Leon River Authority, West Central Texas MWD, White Settlement and Whitney.** (In tracking action taken by 157 political subdivisions via email, I may have overlooked someone. If I have inappropriately included your subdivision in the foregoing list, please forgive me). Members who have taken action may want to remind those who have not taken action that participation in blend and extend price reductions and savings depends upon approval of a resolution prior to the signing of a contract extension.

What Happens to Non-Participants in the Blend and Extend

There is no shame nor penalty associated with non-participation. Current contract terms, conditions and prices will continue to apply through the end of 2013. Any member who is convinced that natural gas futures prices will be significantly lower in 2013 than they have been in 2010 may be justified in rejecting the blend and extend opportunity. In any event, TCAP will assess the markets and contract in 2013 for the future electric needs of current members who do not want to pursue a blend and extend.

Final Disclaimer

Natural gas has historically been the most volatile fuel source with regard to price. Although consultants for CAPP, STAP and TCAP follow projections and trends related to natural gas prices and Board decisions related to contracting are preceded by due diligence inquiry, market conditions one day can be nullified by conditions the next day.

I have committed to attempt to notify all members when it appears that conditions are favorable to signing a contract extension. Hopefully, I can provide 24 - 48 hours notice before a contract is signed so that: 1) members who have not passed a resolution can call an emergency meeting to approve of participation, or 2) members who have previously approved of participation can withdraw. This is not a promise because market volatility may make such an attempt impossible.

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

February 21, 2005
7:00 P.M.

Call to Order

Mayor Trudeau called the meeting to order at 7:02 p.m.

Invocation and Pledge of Allegiance

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

Roll Call and Certification of a Quorum

City Secretary Aimee Nemer certified a quorum with the following Council Members present: Mayor David Trudeau, Councilman Roger Davis, Councilwoman Michelle Long, Deputy Mayor Pro Tem Scott Fuller, Councilman Eric Hemphill, Mayor Pro Tem Kent Bogdan, and Councilman Eric Barna.

The following Staff members were also present: City Manager Craig Sherwood, 4A/4B Executive Director Randy Thomas, City Planner Jeff Bickerstaff, City Attorney Jeff Moore, and City Secretary Aimee Nemer.

Public Comments

Ms. Susan Osborne, representing JRO Architects requested Council to explain their concerns with daycare facilities in regards to the temporary moratorium.

Ms. Christina Bates, Copperas Cove, Texas, stated that she has purchased land in the city limits with the intent to build a daycare facility and would also like to know Council's concerns regarding the moratorium on daycare facilities.

Proclamations and Presentations

• **Recognition of Employee Anniversary Dates for February 2005**

Mayor Trudeau and the Council recognized Sergeant Sam Elliston for five years of service with the City of Murphy.

• **Introduction of New Employees**

City Manager Craig Sherwood introduced new Parks Superintendent David Bottlinger. He also noted that officer Billy Myrick has been appointed Interim Police Chief.

• **Presentation from Murphy Chamber of Commerce representative –update of Chamber events**

Mr. Lonnie Long, Murphy Chamber of Commerce Chairman, gave Council updates on Chamber Events such as the Chamber Golf Tournament on April 5 and the monthly luncheons at Woodbridge Golf Club on the third Tuesday of the month. Mr. Long told Council about talks with the Parks & Recreation Department to host a September 11 Memorial Event at Liberty Ridge Park. He also stated that Interim Police Chief Billy Myrick will be the new Director of Safety for the Chamber.

- **Presentation and Status of the Municipal Complex Project**

Ms. Patricia Jackson, Jackson A&E Associates, presented Council with the required monthly report on the status of the Municipal Complex. She invited Council to take a tour of the facility to see many completed areas and finishes. Ms. Jackson stated that completion should be sometime in March with a target date of April 1. She noted that the elevators are in place and state inspectors are scheduled to inspect them this week. Councilman Bogdan inquired about the amount in the overall contingency fund. Ms. Jackson stated that there should be \$5-10 thousand dollars left in this fund.

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. Approval of the Minutes from the February 7, 2005 Regular Council Meeting.
- B. Consider and/or act upon approval of an Ordinance ordering a General Election to be held on the seventh day of May, 2005, for the purpose of electing the Mayor, Council Member Place 3, and Council Member Place 5 to three (3) year terms of office.
- C. Consider and/or act upon approval of a Joint General Election Contract with the Collin County Elections Administration including a Joint Agreement with Plano Independent School District to share expenses for the May 7, 2005 General Election.
- D. Consider and/or act upon a Resolution authorizing the City of Murphy to be a member of the Cities Aggregation Power Project, Inc. (CAPP), appointing the City Manager as the representative, approving the initial membership fee, approving the articles of incorporation, and approving the bylaws.
- E. Consider and/or act on the application of First Baptist Church of Murphy to consider approval of an alternative building material on property zoned SF-20 (Single-Family Residential-20) District. This property is located at the southeast corner of Murphy Road and McMillen Drive, is located in the C.A. McMillen Survey, Abstract No. 588; and has an area of approximately 11.019 acres.

Council Action

Mayor Trudeau made a motion to approve the Consent Agenda, Items A-E, as presented. Councilmember Hemphill seconded the motion. A vote was taken and passed, 7-0.

PUBLIC HEARINGS

- 1. Hold a public hearing and consider and/or act on the application of Winkelmann and Associates, representing Lumbermen's Investment Corporation, requesting approval of a replat of Lot 1A, 1-9 & 12-14, Block G, Windy Hill Farms, Phase 1, also known as the Final Plat for Windy Hill Farms, Phase 6 on property zoned SF-20 (Single-Family Residential-20) District and SF-15 (Single-Family Residential-15) District. This property is located on Heritage Parkway at Ashley Place, is located in the Mary Scott Survey, Abstract No. 859; and has an area of approximately 10.03 acres.

Mayor Trudeau opened the Public Hearing at 7:23 p.m. With no speakers coming forward, the Mayor closed the Public Hearing at 7:24 p.m. Mr. Russell Bantau, representing Winkelmann and Associates stated that he would be happy to answer any questions.

Council Action

Councilmember Fuller made a motion to approve this item as presented. Councilmember Long seconded the motion. A vote was taken and passed, 7-0.

- 2. Hold a public hearing and consider and/or act on the application of Spiars Engineering, Inc., representing Kings Hollow Management, requesting approval of a replat of the Aviary School Tract Addition, also known as the Construction Plat for Eagle Glen Addition on property zoned PD (Planned Development) District for Single-Family Uses (Ordinance No. 99-7-458). This property is located at the southwest corner of Betsy Lane and Heritage Parkway, is located in the Isaac Herring Survey, Abstract No. 403; and has an area of approximately 11.95 acres.**

Mayor Trudeau opened the Public Hearing at 7:26 p.m. With no speakers coming forward, the Mayor closed the Public Hearing at 7:27 p.m. Mr. Matt Dorsett, representing Spiars Engineering, Inc. stated that he would be happy to answer any questions.

Council Action

Councilmember Bogdan made a motion to approve this item as presented. Councilmember Hemphill seconded the motion. A vote was taken and passed, 7-0.

- 3. Hold a public hearing and consider and/or act on the application of the City of Murphy to consider proposed amendments to the Comprehensive Zoning Ordinance.**

Mayor Trudeau opened the Public Hearing at 7:29 p.m. Mr. Charles Dern requested that the proposed changes to the Comprehensive Zoning Ordinance be read. City Planner Jeff Bickerstaff reviewed the proposed changes. The Mayor closed the Public Hearing at 7:42 p.m.

Council Action

Councilmember Long made a motion to approve the proposed changes. Councilman Kent Bogdan clarified that the motion to approve included Staff recommendations. Councilmember Fuller seconded the motion. A vote was taken and passed, 7-0.

INDIVIDUAL CONSIDERATION

- 4. Consider and/or act upon approval of an ordinance authorizing a budget amendment in order to contract Information Station Specialist, Inc. to conduct an AM frequency search, engineering study, FCC filing, FCC-required construction notation on behalf of the City of Murphy and purchase the Alert AM Emergency Advisory Radio System from Information Station Specialist, Inc.; a sole source provider.**

Staff Comments

City Manager Craig Sherwood addressed this item informing Council that only a limited number of AM frequencies are available for emergency and community service broadcasting. He stated that this system would be used primarily in conjunction with the City's Emergency Sirens for the purpose of providing additional information to the citizens of Murphy regarding the sounding of the sirens. He explained that the use of the sirens alone was not beneficial for all types of emergency situations. Mr. Sherwood went on to say that the system could also be used for general City or Community information of a civic nature such as water conservation advice and fire safety tips. He explained that the system would include a

monument sign for the roadside informing citizens to tune into the station for emergency and community information. Mr. Sherwood stated that it would require capital costs to install but that the maintenance costs after installation would be minimal.

Council Discussion

Councilmember Long clarified that the initial cost would be \$24, 000.00 with minimum maintenance costs. She also confirmed that there are not many frequencies left for this type of broadcasting. Ms. Long confirmed that the license would be effective for 10 years.

Mayor Trudeau stated that he liked the fact that a monument roadside sign would be in place to notify citizens and others traveling through the City of the station.

Councilmember Barna asked if other cities have been contacted about possibly sharing in the cost since the broadcast will reach beyond the City limits. Mr. Sherwood explained that the frequency power would reach beyond the city limits but may not reach entire neighboring cities. Councilmember Barna inquired as to how other larger cities that use this system provide additional power to reach the entire city limits. Mr. Sberwood explained that those cities install repeaters to obtain additional power.

Mayor Trudeau stated that there is a limit on the amount of power that can be obtained. He stated he recommended the City move forward and possibly contact neighboring cities once the system is in place.

City Manager Sherwood explained that once the license is issued, the system has to be operational within 60 days. He stated that involving other cities at this time would delay the process of obtaining a frequency.

Councilmember Barna stated that he understood the necessity of obtaining a frequency due to limited availability; however he would still like to explore an Interlocal Agreement with other entities.

Mayor Trudeau stated that expandability is a good idea for the future but he is concerned with losing the frequency.

Mr. Sherwood stated that there is no guarantee after application for the license that a frequency will still be available.

Councilmember Bogdan inquired about the Public Service Announcements that would be used and how often they would be broadcast. He also asked about how to inform the public.

Mr. Sherwood stated that the roadside sign would help in addition to information on the website, newspapers, and in the water bill.

Council Action

Mayor Trudeau made a motion to approve a contract with Information Station Specialist, Inc. to conduct an AM frequency search, study, FCC filing, and purchase of the Alert AM Emergency Advisory Radio System to be used in conjunction with the City's Emergency Siren System. Councilmember Long seconded the motion. A vote was taken and passed, 6-1 with Councilmember Eric Barna voting in opposition.

EXECUTIVE SESSION

The City Council will hold a closed Executive Session meeting pursuant to the provisions of Chapter 551, Texas Government Code, Vernon's Texas Codes Annotated, in accordance with the authority contained in:

Section 551.074 To deliberate the appointment, evaluation, reassignment, duties, discipline or dismissal of the City of Murphy Community Development Corporation (4B) board of directors and to deliberate the duties of executive director of the City of Murphy Community Development Corporation (4B).

Mayor Trudeau convened into Executive Session at 8:03 p.m.

RECONVENE INTO REGULAR SESSION

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Texas Government Code, Vernon's Texas Codes Annotated, to take any action necessary regarding:

Section 551.074 To deliberate the appointment, evaluation, reassignment, duties, discipline or dismissal of the City of Murphy Community Development Corporation (4B) board of directors and to deliberate the duties of executive director of the City of Murphy Community Development Corporation (4B).

Mayor Trudeau closed the Executive Session at 8:47 p.m. and took a recess. He reconvened into Regular Session at 8:55 p.m.

No votes or action was taken as a result of the Executive Session.

WORK SESSION

- Discussion on establishing cultural arts activities within the City of Murphy

Council Discussion

Council discussed various methods and options of establishing cultural arts activities within the City of Murphy. Mayor Trudeau asked staff to provide feedback and more information at a future Council Meeting.

Excused Absences

There were no excused absences reported.

Agenda Requests from the City Council

Councilmember Bogdan Requested an update from legal counsel on pending litigation with the former city manager.

Councilmember Fuller asked Staff to respond to Ms. Osborne and Ms. Bates with information regarding their comments during the Public Comments.

Mayor Trudeau noted that Council will be keeping track of legislation regarding school finance and will protect the City's interest with regards to property tax caps.

Reports or Requests from the City Manager

- **Capital Projects Update**

City Manager Craig Sherwood updated Council on Betsy Lane stating that the County is working to resolve an easement issue. He stated that the McCreary Railroad Crossing project will be underway once the required flagman is provided. Mr. Sherwood updated Council on the Municipal Complex stating it was near completion and recommended tours for the Council. He stated that the phone system is being installed this week and that the elevators will be state certified once the phones with emergency line access are in place. Mr. Sherwood also noted that some concrete work at the complex will be corrected within the next week.

- **Financial Report/budget, special projects, and current status**

City Manager Sherwood reported that the General Fund expenses are reduced by 12% from the same time period last year. He stated that the Utility Fund has a reduction in expenditures by 24%.

- **Calendar of events**

City Manager Sherwood stated that interviews for Police and Fire Chief Candidates will begin this week. He stated that final candidates will be introduced to Council at the March 4 Council Meeting. Mr. Sherwood stated that he plans to have both positions filled by April 1.

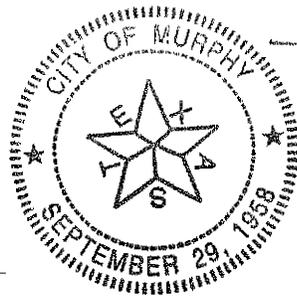
Adjournment

With no further business, the meeting was adjourned at 9:27 p.m.

APPROVED BY:



David Trudeau, Mayor



ATTEST:


Aimee Nemer, City Secretary

RESOLUTION NO. 05-R-485

A RESOLUTION APPROVING THE ARTICLES OF INCORPORATION AND BYLAWS OF CITIES AGGREGATION POWER PROJECT, INC., A POLITICAL SUBDIVISION CORPORATION; ACCEPTING MEMBERSHIP IN SAID CORPORATION; APPOINTING A REPRESENTATIVE TO SERVE ON BEHALF OF CITY OF MURPHY, TEXAS; APPROVING PAYMENT OF AN INITIAL MEMBERSHIP FEE.

WHEREAS, Chapter 303 of the Texas Local Government Code, entitled Energy Aggregation Measures for Local Governments, allows political subdivisions to form a political subdivision corporation to act as an agent to negotiate the purchase of electricity, or to likewise aid or act on behalf of the political subdivisions for which the corporation is created, with respect to their own electricity use for their respective public facilities; and

WHEREAS, Cities Aggregation Power Project, Inc. is a political subdivision corporation organized under said Chapter; and

WHEREAS, the negotiation for electricity by the corporation should result in lower electricity costs to City of Murphy; and

WHEREAS, the TXU Cities Steering Committee has participated in numerous rate proceedings and rule-makings over the course of the last decade and having investigated the impacts of electric deregulation, recommends participation of cities in aggregation projects and creation of a political subdivision corporation to maximize opportunities for cost savings;

WHEREAS, the TXU Cities Steering Committee has facilitated the creation of Cities Aggregation Power Project, Inc.; and

WHEREAS, the City of Murphy seeks to become a Member of Cities Aggregation Power Project, Inc.; and

WHEREAS, the By-Laws of Cities Aggregation Power Project, Inc. require an initial membership fee of ½ of 1% of the total annual electric bill of 2000. Such fee shall not exceed \$14,000.

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

Section 1. The recitals contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

Section 2. The Articles of Incorporation and Bylaws of Cities Aggregation Power Project, Inc., a political subdivision corporation, attached hereto and incorporated herein for all purposes as *Exhibits A and B* respectively, are hereby approved.

Exhibit A

ARTICLES OF INCORPORATION
OF
CITIES AGGREGATION POWER PROJECT, INC.

ARTICLE ONE

The corporation will conduct business under the name Cities Aggregation Power Project, Inc.

ARTICLE TWO

The period of its duration is perpetual.

ARTICLE THREE

The corporation is a non-profit political subdivision corporation under Chapter 303, Texas Local Government Code, entitled "Energy Aggregation Measures for Local Governments," as amended.

ARTICLE FOUR

The corporation has been organized for the purposes of purchasing electricity, aiding or acting on behalf of its members with respect to their own electricity use for their respective public facilities and that of their citizens, negotiating on behalf of its members for the purchase of electricity, making contracts for the purchase of electricity, and taking any other actions necessary to purchase electricity for use in the public facilities of the political subdivision or subdivisions represented by the corporation, and for all other purposes as may be permitted by law for political subdivision corporations.

ARTICLE FIVE

The street address for the corporation's initial registered office is Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C., 111 Congress Avenue, Suite 1800, Austin, Texas 78701, and the registered agent for the corporation at this address is Geoffrey M. Gay.

ARTICLE SIX

The corporation shall have members. Membership shall be determined under the terms and conditions provided in the corporation's bylaws.

ARTICLE SEVEN

The direction and management of the affairs of the corporation and the control and disposition of its properties and funds shall be vested in a Board of Directors composed of such number of persons, but not less than three, as may be fixed by the bylaws. Until changed by the bylaws, the original number of directors shall be three (3). The names and addresses of the persons who are to serve as Directors of the corporation until their successors are duly elected and qualified are:

1. Jay Doegey
City of Arlington
201 East Abram Drive
Suite 300
Arlington, Texas 76010
2. Danny Reed
City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102
3. Steven L. Bacchus
City of Lewisville
P.O. Box 299002
Lewisville, Texas 75029-9002

ARTICLE EIGHT

The bylaws of the corporation shall be adopted by the Board of Directors and shall be approved by the governing body of each political subdivision for which the corporation is created. The governing bodies of at least three political subdivisions have approved these articles and the bylaws of Cities Aggregation Power Project, Inc. by resolution, ordinance or order.

ARTICLE NINE

The names and addresses of the incorporators are:

1. Jay Doegey
City of Arlington
201 East Abram Drive
Suite 300
Arlington, Texas 76010
2. Danny Reed
City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102
3. Steven L. Bacchus
City of Lewisville
P.O. Box 299002
Lewisville, Texas 75029-9002

The undersigned incorporator, who is over the age of eighteen (18) and is a citizen of the State of Texas, signs these Articles of Incorporation subject to the penalty imposed by Article 9.03A, Texas Non-Profit Corporation Act.

Jay Doegey

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, a notary public, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this _____ day of _____ 2001.

Notary Public, State of Texas
My Commission Expires: _____

The undersigned incorporator, who is over the age of eighteen (18) and is a citizen of the State of Texas, signs these Articles of Incorporation subject to the penalty imposed by Article 9.03A, Texas Non-Profit Corporation Act.

Danny Reed

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, a notary public, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this ____ day of _____ 2001.

Notary Public, State of Texas
My Commission Expires: _____

The undersigned incorporator, who is over the age of eighteen (18) and is a citizen of the State of Texas, signs these Articles of Incorporation subject to the penalty imposed by Article 9.03A, Texas Non-Profit Corporation Act.

Steven L. Bacchus

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, a notary public, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this ____ day of _____ 2001.

Notary Public, State of Texas
My Commission Expires: _____

Exhibit B

**BYLAWS
OF
CITIES AGGREGATION
POWER PROJECT, INC.**

ARTICLE I. Name and Purpose

- 1.1 Name. This corporation shall be known as Cities Aggregation Power Project, Inc.
- 1.2 Purpose. The corporation has been organized for any and all lawful business for which corporations may be organized under the Texas Non Profit Corporations Act, for the purposes of purchasing electricity, aiding or acting on behalf of its Members with respect to their own electricity use for their respective public facilities and that of their citizens, negotiating on behalf of its Members for the purchase of electricity, making contracts for the purchase of electricity, and taking any other actions necessary to purchase electricity for use in the public facilities of the political subdivision or subdivisions represented by the corporation, for the purposes of acting as a local cooperative organization to purchase goods and services for its members, and for all other purposes as may be permitted by law for political subdivision corporations.

ARTICLE II. Board of Directors

- 2.1 Composition. There shall be a Chair and a Vice Chair on the board and such other directors as required for the performance of duties.
- 2.2 Powers. The affairs of the Corporation shall be managed by the Board of Directors, which may exercise all such powers of the corporation and do all such lawful acts and things as are not prohibited by statute, by the Articles of Incorporation of the Corporation, or by these Bylaws. By illustration and without limitation, included among the powers of the Board of Directors is the power to negotiate the purchase of electricity, aid or act on behalf of the political subdivisions for which the corporation is created, make contracts for the purchase of electricity, purchase electricity, and take any other action necessary to purchase electricity for use in the public facilities or by the citizens of the political subdivision or subdivisions represented by the Corporation; provided, however, no Member shall be obligated under any such contract unless the Member approves such contract.
- 2.3 Number, Tenure and Qualification. (a) Directors shall be elected to the Board at annual meetings of the Members as hereinafter described from a slate presented by the Board and from nominations by Members. Nominations for membership on the Board made by Members shall not be considered at any meeting of the Members unless such nomination has been presented in writing, signed by the Member or Members proposing the same, and filed with the Secretary of the Corporation at least sixty (60) days prior to the date of the meeting at which said nominations are to be considered. From the nominations so made and no others, and from the slate presented by the Board, Directors shall be elected, and the person or persons receiving the highest number of votes shall be declared elected.

If the election of Directors shall not be held on the day designated herein for any annual meeting of the Members, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the Members, which shall be convened as soon thereafter as is possible.

(b) The initial Board of Directors shall consist of three directors, and will be expanded to nine (9). At the first annual meeting of the Corporation, the Members shall elect nine (9) Directors (Places 1, 2, 3, 4, 5, 6, 7, 8, and 9) from the participating Corporation Membership, which Directors will serve from their election until their successors are duly elected and shall qualify. The number of Directors may be increased or decreased by resolution of the Board, but no decrease shall have the effect of shortening the term of an incumbent Director. The first elected directors shall be selected based on the following:

- **each** participating city with a population above 500,000 will be guaranteed **one** seat.
- **all** participating cities with a population greater than 100,000 but not greater than 500,000 will be guaranteed **one** seat for the group.
- **all** participating cities with a population greater than 50,000 but not greater than 100,000 will be guaranteed **one** seat for the group.
- **all** participating cities with a population not greater than 50,000 will be guaranteed **one** seat for the group.
- the remaining board members necessary to bring the number of Directors to nine (9) will be elected at large.

(c) (1) The first elected directors shall serve until December 31, 2003. If the Board is composed of nine (9) members, the first six (6) places will be selected from three user categories which will be determined by electricity consumption through CAPP. The Board shall appoint a nominating committee which shall divide the membership by kWh usage through CAPP into three user categories of roughly equal electric consumption. The places will be determined as follows:

Places 1 and 2 -----Large User Category
Places 3 and 4 -----Medium User Category
Places 5 and 6 -----Small User Category
Places 7, 8, and 9 ----At Large

Members and the Board may nominate candidates for the places available within each category. At large candidates may be from any user category. The directors elected shall serve two-year staggered terms. Directors serving in place numbers that are odd shall be elected in odd numbered years, and directors serving in place numbers that are even shall be elected in even numbered years;

provided, however, that directors elected in the December 2003 election to serve in even numbered places shall serve for an initial term of one year.

(2) For the Board election to be held at the annual meeting in December 2003, the following process for electing places will apply. The two candidates that receive the highest number of votes within each of the three user categories, respectively, will be elected to serve in the two places within those user categories. The candidate receiving the highest number of votes within each user category will serve in the odd numbered places. The candidate receiving the second highest number of votes within each category will serve in the even numbered places. After Places 1 through 6 are determined, the remaining candidates receiving the highest number of votes, regardless of user category, will fill the "at large" places (Places 7, 8, and 9) in the order of the number of votes received. For this election, each Member will be permitted to cast a total of nine (9) votes. A Member may not cast more than five (5) votes for candidates within any one category, nor more than one vote for the same candidate.

(d) Except for the initial Board, each Director of the Board must be an official or full-time salaried employee of a Member. Any Director who is an official or full-time salaried employee of an entity that ceases to be a Member participant of the Corporation, and any Director who ceases to be an official or full-time salaried employee of a Member, shall be automatically disqualified to serve as a Director, and the position shall become vacant, such vacancy to be filled in the manner provided in Section 2.5 of this Article II.

2.4 Removal. Directors may be removed from office, with or without cause, by an affirmative vote of the majority of the Members then entitled to vote at an election of the Directors at an annual meeting of the Members or a meeting called expressly for that purpose; provided, no action to remove any Director shall be sufficient unless written notice that such action is to be considered shall have been given to all Members by the Chair or Secretary at least sixty (60) days before the meeting.

2.5 Vacancies. Any Director may resign at any time by giving written notice to the Secretary of the Corporation. Such resignation shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum. A Director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office. Any place on the Board to be filled by reason of an increase in the number of Directors shall be filled by the affirmative vote of a majority of the Directors then in office. A Director chosen to fill a position resulting from an increase in the number of Directors shall hold office until the next annual meeting of Members, at which time a successor shall be elected to serve until the expiration date set for his or her designated place.

- 2.6 Regular Meetings. A regular meeting of the Board shall be held annually in conjunction with the annual meeting of Members, for the purpose of organization, election of officers, and consideration of any other business that properly may come before the Board. The Board may provide, by resolution, the time and place for the holding of additional regular meetings.
- 2.7 Special Meetings. Special meetings of the Board may be called by the Chair of the Board or at the written request of any two Directors. The person or persons authorized to call special meetings of the Board may fix the place for holding any special meeting of the Board so called. If no place is fixed, the place of meeting shall be the principal office of the Corporation in Texas.
- 2.8 Voting; Quorums. A majority of the number of Directors described in by Section 2.3 shall constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, provided, however, the Board may, by resolution, delegate any of its powers in whole or in part, temporarily or permanently, to any Director or committee of Directors then acting; any such delegation shall be by written instrument filed in the records of the Corporation.
- 2.9 Notice of Meetings. Notice for board meetings shall be provided to all Directors and Members either by mail not less than seventy-two (72) hours before the date of the meeting, by telephone, telegram, or telecopy on twenty-four (24) hours notice or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances.
- 2.10 Informal Action by Directors. Any action required to be taken at a meeting of the Directors, or any other action which may be taken at a meeting of the Directors, may be taken without a meeting if a consent or consensus in writing, setting forth the action so taken, shall be signed by all of the Members with respect to the subject matter thereof. Such consent or consents shall have the same force and effect as a unanimous vote of the Directors.
- 2.11 Compensation. Duly elected or appointed Directors shall serve without compensation, but shall be reimbursed for reasonable costs of travel, meals, lodging and incidental expenses while on official business for the Corporation.
- 2.12 Reliance on Professionals and Experts. Directors are authorized to rely on information, opinions, reports and statements, including financial statements and other financial data, prepared or presented by others to the fullest extent permitted by applicable law.
- 2.13 Executive Committee. The Chair of the Board may appoint an Executive Committee of the Board to handle the affairs of the Board when regular or special Board meetings are not in session, with such functions as may be designated to the Executive Committee by

the Board through a resolution properly adopted. The Executive Committee may consist of the Chair, Vice-Chair, and one or two other Directors as designated by the Chair.

2.14 Other Committees. The Chair is authorized to form any committees as needed in order to assist the Board with its information gathering and deliberations.

2.15 Specific Powers and Duties. The Board, in addition to other powers and duties herein conferred, imposed, and authorized by law, shall have the following powers and duties:

(a) It shall carry out all of the duties necessary for the proper operation and administration of the Corporation on behalf of the Members and to that end shall have all of the powers necessary and desirable for the effective administration of the affairs of the Corporation.

(b) It shall be authorized to contract with any qualified individual, firm or organization to perform any of the functions necessary for the effective administration or operation of the Corporation, or to provide for the fiscal protection of the Corporation or in keeping with its fiduciary responsibilities as Directors.

(c) It may hire attorneys, accountants, consultants, or such other professional persons that it may deem necessary aid to or for the Corporation. Those persons shall be paid as provided in the contract for hire as executed by the Chair of the Board.

(d) It shall have the general power to make and enter into all contracts, leases and agreements necessary or convenient to carry out any of the powers granted under these bylaws or by any other law.

(e) It shall provide for an annual audit of the books of the Corporation to be supplied to the Membership within 120 days following the close of each Corporation Year, or as soon thereafter as practicable.

(f) It shall have the authority to terminate membership of any Member that fails to abide by the reasonable requirements of the Board concerning payment of annual dues or aggregation fees as provided in Article V, cooperate with any of the agents hired to provide administrative services on behalf of the Board, or takes any other action that may be detrimental to the Corporation.

(g) It may collect interest on all past due accounts not to exceed the amounts allowed under applicable law.

ARTICLE III. Officers

3.1 Generally. The Board shall elect from among their number a Chair of the Board and a Vice-Chair of the Board. The Board shall designate a Secretary, who may or may not be a Director, to keep the minutes and the records of the Board. The Board may appoint

such other officers, assistant officers, committees and agents, including a treasurer, assistant secretaries and assistant treasurers, as they may consider necessary, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as may from time to time be determined by the Board. No person may simultaneously hold two offices. In all cases where the duties of any officer, agent or employee are not prescribed by the bylaws or by the Board, such officer, agent or employee shall follow the orders and instructions of the Chair of the Board.

- 3.2 Election; Tenure. The Chair of the Board, the Vice-Chair, and the Secretary shall be elected at the organizational meeting of the Board. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as a meeting may be conveniently convened. Other officers may be chosen by the Directors at such meeting or at any other time. Each officer shall hold office until the first of the following occur: until his or her successor shall have been duly elected and shall have qualified; or until his or her death; or until he or she shall resign; or until he or she shall be disqualified pursuant to these bylaws; or until he or she shall have been removed in the manner hereinafter provided.
- 3.3 Removal. Any officer or agent may be removed by majority vote of the entire Board for cause or without cause whenever in its judgment the best interests of the Corporation will be served thereby. Neither notice nor a hearing need be given to any officer or agent proposed to be so removed. Election or appointment of an officer or agent shall not in itself create contract rights.
- 3.4 Vacancies. A vacancy in any office, however occurring, may be filled by the Board for the unexpired portion of the term.
- 3.5 Powers and Duties of the Chief Executive Officer. The Chair of the Board shall be the Chief Executive Officer of the Corporation. Subject to the control of the Board and the Executive Committee, the Chief Executive Officer shall have general executive charge, management and control of the properties, business and operations of the Corporation with all such powers as may be reasonably incident to such responsibilities; may agree upon and execute all leases, contracts, evidences of indebtedness and other obligations in the name of the Corporation; and shall have such other powers and duties as designated in accordance with these bylaws and as from time to time may be assigned to him or her by the Board. He or she shall preside at all meetings of the Members and of the Board.
- 3.6 Vice-Chair. The Vice-Chair shall assist the Chair and shall perform such duties as may be assigned to him or her by the Chair or by the Board. In the absence of the Chair, the Vice-Chair shall have the powers and perform the duties of the Chair. In addition, the Vice-Chair shall have such other powers and duties as from time to time may be assigned to him or her by the Chair or by the Board.
- 3.7 Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Members, the Executive Committee and the Board; (b) see that all notices are duly given in

accordance with the provisions of these bylaws or as required by law; (c) be custodian of the records and of the seal of the Corporation and affix the seal to all documents when authorized by the Board; (d) keep at the Corporation's principal place of business within the State of Texas a record containing the names and addresses of all Members; and

(e) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the Chair or by the Board.

- 3.8 Executive Director; Other Officers. The Board may select and appoint an Executive Director and any other employees to serve at the pleasure of the Board. At the discretion of the Board, the Executive Director may be an independent contractor or an employee of the corporation. The Executive Director and any other such employees duly selected and appointed employees shall receive such compensation and other benefits as the Board may determine, and, additionally shall be entitled to reimbursement of expenses for attendance at official meetings of and official functions for the Corporation.

ARTICLE IV. Membership

- 4.1 Eligibility. Any political subdivision that approves the Articles of Incorporation and these Bylaws by ordinance, resolution, or order adopted by the governing body of the political subdivision and that purchases electricity for one or more of their respective public facilities is eligible for membership in Cities Aggregation Power Project, Inc., subject to the right of the Board to determine eligibility and conditions of membership, and subject further to the authority of the Board to terminate membership of any Member as provided herein, or in any agreement made between the Member and the Corporation.
- 4.2 Representation. Each Member shall appoint, by formal action by its governing body, a representative to act for it at the meetings of Members and shall give to the chair of the Board of Directors in writing the name of the person thus appointed. Only appointed representatives may act on behalf of Members in the conduct of business of the corporation. If at any time a Member withdraws from participation or otherwise has its membership status terminated, that Member shall no longer have a representative in the Membership, on the Board, or on any committee of the Corporation. Each Representative will serve until a successor is appointed.
- 4.3 Withdrawal. Any Member may withdraw from participation in the activities of the Corporation at any time upon thirty (30) days notice, whereupon it shall cease to be a Member, shall cease to be entitled or obligated to participate in the activities of all committees and subcommittees of the Board of Directors and shall have no further obligations as a Member; provided, however, that if such notice is given more than thirty (30) days after such Member's receipt of its statement of annual dues, fees and expenses for a fiscal year, the Member shall be obligated to pay for the full fiscal year within which such termination is effective.

- 4.4 Voting Rights. Voting rights are limited to Members. Each Member shall be entitled to one vote in any regular or special meeting of the members upon all matters of business. Such vote may be exercised in person or by mail by a representative of the Member duly authorized in writing; provided, however, that proxy and cumulative voting shall be prohibited.
- 4.5 Annual Meetings. The annual meeting of the Members shall be held at a time and on a date selected by the Chair of the Board, with written notice to each Member, for the purpose of electing Directors, receiving the annual report from the Board, and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Texas, such meeting shall be held on the next succeeding business day.
- 4.6 Special Meetings. Special meetings of the Members, for any purpose, unless otherwise prescribed by statute, may be called by the Board, and shall be called by the Chair of the Board or by the Secretary at the request of not less than one-tenth (1/10) of all of the outstanding Members of the Corporation.
- 4.7 Place of Meeting. The Board may designate the place for any annual meeting or for any special meeting called by the Board. If no designation is made, or if a special meeting shall be called otherwise than by the Board, the place of meeting shall be the principal office of the Corporation in Texas.
- 4.8 Notice of Meeting: Voting by Ballots Forwarded by Mail. (a) Written or printed notice stating the place, day and hour of the meeting, and, in case of a special meeting, the purposes for which the meeting is called, shall be delivered, not less than ten (10) nor more than fifty (50) days before the date of the meeting (either personally or by mail), by or at the direction of the Chair of the Board or the Secretary to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. In order that Members may vote by mail, each notice of meeting shall include a ballot containing each issue to be voted at that meeting and instructions as to the date by which such ballot must be postmarked in order for the vote to be counted.
- (b) Whenever notice is required in this Section 4.8 of Article IV, a waiver thereof in writing signed by the Member, whether before, at, or after the time stated therein, shall be equivalent to such notice. By attending a meeting, a Member waives objections to lack of notice or defective notice of such meeting unless the Member, at the beginning of the meeting, objects to the holding of the meeting or the transacting of business at the meeting. Further, a Member waives objection to consideration at such meeting of a particular matter not within the purpose or purposes described in the meeting notice unless the Member objects to considering the matter when it is presented.

- 4.9 Quorum. A quorum for the election of Directors, and conducting normal business at all meetings of the Members shall be twenty-five percent of the Members present in person or voting by mail.
- 4.10 Informal Action by Members. Any action required to be taken at a meeting of the Members, or any other action which may be taken at a meeting of the Members, may be taken without a meeting if a consent or consents in writing, setting forth the action so taken, shall be signed by all of the Members with respect to the subject matter thereof. Such consent or consents shall have the same force and effect as a unanimous vote of the Members.

ARTICLE V. Funding

- 5.1 Generally. Funding of the corporation shall be by member political subdivisions through the assessment of dues or through an aggregation fee charged per kilowatt-hour, or a combination of both as determined appropriate by the Board of Directors.
- 5.2 Initial Membership Fee. The initial membership fee shall be based upon ½ of 1% of the total annual electric bill of 2000. Such fee shall not exceed \$14,000. The initial fee will be credited against future administrative fees imposed after December 31, 2003. It is permissible for political subdivisions to pay the fee prior to formally joining the corporation and be credited with payment of the fee after a resolution approving the articles of incorporation and by-laws is passed by the political subdivision.
- 5.3 Board Authority. The Board shall have the authority to establish membership dues, an aggregation fee, or both, to be applicable to all Members of the Corporation. The Board may amend such dues and fees at its discretion. The Board shall have the authority to establish appropriate penalties that may be assessed against a Member for failure to pay the dues, aggregation fee, or both, established by the Board.
- 5.4 Statements. Membership fees will be billed annually; statements for other fees and expenses will be provided monthly as needed. Due dates for fees and expenses will be determined by the Board.
- 5.5 Books and Records. All Members of the corporation will have access to the books and records of the corporation, including financial statements and budgets; however, the Board of Directors may adopt policies that provide reasonable protection against the unnecessary disclosure of information to individual employees.

ARTICLE VI. Indemnification

- 6.1 Liability. A Director, officer, employee or agent of the Corporation who performs his or her duties in good faith, in a manner he or she reasonably believes to be in the best interests of the Corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances, shall not have any liability by reason of

being or having been a Director, officer, employee or agent of the Corporation and shall not have any liability for any action taken by any employee, agent or independent contractor selected with reasonable care, or for any loss incurred through the investment of or failure to invest monies of the Corporation or any Trust Account. No Director, officer, employee or agent shall be liable for any action taken or omitted by another Director, officer, employee or agent.

6.2 **INDEMNIFICATION.** EACH PERSON WHO AT ANY TIME SHALL SERVE, OR SHALL HAVE SERVED, AS A DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF THE CORPORATION, OR ANY PERSON WHO, WHILE A DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF THE CORPORATION, IS OR WAS SERVING AT ITS REQUEST AS A DIRECTOR, OFFICER, PARTNER, VENTURER, PROPRIETOR, TRUSTEE, EMPLOYEE, AGENT OR SIMILAR FUNCTIONARY OF ANOTHER FOREIGN OR DOMESTIC CORPORATION, PARTNERSHIP, JOINT VENTURE, SOLE PROPRIETORSHIP, TRUST EMPLOYEE BENEFIT PLAN OR OTHER ENTERPRISE, SHALL BE ENTITLED TO INDEMNIFICATION AS, AND TO THE FULLEST EXTENT, PERMITTED BY ARTICLE 1396 SECTION 2.22A OF THE TEXAS NON PROFIT CORPORATION ACT OR ANY SUCCESSOR STATUTORY PROVISION, AS FROM TIME TO TIME AMENDED, SUCH ARTICLE OR SUCCESSOR PROVISION, AS SO AMENDED, BEING INCORPORATED IN FULL IN THESE BYLAWS BY REFERENCE. THE FOREGOING RIGHT OF INDEMNIFICATION SHALL NOT BE DEEMED EXCLUSIVE OF ANY OTHER RIGHTS TO WHICH THOSE TO BE INDEMNIFIED MAY BE ENTITLED AS A MATTER OF LAW OR UNDER ANY AGREEMENT, VOTE OF DISINTERESTED DIRECTORS, OR OTHER ARRANGEMENT. IT IS EXPRESSLY ACKNOWLEDGED THAT THE INDEMNIFICATION PROVIDED IN THIS ARTICLE COULD INVOLVE INDEMNIFICATION FOR NEGLIGENCE OR UNDER THEORIES OF STRICT LIABILITY.

6.3 **Advance Payment.** The right to indemnification conferred in this Article VI shall include the right to be paid in advance or reimbursed by the Corporation the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 2 who was, is or is threatened to be made a named defendant or respondent in a proceeding in advance of the final disposition of the proceeding and without any determination as the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of a written affirmation by such Director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article VI and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Article VI or otherwise.

- 6.4 Appearance as a Witness. Notwithstanding any other provision of this Article VI, the Corporation may pay or reimburse expenses incurred by a Director or officer in connection with his or her appearance as a witness or other participation in a proceeding involving the Corporation or its business at a time when he or she is not a named defendant or respondent in the proceeding.
- 6.5 Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article VI shall not be exclusive of any other right which a Director or officer or other person indemnified pursuant to this Article VI may have or hereafter acquire under any law (common or statutory), provision of the Articles of Incorporation of the Corporation or these Bylaws, agreement, vote of members or disinterested Directors or otherwise.
- 6.6 Savings Clause. If this Article VI or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each Director, officer or any other person indemnified pursuant to this Article VI as to costs, charges and expenses (including attorneys' fees), judgments, fines and in amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, to the full extent permitted by any applicable portion of this Article VI that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE VII. Code Of Conduct

- 7.1 Policy and Purposes. (a) It is the policy of the Corporation that Directors and officers conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting corporate business; that the appearance of impropriety be avoided to ensure and maintain public confidence in the Corporation; and that the Board establish policies to control and manage the affairs of the Corporation fairly, impartially, and without discrimination.
- (b) This Code of Ethics has been adopted as part of the Corporation's Bylaws for the following purposes: (a) to encourage high ethical standards in official conduct by Directors and corporate officers; and (b) to establish guidelines for such ethical standards of conduct.
- 7.2 Conflicts of Interest. (a) Except as provided in subsection (c), a Director or officer is prohibited from participating in a vote, decision, or award of a contract involving a business entity or real property in which the Director or the officer has a substantial interest, if it is foreseeable that the business entity or real property will be economically benefitted by the action. A person has a substantial interest in a business (i) if his or her ownership interest is ten percent or more of the voting stock or shares of the business entity or ownership of \$15,000 or more of the fair market value of the business entity, or (ii) if the business entity provides more than ten percent of the person's gross income. A person has a substantial interest in real property if the interest is an equitable or legal

ownership with a fair market value of \$2,500 or more. An interest of a person related in the first degree by affinity (marriage relationship) or consanguinity (blood relationship) to a Director or officer is considered a substantial interest.

(b) If a Director or a person related to a Director in the first degree by affinity or the first degree by consanguinity has a substantial interest in a business entity or real property that would be pecuniarily affected by any official action taken by the Board, such Director, before a vote or decision on the matter, shall file an affidavit stating the nature and extent of the interest. The affidavit shall be filed with the Secretary of the Board.

(c) A Director who has a substantial interest in a business entity that will receive a pecuniary benefit from an action of the Board may vote on that action if a majority of the Board has a similar interest in the same action or if all other similar business entities in the Corporation will receive a similar pecuniary benefit.

(d) An employee of a public entity may serve on the Board. It is specifically recognized that as an official or employee of a public entity, that person's primary loyalty is to the political subdivision that employs them. It shall not be a conflict of interest for said Board member to express opinions or vote in a manner that reflects the self-interest of the public entity that the Board member represents.

7.3 Acceptance of Gifts. No Director or officer shall accept any benefit as consideration for any decision, opinion, recommendation, vote or other exercise of discretion in carrying out official acts for the Corporation. No Director or officer shall solicit, accept, or agree to accept any benefit from a person known to be interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of the Director's or officer's discretion. As used here, a benefit does not include:

(a) a fee prescribed by law to be received by a Director or officer or any other benefit to which the Director or officer is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a Director or officer,

(b) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the Director or officer;

(c) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:

(1) not more than one honorarium is received from the same person in a calendar year;

(2) not more than one honorarium is received for the same service; and

- (3) the value of the honorarium does not exceed \$50 exclusive of reimbursement for travel, food, and lodging expenses incurred by the Director or officer in performance of the services;
 - (d) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest if reported as may be required by law.
- 7.4 Bribery. A Director or officer shall not intentionally or knowingly offer, confer or agree to confer on another, or solicit, accept, or agree to accept from another:
 - (a) any benefit as consideration for the Director's or officer's decision, opinion, recommendation, vote, or other exercise of discretion as a Director or officer;
 - (b) any benefit as consideration for the Director or officer's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or
 - (c) any benefit as consideration for a violation of duty imposed by law on the Director or officer.
- 7.5 Nepotism. No Director or officer shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of an person related within the second degree by affinity or within the third degree of consanguinity to the Director or officer so appointing, voting or confirming, or to any other Director or officer. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty at least thirty (30) days prior to the appointment of the Director or officer so appointing or voting.

ARTICLE VIII. Miscellaneous Provisions

- 8.1 Fiscal Year. The fiscal year for the Corporation shall begin January 1 and end December 31. This fiscal year shall also be referred to as the Corporation Year.
- 8.2 Seal. The seal of the Corporation shall be such as from time to time may be approved by the Board.
- 8.3 Gender. References herein to the masculine gender shall also refer to the feminine in all appropriate cases, and vice versa.
- 8.4 Appropriations and Grants. The Corporation shall have the power to request and accept any appropriation, grant, contribution, donation, or other form of aid from the federal government, the State, any political subdivision, or municipality in the State, or from any other source.

- 8.5 Amendments. These bylaws may be amended by the Board after notice of the proposed amendments has been mailed to each Director of the Board at least ten (10) days prior to the day of the meeting to consider same. The Board shall recommend such changes as it deems necessary or desirable from time to time. Any amended Bylaws shall be signed by the Chair and attested to by the Secretary. A copy of any amendment shall be mailed immediately after its adoption to each Member.
- 8.6 Conflicts of Interest. Each Director, committee member and subcommittee member shall have an affirmative duty to disclose to the Board of Directors, the committee or subcommittee (as the case may be) any actual or potential conflicts of interest between such Director, committee member or subcommittee member, and the Corporation where, and to the extent that, such conflicts or potential conflicts directly or indirectly affect any matter that comes before the Board of Directors, or any committee or subcommittee. It shall not be a conflict of interest for a Director, committee member or subcommittee member to express opinions or vote the interests of the political subdivision Member that employs that individual.

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

February 20, 2006
7:00 P.M.

Call to Order

Mayor Baldwin called the meeting to order at 7:02 p.m.

Invocation and Pledge of Allegiance

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

Roll Call and Certification of a Quorum

City Secretary Aimee Nemer certified a quorum with the following Council Members present: Mayor Bret Baldwin, Councilman Roger Davis, Councilwoman Michelle Long, Councilman Dwayne Elledge, Councilman Eric Hemphill, Councilman Murray Sanderford, and Councilman Eric Barna.

The following Staff members were also present: City Manager Craig Sherwood, Community Development Director Jeff Bickerstaff, Economic Development Director Randy Thomas, Director of Public Works Byron Hardin, City Attorney Jeff Moore, and City Secretary Aimee Nemer.

Proclamations and Presentations

• **Recognition of five years of service to Police Officer Brad Taylor**

Mayor Baldwin recognized Officer Brad Taylor for five years of service.

• **Presentation of Comprehensive Annual Financial Report by Pingleton, Howard and Company, P.C.**

Mr. Tom Pingleton of Pingleton, Howard and Company, P.C., presented the fiscal year 2004-2005 audit stating that the City is right on target financially and has succeeded in obtaining financial stability over the past two years. Mr. Pingleton pointed out the certificate of achievement the City received for financial reporting. He stated the City's debt service is more than adequate and the internal controls are properly implemented.

• **Proclamation designating the week of February 26 - March 4, 2006 as Severe Weather Awareness Week**

Mayor Baldwin read a proclamation declaring the week of February 26 – March 4 as Severe Weather Awareness Week.

- **Presentation by Churchill Residential Inc. regarding a proposed Murphy Senior Apartment Community.**

Ms. Joan Menett of Churchill Residential, Inc. presented information to Council regarding a proposed senior citizen apartment community.

Public Comments

Mark Walsh, representing Dennis and Kimberly Collins, 19 Maxwell Lane, addressed Council regarding the proposed site plan for a church/place of worship located at 3 Maxwell Lane. Mr. Walsh asked Council to deny this request.

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.

Councilman Sanderford requested that Items E and F be removed from Consent. He stated that he would abstain from these items due to a Conflict of Interest which has been filed with the City Secretary.

Councilman Barna requested that Item H be removed from the Consent Agenda. Mayor Baldwin made a motion to move Item H to be considered after the Executive Session.

- A. Approval of the Minutes from the Regular City Council Meeting of February 6, 2006.**
- B. Consider and/or act upon approval of the Comprehensive Annual Financial Report (CAFR) for the fiscal year ending September 30, 2005.**
- C. Consider and/or act upon approval of a Resolution supporting the reconstruction and expansion of F.M. 2551 (North Murphy Road).**
- D. Consider and/or act upon approval of a Resolution declaring a local state of disaster due to drought conditions and wildfire hazard.**
- E. Consider and/or act upon approval of a Resolution supporting the Cities Aggregation Power Project's (CAPP) efforts to contract for long term capacity to supply electric power needs to CAPP members.**
- F. Consider and/or act upon approval of a Resolution ratifying a settlement agreement between the Steering Committee of Cities served by TXU and TXU Electric Delivery.**
- G. Consider and/or act upon a Resolution authorizing the Mayor to approve a revised Interlocal Agreement for Jail Services between the City of Murphy and Collin County.**
- H. Consider and/or act on the application of Helmberger Associates, Inc. representing Sikh Sewa Foundation requesting approval of a Site Plan for a Church/Place of Worship on property zoned SF-E (Single Family Estate) District. This property is located on 3 Maxwell Lane, north of McMillen Road, being an 8.90 acre tract of land situated in the C.A. McMillan Survey, Abstract No. 588.**

- I. Consider and/or act upon authorizing the City Manager to enter into a professional service agreement for Engineering Services between City of Murphy and Teague Nall and Perkins, Inc. for the development of the Maxwell Creek Linear Park and Preserve.

Council Action

Councilman Hemphill made a motion to approve the remaining Consent Agenda, Items A-D, G, and I as presented. Councilmember Long seconded the motion. A vote was taken and passed, 7-0.

Items E and F were considered together as Consent Items separate from the Consent Agenda.

- E. Consider and/or act upon approval of a Resolution supporting the Cities Aggregation Power Project's (CAPP) efforts to contract for long term capacity to supply electric power needs to CAPP members.
- F. Consider and/or act upon approval of a Resolution ratifying a settlement agreement between the Steering Committee of Cities served by TXU and TXU Electric Delivery.

Council Action

Councilmember Long made a motion to approve Items E and F as presented. Councilmember Hemphill seconded the motion. A vote was taken and passed, 6-0-1 with Councilmember Sanderford abstaining due to conflict of interest.

INDIVIDUAL CONSIDERATION

Tabled from 2/6/06 Council Meeting

1. Consider and/or act upon approving a Sick Leave Pool policy for City employees.

Council Action

Councilmember Long made a motion to approve the Sick Leave Pool Policy as presented. Councilmember Sanderford seconded the motion. A vote was taken and passed, 7-0.

2. Consider and/or act upon approving a revised Workers' Compensation policy for employees who are disabled as a result of an injury on the job.

Council Discussion

Mayor Baldwin expressed concerns with loopholes in the policy and would like the policy to be more stringent with controls.

Councilman Hemphill stated that he would like to have safeguards in the policy to prevent employees from taking advantage of the policy. He stated he would like the policy to have a lifetime maximum.

Councilmember Long stated she did not mind safeguards, but did not want to tailor a policy based on those that might take advantage.

Councilman Sanderford stated he would rather manage around the policy for those that would abuse the policy.

Council Action

Councilmember Long made a motion to approve the Worker’s Compensation Policy as presented. Councilmember Davis seconded the motion. A vote was taken and passed, 5-2 with Mayor Baldwin and Councilmember Hemphill voting in opposition.

EXECUTIVE SESSION

Council Action

Mayor Baldwin convened into Executive Session at 7:50 noting the provisions listed on the Agenda and adding: Section 551.071 Consultation with City Attorney to receive legal advice concerning Agenda Item H. - Application by Helmberger Associates, Inc. requesting approval of a site plan.

The City Council will hold a closed Executive Session meeting pursuant to the provisions of Chapter 551, Texas Government Code, Vernon’s Texas Codes Annotated, in accordance with the authority contained in:

- Section 551.071 Consultation with City Attorney concerning pending litigation – *Roger Carlisle v. David Trudeau, Mayor of the City of Murphy, et al.*
- Section 551.071 Consultation with City Attorney to receive legal advice regarding the Municipal Complex.

RECONVENE INTO REGULAR SESSION

Council Action

Mayor Baldwin reconvened into Regular Session at 9:01 p.m. No action or votes were taken during Executive Session.

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Texas Government Code, Vernon’s Texas Codes Annotated, to take any action necessary regarding:

- Section 551.071 Consultation with City Attorney concerning pending litigation – *Roger Carlisle v. David Trudeau, Mayor of the City of Murphy, et al.*
- Section 551.071 Consultation with City Attorney to receive legal advice regarding the Municipal Complex.
- Section 551.071 Consultation with City Attorney to receive legal advice concerning Agenda Item H. - Application by Helmberger Associates, Inc. requesting approval of a site plan.

Attorney Comments

City Attorney Jeff Moore explained that the scope of Council’s decision is based solely on whether or not the site plan meets the requirements of the code.

- H. Consider and/or act on the application of Helmberger Associates, Inc. representing Sikh Sewa Foundation requesting approval of a Site Plan for a Church/Place of Worship on property zoned SF-E (Single Family Estate) District. This property is located on 3 Maxwell Lane, north of McMillen Road, being an 8.90 acre tract of land situated in the C.A. McMillan Survey, Abstract No. 588.

Council Action

Councilmember Sanderford made a motion to approve Item H as presented. Councilmember Long seconded the motion. A vote was taken and passed, 7-0.

Excused Absences

No excused absences were reported.

Agenda Requests from the City Council

Councilmember Long requested information on the inspection process, specifically failed inspections.

Reports or Requests from the City Manager

City Manager Craig Sherwood reported on the following:

- Capital Projects Update –updated Council on the Ground Storage Tank;
- Financial Report/budget, special projects, and current status –reiterated the auditors report stating that the City is on sound financial standing; and
- Calendar of events –informed Council of 4A Meeting on Tuesday, Chamber Lunch Tuesday, Early Voting for Primary beginning Tuesday, Council Retreat Friday and Saturday, and Planning and Zoning Meeting Monday.

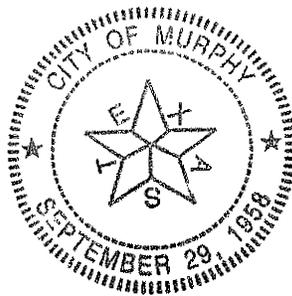
Adjournment

With no further business, the meeting was adjourned at 9:10

ATTEST:

Aimee Nemer

Aimee Nemer, City Secretary



APPROVED BY:

Bret M. Baldwin

Bret M. Baldwin, Mayor

RESOLUTION NO. 06-R-533

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS IN SUPPORT OF CITIES AGGREGATION POWER PROJECT'S EFFORTS TO CONTRACT FOR LONG TERM CAPACITY WITH THE OWNER OF GENERATION TO SUPPLY THE ELECTRIC POWER NEEDS OF CAPP MEMBERS; SPECIFYING CERTAIN PARAMETERS TO BE MET BY ANY PROPOSED DEAL TO CONTRACT FOR LONG TERM CAPACITY; APPROVAL OF CAPP'S FINANCING STRUCTURE TO FUND ACQUISITION OF LONG TERM CAPACITY TO SUPPLY THE ELECTRIC POWER NEEDS OF CAPP MEMBERS

WHEREAS, the City of Murphy, Texas ("City"), is a member of Cities Aggregation Power Project, Inc. ("CAPP") and said membership has resulted in average annual energy savings exceeding 20 percent as compared to the Public Utility Commission approved Price to Beat; and

WHEREAS, all retail power bids from various Retail Electric Providers in the deregulated electric retail market have been directly indexed to natural gas futures prices; and

WHEREAS, natural gas prices have been extremely volatile and have caused substantial increases in the price of electricity paid by the City (as illustrated by an approximately 6¢ per kWh increase between 2005 and 2006 prices); and

WHEREAS, the CAPP Board of Directors, CAPP members, and CAPP consultants have invested significant time in investigating long term electric power alternatives that are not indexed to natural gas prices in order to provide CAPP members price savings and stability relative to traditional short term energy contracts; and

WHEREAS, CAPP desires to enter a capacity contract for a long term supply of power to meet the City's base load electric needs (approximately 55% of the City's total electric energy

needs) for a fixed price that should provide considerable economic benefit and greater price stability in comparison to traditional energy contracts; and

WHEREAS, available capacity in Texas fueled by resources other than natural gas accessible to retail load is scarce and contracting for such capacity reflects an opportunity for CAPP members to increase savings and reduce electric price volatility; and

WHEREAS, persons negotiating on behalf of owners available non-natural gas fired capacity require evidence of CAPP's interest and ability to contract for such capacity;

WHEREAS, the Public Finance Division of the Office of the Attorney General of Texas has approved the proposed financing structure that CAPP intends to use to fund the acquisition of capacity on behalf of its members;

WHEREAS, the debt issued by CAPP should be considered taxable, unless the Internal Revenue Service responds to CAPP's pending Private Letter Ruling Request that the debt is non-taxable;

WHEREAS, the CAPP Board has voted to require that any proposed deal for capacity meet specific parameters in order to be considered by CAPP membership, including: that the deal demonstrate economic benefit for all members as compared to exclusive reliance on energy priced on one-hundred (100) percent natural gas generation coupled with a conservative forecast of natural gas prices and taxable debt; that the contract explicitly state that all liability is severable and associated solely with the defaulting city (if any) and that there is no cross-liability for members; that CAPP's interest in the pre-paid capacity would be secured by some tangible asset; that CAPP shall attempt to mitigate and underwrite identifiable risk through the contracting process; and that capacity pre-payment, if required, will be secured by a general tax pledge, unless the City is able to pre-pay its proportionate obligation with cash or separately

arrange with CAPP's financial advisor to base its debt service obligations on annual appropriations.

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, THAT:

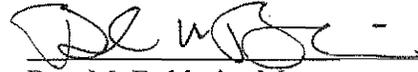
1. The efforts of the CAPP Board to secure capacity generated by resources other than natural gas for the City of Murphy's base load electric capacity needs for a fixed price for a period not to exceed ten years are hereby ratified.

2. The City endorses the CAPP Board committing to contract for non-natural gas-fired capacity with the understanding that any such deal will meet all specific parameters set forth in this resolution, and that the City will have an opportunity to review and approve or reject a contractual agreement with CAPP not to exceed ten years to supply all the City's power needs.

3. The City endorses CAPP's proposed financing structure for acquiring long term electric power, as approved by the Public Finance Division of the Office of the Attorney General of Texas. The pre-approved structure entails CAPP issuing contract revenue bonds that are supported by underlying contracts between CAPP and member cities. The underlying contracts between CAPP and individual member cities include two components. One component is a variable expense portion associated with the City's share of the electric energy received, including a fuel cost, that is to be paid as a budgeted expense subject to annual appropriation by the City. The second component is a fixed capacity expense, that will be paid by the City through its monthly electric bills but which shall constitute a long term, general obligation tax debt. An exception will be permitted that allows the City to either use cash to fund its capacity pre-payment obligation or arrange with CAPP's financial advisor to base its capacity pre-

payment pledge on annual appropriations, if it is so able. Any incremental costs associated with such optional arrangements are to be borne solely the City.

DULY RESOLVED by the City Council of the City of Murphy, Texas, on this the 20TH day of FEBRUARY, 2006.



Bret M. Baldwin, Mayor
City of Murphy



ATTEST:



Aimee Nemer, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

Robert Brown, City Attorney

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

July 3, 2006
11:00 A.M.

CALL TO ORDER (11:00 A.M.)

Mayor Pro Tem Long called the meeting to order at 11:00 a.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

City Manager Craig Sherwood gave the invocation and led the Pledge of Allegiance.

ROLL CALL AND CERTIFICATION OF A QUORUM

City Secretary Aimee Nemer certified a quorum with Mayor Pro Tem Long, Councilmember Davis, Councilmember Elledge, Councilmember Sanderford, and Councilmember Barna present. Mayor Baldwin and Councilmember Hemphill were absent.

The following Staff members were also present: City Manager Craig Sherwood, 4A/4B Executive Director Randy Thomas, City Attorney Jeff Moore, and City Secretary Aimee Nemer.

PUBLIC COMMENTS

There were no public comments submitted.

CONSENT AGENDA

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

- A. Approval of the Minutes from the Regular City Council Meeting of June 19, 2006.
- B. Consider and/or act upon approval of a Resolution authorizing the Cities Aggregation Power Project (CAPP) to negotiate an electric supply agreement, authorize CAPP to act as an agent on behalf of the City to enter into a contract, authorizing the chairman of CAPP to execute an agreement, committing to budget for energy purchases in 2007 and 2008, and to honor the City's commitments to purchase power for its electrical needs in 2007 and 2008 through CAPP.
- C. Consider and/or act upon approval of an Ordinance denying the request of Atmos Energy Corp., Mid-Tex Division, for an annual Gas Reliability Infrastructure Program (GRIP) rate increase in this municipality.
- D. Consider and/or act upon approval of a Resolution denying Atmos Energy Corp., Mid-Tex Division's statement of intent to increase the gas utility rates in this municipality.

- E. Consider and/or act upon approval of an Ordinance repealing Ordinance No. 06-06-693 and adopting a revised Murphy Drought Contingency Plan.
- F. Consider and/or act on the application of the Tipton Engineering, Inc. representing Dublin Murphy Estates, Ltd., requesting approval of the Final Plat for The Aviary, Phase 4 on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 99-7-458). This property is located on Heritage Parkway, north of Oakhurst Drive, being a 53.1883 acre tract of land situated in the Isaac Herring Survey, Abstract No. 403, the Geo Pegues Survey, Abstract No. 699 and the Mary Scott Survey, Abstract No. 859.
- G. Consider and/or act upon awarding a bid for the Skyline Outfall Sanitary Sewer Project.
- H. Consider and/or act upon approval of a Resolution authorizing the City to participate in the 2006 Collin County Parks and Open Spaces Funding Assistance Program.

Council Action

Councilmember Sanderford requested to have item E removed from the Consent Agenda.

Councilmember Sanderford made a motion to approve the Consent Agenda, Items A-H with the exception of E, as presented. Councilmember Elledge seconded the motion. A vote was taken and passed, 5-0 with Mayor Baldwin and Councilmember Hemphill absent.

This item was removed from Consent Agenda to be considered individually.

- E. Consider and/or act upon approval of an Ordinance repealing Ordinance No. 06-06-693 and adopting a revised Murphy Drought Contingency Plan.

Staff Comments

City Manager Craig Sherwood addressed Council stating that staff met with Homeowner's representatives and builders who have requested some relief from the watering restrictions put in place at the request of the North Texas Municipal Water District. Staff contacted other cities regarding the restrictions used for builders for new landscaping. City Manager Sherwood explained that based on those findings and discussions with Texas A&M Extension Service, staff has proposed to allow builders two hours of watering per day for the first thirty days of new landscaping. Mr. Sherwood explained that the builder would also be required to put a sign in the yard and the window stating the hours of watering. Mr. Sherwood stated that several builder representatives are in attendance at the meeting and have expressed some concern that the two hours of watering may still not be enough relief.

Council Discussion

Councilmember Sanderford stated that he is concerned that thirty days and/or two hours may not be enough for new landscaping. Mr. Sanderford suggested allowing new landscaping to be watered four hours per day for the first seven days and reevaluating the water supply every thirty days.

City Manager Sherwood stated a comparison of statistics on water usage noting that consumption has significantly dropped since restrictions have been put in place even with an increase of 15% in customers to the City.

Mayor Pro Tem Long stated that builders have expressed that two hours per day would not be enough but that four hours per day would be adequate.

Councilmember Barna inquired when Lake Lavon would reach Stage 4 levels. City Manager Sherwood stated that is determined by the North Texas Municipal Water District.

Councilmember Barna stated that he felt two hours per day was plenty and he expressed concern for the water level.

Mike Yost, builder representative, addressed Council stating if Council did not approve four hours, just save the two hours because it would be worthless.

Council Action

Councilmember Sanderford made a motion to approve the revised Drought Contingency Ordinance with the change to allow 4 hours for new landscaping for the first 30 days instead of 2 hours. Councilmember Elledge seconded the motion. A vote was taken and passed, 4-1 with Councilmember Barna voting in opposition and Mayor Baldwin and Councilmember Hemphill absent.

EXCUSED ABSENCES

There were no excused absences reported.

AGENDA REQUESTS FROM THE CITY COUNCIL

There were no agenda requests from Council.

REPORTS OR REQUESTS FROM THE CITY MANAGER

- Capital Projects Update
- Financial Report/budget, special projects, and current status
- Calendar of events

City Manager Craig Sherwood reported on the following:

- City offices will be closed for July 4th in honor of Independence Day and there will be no court this week.
- Regular Council Meeting on July 17 with a full agenda
- Working on issues with North Texas Municipal Water District valve to correct problems
- Skyline Outfall Sanitary Sewer Project will move forward
- Heritage Parkway being cleaned up in preparation for traffic transition which will be announced within next couple of weeks
- Collin County Commissioner's Court has approved to spend 6.4M in funding for the widening of N. Murphy Road from FM 544 to Betsy Lane
- Financial reports will be given at the July 17th meeting

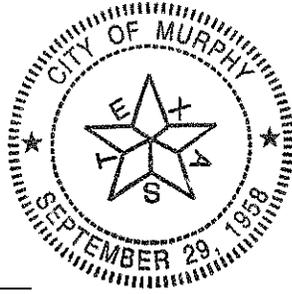
Mayor Pro Tem Long also noted the Murphy Chamber Luncheon on July 18th at 11:30 a.m. at Woodbridge Golf Club Pavilion with the next speaker being Murphy resident and author Diana Estill.

ADJOURNMENT

With no further business, the meeting was adjourned at 11:25 a.m.

APPROVED BY:


Bret M. Baldwin, Mayor



ATTEST:


Aimee Nemer, City Secretary

RESOLUTION NO. 06-R-543

A RESOLUTION OF THE CITY OF MURPHY, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. ("CAPP"), TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2007; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2007; AND COMMITTING TO BUDGET FOR ENERGY PURCHASES IN 2007 AND 2008 AND TO HONOR THE CITY OF MURPHY'S COMMITMENTS TO PURCHASE POWER FOR ITS ELECTRICAL NEEDS IN 2007 AND 2008 THROUGH CAPP.

WHEREAS, the City of Murphy, Texas (City) is a member of Cities Aggregation Power Project, Inc. (CAPP), a nonprofit political subdivision corporation dedicated to securing electric power for its more than 86 members in the competitive retail market; and

WHEREAS, CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings off of the Price to Beat (PTB) rate for its members; and

WHEREAS, the CAPP Board and CAPP consultants are continuing to investigate long term contracting options, CAPP members must secure short term (2007 and 2008) power supplies or revert to high price standard contracts and independently shop for a power contract; and

WHEREAS, experience gained by the CAPP Board indicates that entering into a wholesale power contract, as distinct from a retail contract, effective January 1, 2007 may provide for greatest potential savings for CAPP members and facilitate an ultimate transition to fixed price long term agreements; and

WHEREAS, potential wholesale power providers desire to execute a contract with one, and only one, entity rather than have unique contracts for each CAPP member; and

WHEREAS, CAPP believes that the pricing opportunity window for favorable 2007 deliveries under either a wholesale or retail agreement will be short-lived (in the late spring – early summer time period) and that CAPP must be able to commit contractually to prices within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for CAPP load since 2002 demonstrated that Retail Electric Providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, CAPP's current delivered energy prices provide savings when measured against the PTB rate, and aggregated rates contracted during favorable pricing periods are likely to be lower than prices obtained by the City contracting individually during the same time period; and

WHEREAS, wholesale suppliers demand assurance that CAPP will pay for all contracted load; and

WHEREAS, the City of Murphy needs to assure CAPP that it will budget for energy purchases in 2007 and 2008 and honor its commitments to purchase power for its electrical needs in 2007 and 2008 through CAPP.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS:

Section 1:

That the CAPP Board and its consultants and advisors are agents authorized to negotiate for the City's electricity needs as a member of CAPP and to evaluate wholesale power supply contract options for 2007 as compared to a retail electric delivery contract for 2007 and, if feasible, 2008.

Section 2:

That the Chairman of CAPP is hereby authorized to sign an electric power agreement for the City pursuant to the contract approved and recommended by the CAPP Board of Directors within 24 hours of said approval and recommendation.

Section 3:

That the City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement (whether wholesale or retail) arranged by CAPP and signed by the Chairman of CAPP for the City.

Section 4:

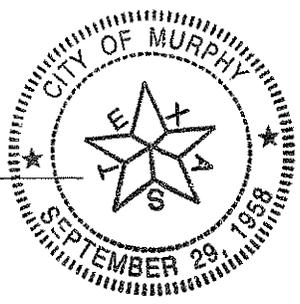
That a copy of the resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

PRESENTED AND PASSED on this the 3rd day of July, 2006, by a vote of 5 ayes and 0 nays at a regular meeting of the City Council of the City of Murphy, Texas.

Michelle Long
Michelle Long, Mayor Pro Tem

ATTEST:

Aimee Nemer
Aimee Nemer
City Secretary



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

November 3, 2008
6:00 P.M.

CALL TO ORDER

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

INVOCATION AND PLEDGE OF ALLEGIANCE

Councilmember John Daugherty gave the invocation and led the Pledge of Allegiance.

ROLL CALL AND CERTIFICATION OF A QUORUM

Heather McGee certified a quorum with all Councilmembers present.

PROCLAMATIONS

- **Proclamation designating Municipal Court Week, November 3 – 7, 2008.**
Mayor Baldwin read the proclamation designating November 3 – 7, 2008 as Municipal Court Week.

PUBLIC COMMENTS

There were no public comments.

APPROVAL OF MINUTES

- A. **Approval of the Minutes from the Regular City Council Meeting of October 20, 2008.**

Council Action

Councilmember Halbert made a motion to approve the minutes as presented. Deputy Mayor Pro Tem Bogdan seconded the motion. Motion passed 7-0.

INDIVIDUAL CONSIDERATION

1. **Consider and/or act upon approval of a resolution approving the 2008 tax roll with a total levy of \$7,321,262.86 as certified by Kenneth L. Maun, Tax Assessor Collector for Collin County.**

Council Action

Councilmember Daugherty made a motion to approve the resolution as presented. Councilmember Daniel seconded the motion. Motion passed 7-0.

2. **Consider and/or act upon approval of an ordinance amending Sections 78-81 and 78-82 of the City of Murphy Code of Ordinances as it relates to the operation of commercial vehicles on city streets.**

Council Action

Councilmember Bradley made a motion to approve the ordinance as presented. Councilmember Halbert seconded the motion. Motion passed 7-0.

3. Consider and/or act upon approval of a resolution approving a lease agreement with the Murphy Chamber of Commerce for office space and use at Murphy City Hall.

Council Action

Councilmember Halbert made a motion to approve the resolution as presented. Councilmember Bradley seconded the motion. Motion passed 7-0.

4. Consider and/or act upon approval of a resolution finding that Oncor Electric Company's requested increases to its electric transmission and distribution rates and charges within the City are denied and the City's reasonable rate case expenses be reimbursed.

Council Action

Deputy Mayor Pro Tem Bogdan made a motion to approve the resolution as presented. Councilmember Halbert seconded the motion. Motion passed 6-1 with Councilmember Daugherty in opposition.

5. Consider and/or act upon approval of a resolution authorizing the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an electric supply agreement for deliveries of electricity and necessary related services effective January 1, 2009; authorizing CAPP to act as an agent on behalf of the City to enter into a contract for electricity; approving CAPP contracting with FPL Energy and Direct Energy; committing to budget for energy purchases to purchase power through CAPP for its electrical needs beginning January 1, 2009 through December 31, 2013.

Council Action

Councilmember Bradley made a motion to approve the resolution as presented. Councilmember Daugherty seconded the motion. Motion passed 7-0.

6. Discussion regarding City Council Retreat.

Council Action

After a brief discussion, the City Council came to a consensus on a date to hold the City Council Retreat which will be on February 4th – 6th.

7. Discussion regarding proposed Oncor Transmission Line.

Council Action

There was no action taken on this item.

EXCUSED ABSENCES

No excused absences were reported.

AGENDA REQUESTS FROM THE CITY COUNCIL

No agenda requests were submitted.

CITY MANAGER/STAFF REPORTS

- Election Day – November 4th from 7 a.m. – 7 p.m.
- Christmas Tree Lighting Ceremony – December 4th from 5 p.m. – 7 p.m.
- Community Room – Is now open for public use.
- Maxwell Creek Fence Agreement – The City, homeowners and developer are still working together on this project.
- Pancake Breakfast – Was a great success.

EXECUTIVE SESSION

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

Section 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Maurice L. Williams vs. City of Murphy, Cause No. 006-761-07, Collin County.

Section 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Sara Lee Goff d/b/a Sara's Secret/Condoms to Go vs. Jeffrey Bickerstaff et. al. Cause No. 3:08-cv-1660, U.S. District Court, Northern District of Texas.

There was no Executive Session

RECONVENE INTO REGULAR SESSION

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

Section 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Maurice L. Williams vs. City of Murphy, Cause No. 006-761-07, Collin County.

Section 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Sara Lee Goff d/b/a Sara's Secret/Condoms to Go vs. Jeffrey Bickerstaff et. al. Cause No. 3:08-cv-1660, U.S. District Court, Northern District of Texas.

There was no Executive Session.

ADJOURNMENT

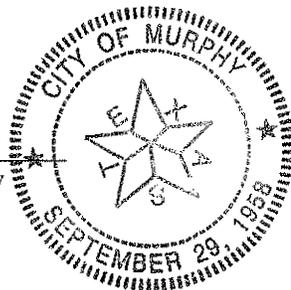
With no further business, the meeting was adjourned at 6:45 p.m.

APPROVED BY:


Bret M. Baldwin, Mayor

ATTEST:


Aimee Nemer, City Secretary



RESOLUTION NO. 08-R-619

A RESOLUTION OF THE CITY OF MURPHY, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; APPROVING CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2009; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS BEGINNING JANUARY 1, 2009 THROUGH DECEMBER 31, 2013.

WHEREAS, the City of Murphy, Texas (City) is a member of Cities Aggregation Power Project, Inc. (CAPP), a nonprofit political subdivision corporation dedicated to securing electric power for its 111 political subdivision members in the competitive retail market; and

WHEREAS, CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and

WHEREAS, the City's current contract for power expires December 31, 2008; and

WHEREAS, CAPP members must secure power supplies for 2009 or revert to high price standard contracts and independently shop for a power contract; and

WHEREAS, the CAPP Board of Directors is currently considering indicative retail energy prices that point to favorable pricing for the five year period ending December 31, 2013; and

WHEREAS, power providers desire to execute a contract with one, and only one, entity rather than have unique contracts for each CAPP member; and

WHEREAS, CAPP believes that the pricing opportunity window for favorable 2009 deliveries will be short-lived and that CAPP must be able to commit contractually to prices within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for CAPP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, aggregated rates contracted during favorable pricing periods are likely to be lower than prices obtained by the City contracting individually during the same time period; and

WHEREAS, suppliers demand assurance that CAPP will pay for all contracted load; and

WHEREAS, the City needs to assure CAPP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through CAPP for the period beginning January 1, 2009, and extending through December 31, 2013; and

WHEREAS, CAPP intends to continue to contract with both FPL Energy (power supply) and Direct Energy (billing, administrative and other customer services); and

WHEREAS, the current contractual relationships between CAPP and FPL Energy and Direct Energy have been beneficial and cost effective for CAPP members and the City.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS:

Section 1:

That the CAPP Board and its consultants and advisors are agents authorized to negotiate for the City's electric power needs as a member of CAPP and to contract for the electric power supply and related, necessary services for the City for a term to begin January 1, 2009 and extending up to December 31, 2013.

Section 2:

That the City approves CAPP contracting with FPL Energy and Direct Energy for the supply of electric power and related, necessary services for the City for a term to begin January 1, 2009 and extending up to December 31, 2013.

Section 3:

That the Chairman of CAPP is hereby authorized to sign a Commercial Electric Service Agreement ("CESA") for the City pursuant to the contract approved and recommended by the CAPP Board of Directors within 24 hours of said approval and recommendation.

Section 4:

That the City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement arranged by CAPP and the CESA signed by the Chairman of CAPP on behalf of the City for the term beginning January 1, 2009 and extending up to December 31, 2013.

Section 5:

That a copy of the resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

PRESENTED AND PASSED on this 3rd day of November, 2008, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Murphy, Texas.

APPROVED:

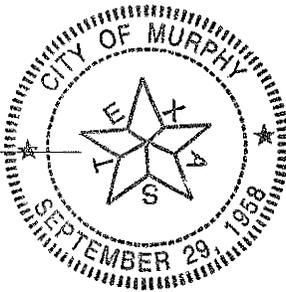


Bret M. Baldwin, Mayor
City of Murphy

ATTEST:



Aimee Nemer, City Secretary
City of Murphy



Issue

Consider and/or act on approval of an ordinance annexing a tract of land totaling 18.00 acres located in the Isaac Herring Survey, Abstract No. 403 and the McMillan Survey, Abstract No. 588 located on FM 2551 (North Murphy Road), north of Rolling Ridge Drive.

Background

Section 43.065 of the Texas Local Government Code requires cities that wish to annex property, to direct their planning department (or other appropriate department) to prepare a service plan that provides for the extension of full municipal services to the area to be annexed. The service plan prepared by staff is attached for your review.

Chapter 43 of the Texas Local Government Code requires that two public hearings be held prior to property being annexed into the City. The first public hearing was held on October 4, 2010 and the second public hearing was held on October 18, 2010. During the course of the public hearings, it was discovered that the subject property has an agricultural exemption for tax purposes. Section 43.035 of the Texas Local Government Code requires the City to offer a development agreement in lieu of annexing the property. In essence, this is a “non-development” agreement where the City agrees not to annex the subject property for a period of time (usually 15 years) in exchange for the property owner’s promise to not develop the land. The agreement provides that if an application is submitted for development during the term of the agreement, the agreement becomes null and void and the City will proceed to annex the property.

Financial Considerations

The City has spent approximately \$10,000 (approximately \$700 per parcel, 14 parcels total) on legal notices for all ETJ (extraterritorial jurisdiction) properties that were proposed to be annexed (ETJ Areas No. 1, 2, 3 and 5). After consulting with the City Engineer and City Attorney, an additional \$3,500 per parcel is the estimated cost to prepare proper legal descriptions and an annexation/non-development agreement language, totaling \$49,000 for all 14 parcels.

Other Considerations

After evaluating the costs associated with the proposed annexation agreements, staff is recommending no action be taken regarding annexation. Even though this property will retain its ETJ status and not be subject to zoning controls, the City will still have development control in the form of subdivision regulations, building codes and development standards.

Staff Recommendation

Staff recommends that no action be taken.

Attachments

Exhibit A – Legal Description

Jeff Bickerstaff, Asst. City Manager

Submitted By

City Manager Approval

AN ORDINANCE PROVIDING FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY 18.00 ACRES SITUATED IN THE ISAAC HERRING SURVEY ABST. 403 AND MC MILLAN SURVEY ABST. 588, COLLIN COUNTY, TEXAS;

GENERAL DESCRIPTION

FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY 18.00 ACRES SITUATED IN THE ISSAC HERRING SURVEY ABST. 403 AND Mc MILLAN SURVEY ABST. 588, COLLIN COUNTY, TEXAS;

Being an 18.00 acre tract of land for annexation into the City of Murphy, Texas, in the Isaac Herring Survey Abst. 403 and Mc Millan Survey Abst. 588, Collin County, Texas;

A called 9.87 acre remainder tract of an original 10.94 acre tract conveyed to R.E. Carpenter by deed recorded in Volume 577, Page 28 dated September 24, 1959 of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 359542;

A called 5.84 acre tract of land, being a portion of the remainder an original 7.05 acre tract of land originally owned by Ruth Miller by deed recorded in Volume 290, Page 580 and dated October 18, 1932 and later conveyed to Maxine Carpenter by deed recorded in Volume 670 Page 809 dated July 27, 1933 of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 427309;

A called 1.00 tract of land, also being a remaining portion of the remainder of an original 7.05 acre tract of land originally owned by Ruth Miller by deed recorded in Volume 290, Page 580 and dated October 18, 1932 and later conveyed to Maxine Carpenter by deed recorded in Volume 670, Page 809 dated July 27, 1933 of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 364848;

A called 1.16 acre tract of land for the right of way of F.M. 2551 (Murphy Road), out of the original 10.94 R.E. Carpenter and 7.05 acre Maxine Carpenter tracts, conveyed to Texas Department of Transportation (TXDOT) by deed recorded in Volume 677 Page 651 of the Collin County Deed Records, Texas (CCDRT) and also shown on Sheet No. 5 in TXDOT Right Of Way Plans for F.M. 2551 from Parker to F.M. 544, Project No. C-2056-1-4 filed at the Dallas TXDOT Office, Mesquite;

A called 0.114 acre tract of land from the called Maxine Carpenter's original 7.05 acre tract, said 0.114 acres also being a part of the 5.410 acres out of Ruth Miller's original 108.87, 23.88 & 7.05 acre tracts for the right of way of F.M. 2551 (Murphy Road), conveyed to Texas Department of Transportation (TXDOT) by deed recorded in Volume 653 Page 576 & 595 of the Collin County Deed Records, Texas (CCDRT) and also shown on Sheet No. 5 in TXDOT Right Of Way Plans for F.M. 2551 from Parker to F.M. 544, Project No. C-2056-1-4 filed at the Dallas TXDOT Office, Mesquite;

Said 18.00 acres being more particularly described as follows:

BEGINNING at the northwest corner of the called 9.87 acre R.E. Carpenter tract, said point also being in the present City Limit Line of the City of Murphy, said point also being the northeast corner of Lot 15, Block G of the Rolling Ridge Estates – Phase 2 recorded in Cabinet O, Page 306, Map Records, Collin County, Texas, said point also being in the south property line of a 61.30 acre tract conveyed to Harrington/Turner Enterprises LP., recorded in Instrument number 1223870 and shown by Collin Central Appraisal District Property Identification Number 353218, said point also being the common survey boundary line between P. Anderson Survey Abst # 10 & Isaac Herring Survey Abst # 403 and said common survey line also being the Mutual ETJ Boundary line agreement between the Cities of Parker and Murphy as described in City of Murphy's Resolution 263 dated 10/20/1997;

Thence S 90° 0'0" E, leaving the said Murphy City Limit line and along the north property of the said 9.87 acre R.E. Carpenter tract, said line also being the south property line of a 19.03 acre tract conveyed to Maxine Carpenter (Volume and Page unknown) and shown by Collin Central Appraisal District Property Identification Number 353227, and said line also following the south property line of a 5.85 acre tract conveyed to Maxine Carpenter (Volume and Page unknown) and shown by Collin Central Appraisal District Property Identification Number 1149732, touching the Parker City Limit Line at approximately 692.50 feet, and then along the said City Limit Line, passing the West Right of Way line of F.M. 2551 (Murphy Road) at 782 feet, then continuing in the same direction for a total distance of 886 feet to a point for a corner, said point being the northwest corner of the called 5.84 acre Maxine Carpenter tract, said point being the said Parker City Limit, said point also being in the common survey boundary line between S. Herring Survey Abst. 404 and Mc Millan Survey Abst. 588 and said point still being in the said Mutual ETJ Boundary Line;

Thence S 89° 30'0" E, along the north property line of the said 5.84 Maxine Carpenter tract, said line also being the said Parker City Limit Line, said line also being the said Herring and Mc Millan common survey boundary line, and said line also being the said Mutual ETJ Boundary Line, for a distance of 244 feet along the said Parker City Limit Line, then leaving the City Limit Line and continuing in total for a distance of 577.50 feet to a point for corner, said point being the northeast corner of the said 5.84 acre tract, said point still in the common survey boundary line between S. Herring Survey Abst. 404 and Mc Millan Survey Abst. 588 and said point also being in the present City Limit Line of the City of Murphy;

Thence S 0° 30'40" E, leaving the said common survey boundary line and Mutual ETJ Boundary Line, and along City Limit Line of Murphy, said line also being the east property line of the said 5.84 Maxine Carpenter tract, and said line also being the west property line of a 93.6 acre tract of land conveyed to Dr. Horton by deed recorded in Volume 4799 Page 2252, a distance of 425 feet to a point for a corner, said point being the most easterly corner of the said 5.84 Maxine Carpenter tract, said point also being in the City Limit line of Murphy and the said point also being in the west property line of the said 93.6 acre Dr. Horton tract;

Thence N 89° 29' 20" W, continuing along the said Murphy City Limit Line, said line also being the westerly leg of the east property line of the said 5.84 Maxine Carpenter tract, and said line also being the north property line of 3.13 acre tract owned by Southfork Properties L.P. and conveyed by deed recorded in File # 95-0073717 of the Collin County Deed Records and shown by Collin Central Appraisal District Property Identification Number 2119510, a distance of 313.50 feet to a point for corner, said point being in the Murphy City Limit Line, said point also being the northwest corner of the said 3.13 acre Southfork tract and said point also being an inner corner of the said 5.84 acre tract;

Thence S 0° 30' 40" W, continuing along the Murphy City Limit Line, said line also being the east property line of the said 5.84 Maxine Carpenter tract, and said line also being the west property line of the said 3.13 acre Southfork tract, a distance of 268.55 feet to a point for corner, said point being the southeast corner of the said 5.84 acre tract and said point also in the said City Limit Line;

Thence N 89° 29' 20" W, continuing along the Murphy City Limit Line, and said line also being the south property line of the called 1 acre Maxine Carpenter tract, passing the northeast corner of a 3.85 acre tract conveyed to Randy J. Roller by deed recorded in Volume 4935 Page 3833 of the Collin County Deed Records and shown by Collin Central Appraisal District Property Identification Number 364867 at 30 feet, and also passing the east right of way line of F.M. 2551 at approximately 236.85 feet, and continuing in the same direction for a total distance of 231.93 feet to a point for corner, said point being the southwest corner of the said 1 acre Maxine Carpenter tract and said also being in the said Murphy City Limit Line;

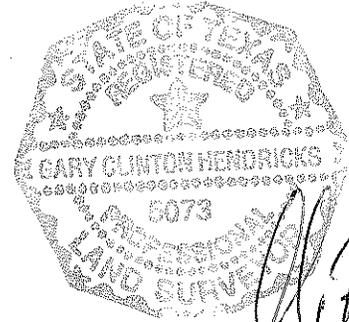
Thence N 0° 37' 7" E, continuing along the said Murphy City Limit Line, said line also being the west property line of the said 1 acre Maxine Carpenter tract, a distance of 154.83 feet to a point for corner, said point in the City Limit Line and being the southeast corner of the said 9.87 R.E. Carpenter tract;

Thence N 90° 0' 0" W, continuing along the said Murphy City Limit Line, and said line also being the north property lines of Lots 5,6 & 7, Block F and Lot 1, Block G of the Rolling Ridge Estates, for a distance of 91.50 feet to a point, and continuing in the same direction for a total distance of 886 feet to a point for corner, said point being the southwest corner of the said 9.87 acre R.E. Carpenter tract, said point being in the City Limit Line and said point also being the southeast corner of Lot 12, Block G of the said Rolling Ridge Estates;

Thence N 0° 30' 00" E, continuing along the said Murphy City Limit Line, said line also being the west property line of the said 9.87 acre R.E.Carpenter tract, and said line also being east property line of Lots 12 through 15, Block G of the said Rolling Ridge Estates, a distance of 538.20 feet to a point for corner, said point being the northwest corner of the said 9.87 acre R.E.Carpenter tract, said point also being in the said Murphy City Limit Line and the POINT OF BEGINNING, containing 18.00 acres more or less.

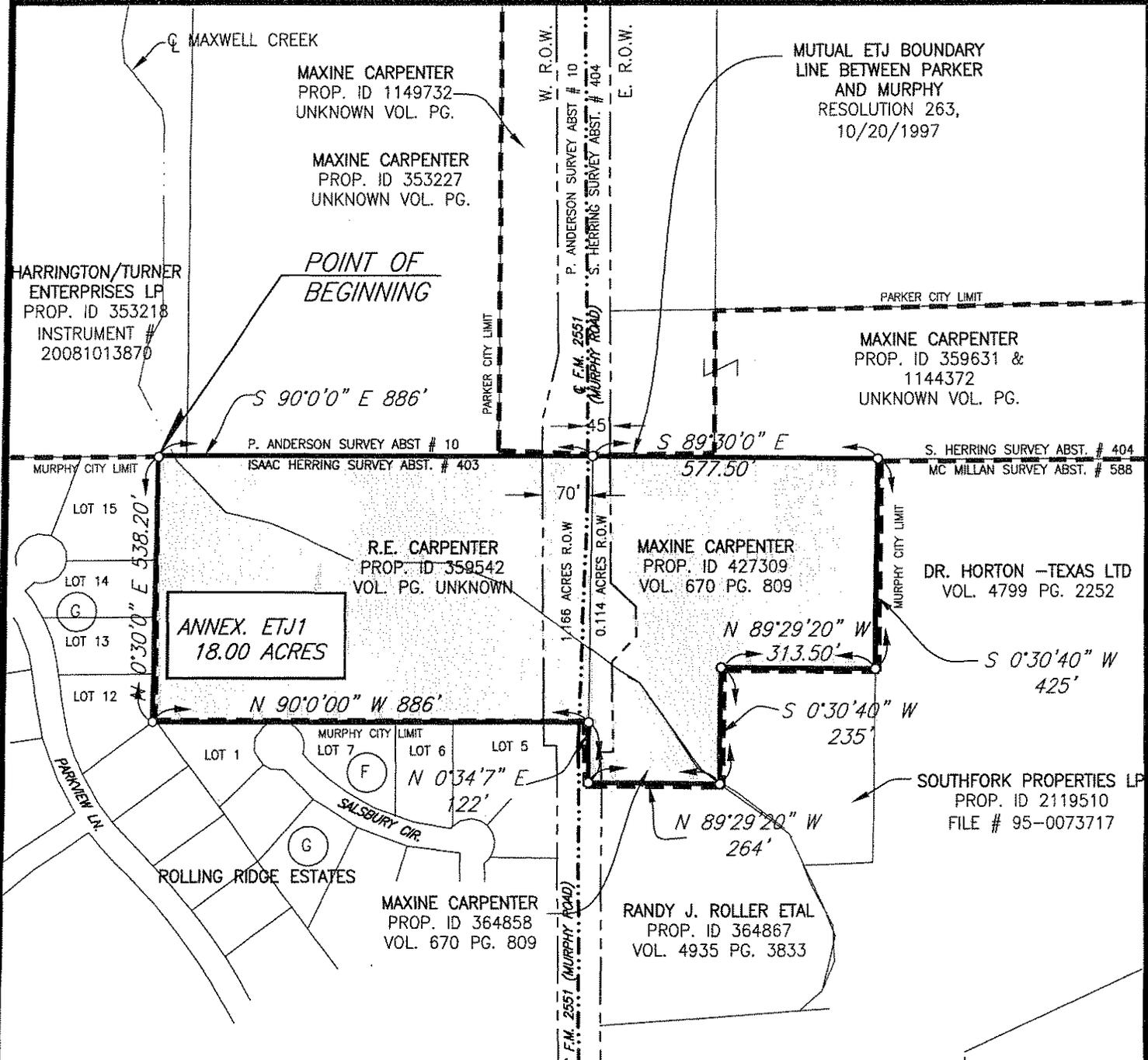
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A plat map of even date herewith accompanies this field note description.

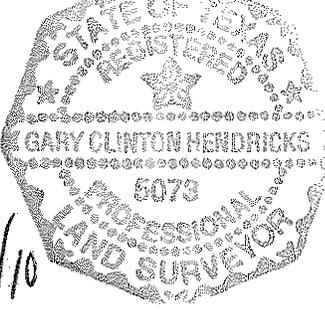


[Handwritten Signature]
02/19/10

REVISED: 2/10/10 - SRI BENIKI H:\Projects\Murphy\4025-182 2010 Annexation Description\Annexation Plats\ETJ1.dwg



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[Handwritten Signature]
02/19/10



SCALE 1"=300'

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
PROFESSIONAL ENGINEERS TEXAS FIRM F526
11910 GREENVILLE AVE., SUITE 600
DALLAS, TEXAS 75243 214-361-7900

CITY OF MURPHY, TEXAS
2010 ANNEXATIONS
ANNEXATION PLAT - ETJ 1
Feb, 2010

Issue

Consider and/or act on approval of an ordinance annexing a tract of land totaling 4.82 acres located in the Mary Scott Survey, Abstract No. 859, located on Dublin Road, north of FM 544.

Background

Chapter 43 of the Texas Local Government Code requires that two public hearings be held prior to property being annexed into the City. The first public hearing was held on October 4, 2010 and the second public hearing was held on October 18, 2010. During the course of the public hearings, Council directed staff to consider offering a development agreement in lieu of annexing the property. In essence, this is a development agreement where the City agrees not to annex the subject property for a period of time (usually 15 years) in exchange for the property owner's promise to not develop the land. The agreement provides that if an application is submitted for development during the term of the agreement, the agreement becomes null and void and the City will proceed to annex the property.

Financial Considerations

The City has spent approximately \$10,000 (approximately \$700 per parcel, 14 parcels total) on legal notices for all ETJ (extraterritorial jurisdiction) properties that were proposed to be annexed (ETJ Areas No. 1, 2, 3 and 5). After consulting with the City Engineer and City Attorney, an additional \$3,500 per parcel is the estimated cost to prepare proper legal descriptions and an annexation/non-development agreement language, totaling \$49,000 for all 14 parcels.

Other Considerations

After evaluating the costs associated with the proposed annexation agreements, staff is recommending no action be taken regarding annexation. Even though this property will retain its ETJ status and not be subject to zoning controls, the City will still have development control in the form of subdivision regulations, building codes and development standards.

Staff Recommendation

Staff recommends that no action be taken.

Attachments

Exhibit A – Legal Description

Jeff Bickerstaff, Asst. City Manager

Submitted By

City Manager Approval

AN ORDINANCE PROVIDING FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY 4.82 ACRES SITUATED IN THE MARY SCOTT SURVEY ABST. 859 COLLIN COUNTY, TEXAS;

GENERAL DESCRIPTION

FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY 4.82 ACRES SITUATED IN THE MARY SCOTT SURVEY ABST. 859 COLLIN COUNTY, TEXAS;

Being a 4.82 acre tract of land for annexation into the City of Murphy, Texas, in the Mary Scott Survey Abstract Number 859 Collin County, Texas;

A called 0.50 acre tract of land conveyed to James Edward Grimes by deed recorded in Volume 5956, Page 4569 dated July 8, 2005, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 371813;

A called 2.33 acre tract of land conveyed to Arthur Lim & Jane by deed recorded in Volume 5792 Page 2402 dated Oct 20 2004, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 371788;

A called 2.00 tract of land conveyed to Thomas J James & Limberly C by deed recorded in File # 94-0069595 dated July 14, 1994, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 2542472;

Said 4.54 acres being more particularly described as follows:

BEGINNING at the northwest corner of the called 0.5 acre James Edward Grimes tract, said point also being in the Mutual ETJ Boundary Line between City of Murphy and City of Parker as described in Resolution 263 dated October 20, 1997, and said point also being in the east right of way line of Dublin Road;

Thence S 88° 36' 10" E, along the said Mutual ETJ Boundary Line, said line also being the north property of the said 0.5 acre James Edward Grimes tract, said line also being the south property line of a 5.94 acre tract conveyed to Joe D Deweese & Linda B (Volume and Page unknown) and shown by Collin Central Appraisal District Property Identification Number 2151169, a distance of 205.06 feet to a point for a corner, said point being the northeast corner of the said 0.5 acre tract, and said point also being the northwest corner of the called 2.33 acre Arthur Lim and Jane tract and said point also being in the Mutual ETJ Boundary Line ;

Thence S 87° 38' 17" E, along the north property line of the said 2.33 acre Arthur Lim and Jane tract, said line also being the south property line of the said 5.94 acre Joe D. Deweese & Linda B tract, and said line also being the Mutual ETJ Boundary Line, a distance of 178.74 feet to a point for corner, said point being the northeast corner of the said 2.33 acre tract, said point also being the northwest corner of the called 2.00 acre Thomas J. James & Kimberly C tract, and said point also being in the Mutual ETJ Boundary Line;

Thence S 88° 20' 46" E, along the north property line of the said 2.00 acre Thomas J. James & Kimberly C tract, said line also being the south property line of the said 5.94 acre Joe D. Deweese

& Linda B tract, and said line also being the Mutual ETJ Boundary Line, a distance of 219.75 feet to a point for corner, said point being the northeast corner of the said 2.00 acre Thomas J. James & Kimberly C tract, said point also being the northwest corner of a 1.80 acre, Lot 20, Block F of Windy Hills Farms # I recorded in Volume of 4958 Page 3828 of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 2133377, said point also being in the Mutual ETJ Boundary Line and said point also being in the western City Limit Line of the City of Murphy;

Thence S 0°0'0" E, along the said Murphy City Limit Line, said line also being the east property line of the said 2.00 acre Thomas J. James & Kimberly C tract and the west property line of the said Lot 20, a distance of 270.60 feet to a point for corner, said point being in the north property line of Lot 7, Block A, Windy Hills Farms # I, and said point also being in the said Murphy City Limit Line;

Thence S 89°23'56" W, continuing along the said Murphy City Limit Line, said line also being western leg of the east property line of the said 2.00 acre Thomas J. James & Kimberly C tract and said line also being the north property line of the said Lot 7, a distance of 18.25 feet to a point for corner, said point being the northwest corner of the said Lot 7, and said point also being in the said City Limit Line;

Thence S 1°10'19" W, continuing along the said Murphy City Limit Line, said line also being the east property line of the said 2.00 acre Thomas J. James & Kimberly C tract and west property line of the said Lot 7, a distance of 110.02 feet to a point for corner, said point being the northwest corner of Lot 6, Block A, Windy Hills Farms # 01 and said point also being in the said City Limit Line;

Thence S 1°52'33" W, continuing along the said Murphy City Limit Line, said line also being the east property line of the said 2.00 acre Thomas J. James & Kimberly C tract and west property line of the said Lot 6, a distance of 114.56 feet to a point for corner, said point being the northwest corner of Lot 5, Block A, Windy Hills Farms # 01 and said point also being in the said City Limit Line;

Thence S 2°7'52" E, continuing along the said Murphy City Limit Line, said line also being the east property line of the said 2.00 acre Thomas J. James & Kimberly C tract and west property line of the said Lot 5, a distance of 107.57 feet to a point for corner, said point being the in the west property line of Lot 4, Block A, Windy Hills Farms # 01 and said point also being in the said City Limit Line;

Thence in a northwesterly direction, N 56°10'6" W, leaving the said Murphy City Limit Line, said line also being the south property line of the said 2.00 acre Thomas J. James & Kimberly C tract, a distance of 50.37 feet to a point for corner, said point being the in the west property line of the said 2.00 acre Thomas J. James & Kimberly C tract, and said point also being in the east right of way line of Dublin Road and the City Limit Line of Plano;

Thence N 36°25'33" W, along the east right of way line of Dublin Road and the City Limit Line of Plano, said line also being the west property line of the said 2.00 acre Thomas J. James & Kimberly C tract, a distance of 118.50 feet to a point for corner, said point being in the east right of way line of the said road, and said point also being the beginning of a tangential curve to the right with a radius of 1243.40 feet in a direction N 47° 47'18" W, and bearing a central angle of 18°40'8";

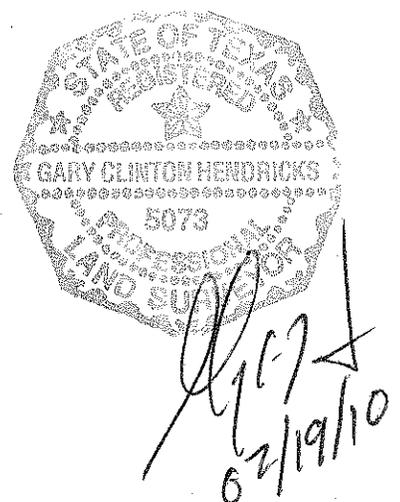
Thence along the said curve and the east right of way line of Dublin Road, and said curve also being the west property lines of the said 2.00 acre Thomas J. James & Kimberly C tract & 2.33 acre Arthur Lim and Jane tract an arc distance of 405.14 feet to a point for corner, said point being in the east right of way line of the said road and said point also being the beginning of a tangential curve to the left with a radius of 386.96 feet in a direction S 42° 17'6" E, and bearing a central angle of 25°37'51";

Thence along the said curve and the east right of way line of Dublin Road, said curve also being the west property lines of the said 2.33 acre Arthur Lim and Jane tract & 0.5 acre James Edward Grimes tract, an arc distance of 173.11 feet to a point for corner, said point being in the east right of way line of the said road and said point also being the southwest corner of the said 0.5 acre James Edward Grimes tract;

Thence N 27° 9' 35" W, continuing along the east right of way line of Dublin Road, said line also being the west property line of the said 0.5 acre James Edward Grimes tract, a distance of 129.25 feet to a point for corner, said point being the northwest corner of the said 0.5 acre James Edward Grimes tract and the POINT OF BEGINNING, containing 4.82 acres more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

A plat map of even date herewith accompanies this field note description.



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[Signature]
02/17/10

MARY SCOTT SURVEY
ABSTRACT # 859

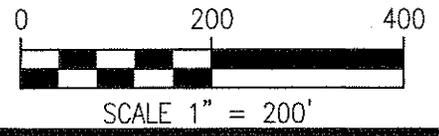
JOE D. DEWEESE & LINDA B
PROP. ID 2151169
UNKNOWN VOL. PG.

PARKER EXTRA TERRITORIAL
JURISDICTION

JOE D. DEWEESE & LINDA B
PROP. ID 2133377
VOL. 4958 PG. 3828
LOT 20, BLOCK F

**ANNEX. ETJ2
4.82 ACRES**

WINDY HILL FARMS # 01



MUTUAL ETJ BOUNDARY LINE
BETWEEN PARKER AND MURPHY
RESOLUTION 263
10/20/1994

POINT OF
BEGINNING

JAMES EDWARD GRIMES
PROP. ID 371813
VOL. 5956 PG. 4569

ARTHUR LIM & JANE
PROP. ID 371788
VOL. 5792 PG. 2402

THOMAS J. JAMES & KIMBERLY C.
PROP. ID 2542472
FILE # 94-0069595

REVISED: 2/17/10 - SRI BENIKI H:\Projects\Murphy\4025-182 2010 Annexation Description\Annexation Plats\ETJ2.dwg

NO.	BEARING	DISTANCE
L1	S 88°36'10" E	205.06'
L2	S 87°38'17" E	178.74
L3	S 88°20'46" E	219.75'
L4	S 0°0'0" E	270.6
L5	S 89°23'56" W	18.25'
L6	S 1°10'19" W	110.02'
L7	S 1°52'33" W	114.56'
L8	S 2°7'52" E	107.57'
L9	N 56°10'6" W	50.37'
L10	N 36°25'33" W	118.5'
L11	N 27°9'35" W	129.25'

CURVE DATA 1
 $\Delta = 18d40'8''$
 $R = 1243.4'$
 $T = 204.38'$
 $L = 405.14'$
 $C.B. = N 47d47'18'' W$
 $C.D. = 403.35'$

CURVE DATA 2
 $\Delta = 25d37'51''$
 $R = 386.96'$
 $T = 88.03'$
 $L = 173.11'$
 $C.B. = S 42d17'6'' E$
 $C.D. = 171.67'$

CITY OF MURPHY, TEXAS

**2010 ANNEXATIONS
ANNEXATION PLAT - ETJ 2**

Feb, 2010

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
 PROFESSIONAL ENGINEERS TEXAS FIRM F526
 11910 GREENVILLE AVE., SUITE 600
 DALLAS, TEXAS 75243 214-361-7900

Issue

Consider and/or act on approval of an ordinance annexing a tract of land totaling 12.22 acres located in the Daniel Herring Survey, Abstract No. 402, located on Moonlight Drive, east of South Murphy Road.

Background

Chapter 43 of the Texas Local Government Code requires that two public hearings be held prior to property being annexed into the City. The first public hearing was held on October 4, 2010 and the second public hearing was held on October 18, 2010. During the course of the public hearings, Council directed staff to consider offering a development agreement in lieu of annexing the property. In essence, this is a development agreement where the City agrees not to annex the subject property for a period of time (usually 15 years) in exchange for the property owner's promise to not develop the land. The agreement provides that if an application is submitted for development during the term of the agreement, the agreement becomes null and void and the City will proceed to annex the property.

Financial Considerations

The City has spent approximately \$10,000 (approximately \$700 per parcel, 14 parcels total) on legal notices for all ETJ (extraterritorial jurisdiction) properties that were proposed to be annexed (ETJ Areas No. 1, 2, 3 and 5). After consulting with the City Engineer and City Attorney, an additional \$3,500 per parcel is the estimated cost to prepare proper legal descriptions and an annexation/non-development agreement language, totaling \$49,000 for all 14 parcels.

Other Considerations

After evaluating the costs associated with the proposed annexation agreements, staff is recommending no action be taken regarding annexation. Even though this property will retain its ETJ status and not be subject to zoning controls, the City will still have development control in the form of subdivision regulations, building codes and development standards.

Staff Recommendation

Staff recommends that no action be taken.

Attachments

Exhibit A – Legal Description

Jeff Bickerstaff, Asst. City Manager

Submitted By

City Manager Approval

AN ORDINANCE PROVIDING FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY 12.22 ACRES SITUATED IN THE DANIEL HERRING SURVEY ABST. 402 COLLIN COUNTY, TEXAS;

**GENERAL DESCRIPTION
FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY
GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY
12.22 ACRES SITUATED IN THE DANIEL HERRING SURVEY ABST. 402 COLLIN
COUNTY, TEXAS;**

Being a 12.22 acre tract of land for annexation into the City of Murphy, Texas, in the Daniel Herring Survey Abstract 402 Collin County, Texas;

A called 4.075 acre tract (tract 1) of land conveyed to Ant Holdings Ltd by deed recorded in Instrument # 20070302000291070 dated Feb 23, 2007, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 1611964;

A called 4.075 acre tract (tract 2) of land conveyed to Ant Holdings Ltd by deed recorded in Instrument # 20070302000291070 dated Feb 23, 2007, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 1611973;

A called 4.075 acre tract (tract 3) of land conveyed to Ant Holdings Ltd by deed recorded in Instrument # 20070302000291070 dated Feb 23, 2007, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 1611982;

Said 12.22 acres being more particularly described as follows:

BEGINNING at the northwest corner of the called 4.075 acre Ant Holdings tract 1, said point also being in the City of Murphy present City Limit Line, and said point also being in the south property line of Lot 5, Block A, Travis Estates recorded in Cabinet C, Page 262 of the Collin County Deed Records, Texas (CCDRT);

Thence N 81° 40' 0" E, along the present City Limit Line, and said also being the north property lines of said Ant Holdings Ltd tracts 1 and 2 and said line also being the south property lines of Lots 5 through 10 of the said Block A, Travis Estates for a distance of 655.55 feet, then continuing along the north property line of the said Ant Holdings Ltd tracts 2 and 3, and said line also being the south property line of a 6.6026 acres of land conveyed to the City of Murphy by deed recorded in Instrument # 20080409000425100 of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 425757, for a total distance of 1092.75 feet to a point for corner, said point being the northeast corner of the said Ant Holdings Ltd tract 3, said point also being in the present Mutual City Limit Line of Murphy and Sachse, and said point also being the northwest corner of a 12.75 acre tract owned by Donne L. Sachse, recorded as Sachse Farms, Block 2;

Thence S 3° 27' 0" E, leaving the present City Limit Line of Murphy, and along the east property line of the said Ant Holdings Ltd tract 3, said line also being the present City of Sachse City

Limit Line, and said line also being the west property line of the said 12.75 Donne L. Sachse, for a distance of 612.40 feet to a point for corner, said point also being the southeast corner of the said Ant Holdings Ltd tract 3 and said point also being in the City of Sachse City Limit;

Thence N 85° 36'0" W, continuing along the said Sachse City Limit Line and the south property lines of the said Ant Holdings Ltd 1, 2 & 3 touching the City Limit line of Murphy at 862.32 feet, said point also being in the south property line of the said tract 1, and said point also being in the northeast corner of Lot 2R, Block C, Moonlight Estates recorded in Cabinet N, page 998 of the Collin County Deed Records, Texas (CCDRT), then continuing along the south property line of the said tract 1 and the said Murphy City Limit, for a total distance of 1073 feet to a point for corner, said point being the southwest corner of the said tract 1, said point also being the southeast corner of Lot 3. Block A, Ryan's Cove and said point also being in the said City Limit Line of Murphy;

Thence N 8° 10'0" W, continuing along the Murphy City Limit Line and the west property line of the said Ant Holdings Ltd tract 1 and the east property line of the said Lot 3 of Ryan's Cove for a distance of 376.42 feet to the northwest corner of the said tract, said point also being the POINT OF BEGINNING, containing 12.22 acres of land more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which is was prepared.

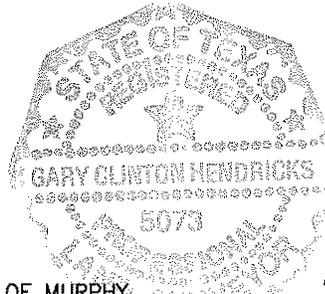
A plat map of even date herewith accompanies this field note description.



[Handwritten signature]
02/19/10

REVISED: 2/16/10 - SRI BENIKI H:\Projects\Murphy\4025-182 2010 Annexation Description\Annexation Plats\ETJ3.dwg

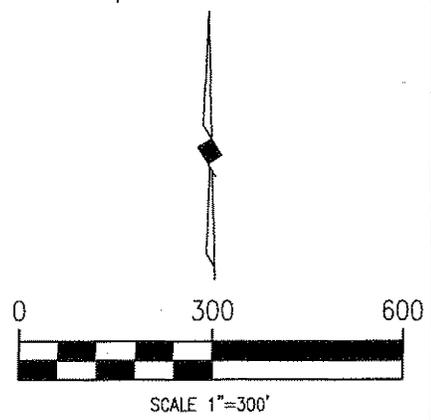
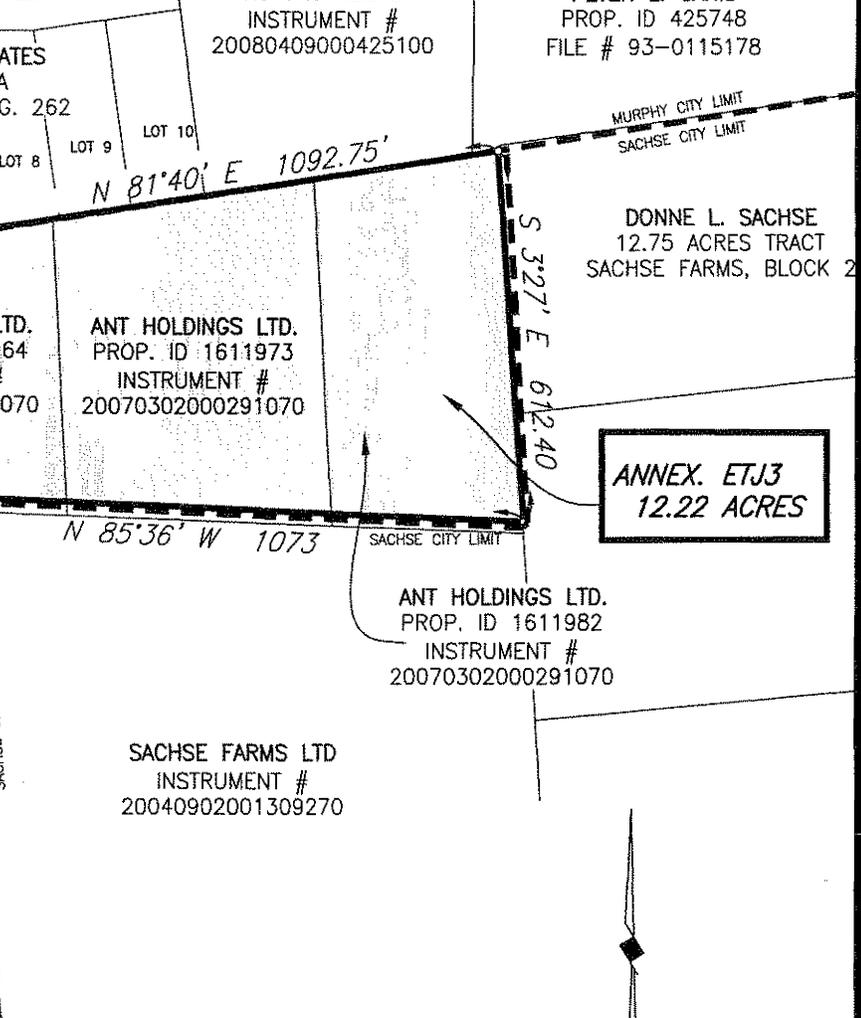
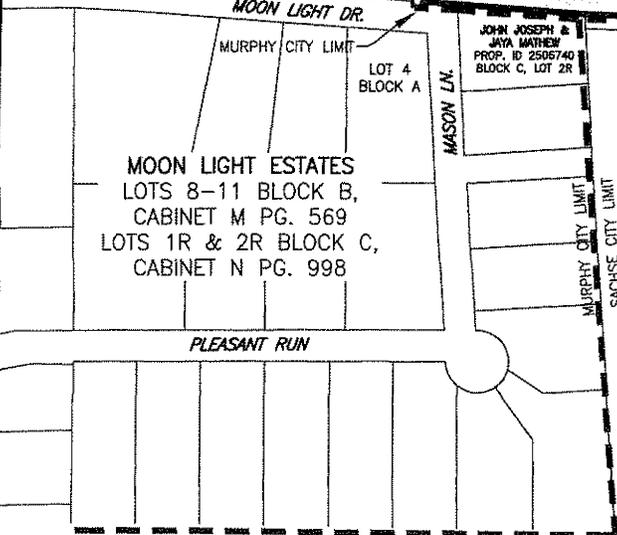
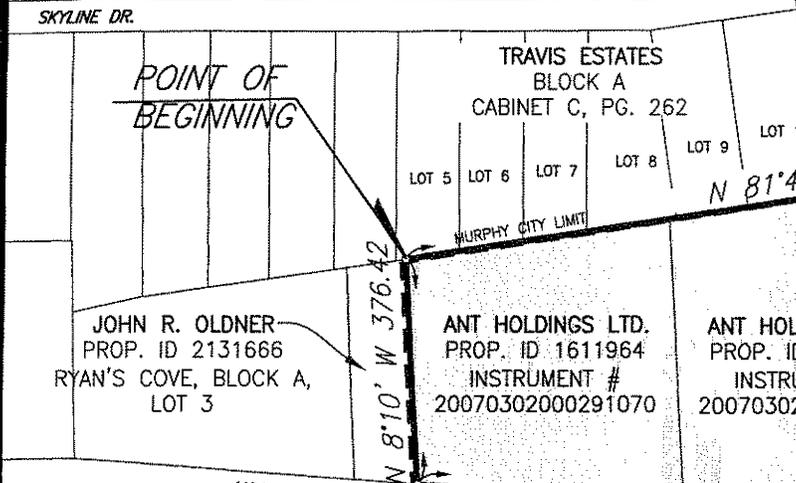
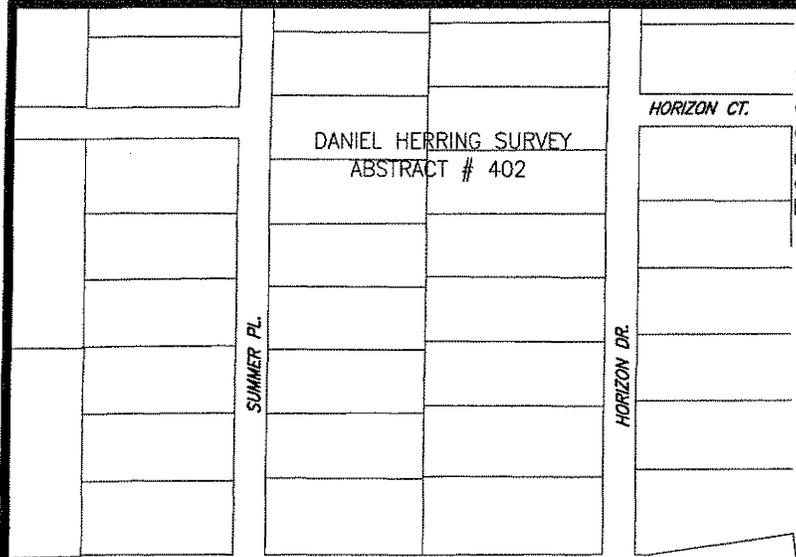
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Peter L. Ganis
02/19/10

CITY OF MURPHY
PROP. ID 425757
INSTRUMENT #
20080409000425100

PETER L. GANIS
PROP. ID 425748
FILE # 93-0115178



CITY OF MURPHY, TEXAS
2010 ANNEXATIONS
ANNEXATION PLAT MAP-ETJ 3
Feb, 2010

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
PROFESSIONAL ENGINEERS TEXAS FIRM F526
11910 GREENVILLE AVE., SUITE 600
DALLAS, TEXAS 75243 214-361-7900

Issue

Consider and/or act on approval of an ordinance annexing a tract of land totaling 17.00 acres located in the Mary Scott Survey, Abstract No. 859, located on Heritage Parkway, north of Ashley Drive.

Background

Section 43.065 of the Texas Local Government Code requires cities that wish to annex property, to direct their planning department (or other appropriate department) to prepare a service plan that provides for the extension of full municipal services to the area to be annexed. The service plan prepared by staff is attached for your review.

Chapter 43 of the Texas Local Government Code requires that two public hearings be held prior to property being annexed into the City. The first public hearing was held on October 4, 2010 and the second public hearing was held on October 18, 2010. During the course of the public hearings, it was discovered that the subject property has an agricultural exemption for tax purposes. Section 43.035 of the Texas Local Government Code requires the City to offer a development agreement in lieu of annexing the property. In essence, this is a “non-development” agreement where the City agrees not to annex the subject property for a period of time (usually 15 years) in exchange for the property owner’s promise to not develop the land. The agreement provides that if an application is submitted for development during the term of the agreement, the agreement becomes null and void and the City will proceed to annex the property.

Financial Considerations

The City has spent approximately \$10,000 (approximately \$700 per parcel, 14 parcels total) on legal notices for all ETJ (extraterritorial jurisdiction) properties that were proposed to be annexed (ETJ Areas No. 1, 2, 3 and 5). After consulting with the City Engineer and City Attorney, an additional \$3,500 per parcel is the estimated cost to prepare proper legal descriptions and an annexation/non-development agreement language, totaling \$49,000 for all 14 parcels.

Other Considerations

After evaluating the costs associated with the proposed annexation agreements, staff is recommending no action be taken regarding annexation. Even though this property will retain its ETJ status and not be subject to zoning controls, the City will still have development control in the form of subdivision regulations, building codes and development standards.

Staff Recommendation

Staff recommends that no action be taken.

Attachments

Exhibit A – Legal Description

Jeff Bickerstaff, Asst. City Manager

Submitted By

City Manager Approval

AN ORDINANCE PROVIDING FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY 17.00 ACRES SITUATED IN THE MARY SCOTT SURVEY ABST. 859 COLLIN COUNTY, TEXAS;

**GENERAL DESCRIPTION
FOR THE ANNEXATION INTO THE CITY OF MURPHY OF TERRITORY
GENERALLY DESCRIBED BELOW AND COMPRISING OF APPROXIMATELY
17.00 ACRES SITUATED IN THE MARY SCOTT SURVEY ABST. 859 COLLIN
COUNTY, TEXAS;**

Being a 17.00 acre tract of land for annexation into the City of Murphy, Texas, in the Mary Scott Survey Abstract 859 Collin County, Texas;

A 4.66 acre tract of land more or less, being a part of a 11.49 acre tract, said tract being a part of an original called 14.699 acre tract of land and described as Tract 2 in the deed conveyed to Frizell W.M. Childs Jr. and recorded in Volume 2176 Page 259 dated July 25, 1985, of the Collin County Deed Records, Texas (CCDRT), said 11.49 acre tract shown by Collin Central Appraisal District Property Identification Number 2510689;

A called 4.197 acre tract of land conveyed to James Bartoszewicz by deed recorded in Volume 5205 Page 2289 dated July 8, 2002, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 2510690;

A called 1.168 acre tract of land conveyed to Michele Krantz by deed recorded in Instrument # 20091123001416000 dated Nov 23, 2009, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 2510687;

A called 3.317 acre tract of land, being a part of the 13.699 acres conveyed to James Bartoszewicz by deed recorded in File # 2000-0060011 dated June 21, 2002, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 2510685;

A called 1.820 acre tract of land conveyed to Jerold Henninger & Helga by deed recorded in Volume 5204 Page 2598 dated June 21, 2002, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 2510686;

A 1.42 acre tract of land more or less, being a part of a called 3.197 acre tract of land conveyed to Lonnie Brown & Joni by deed recorded in Volume 5204 Page 2595 dated June 21, 2002, of the Collin County Deed Records, Texas (CCDRT), and shown by Collin Central Appraisal District Property Identification Number 2506528;

Said 17.00 acres being more particularly described as follows:

BEGINNING at a point in the north line of the called 3.197 acre Lonnie Brown & Joni tract, said point also being 266.76 feet from the southwest corner of Lot 7, Dublin Road Estates Phase II, as shown in the final plat of Dublin Road Estates Phase III recorded in Slide 3941, and said Dublin Road Estates Phase II recorded in Cabinet G Page 492 of the Collin County Deed Records, Texas (CCDRT), and said point also being the mutual ETJ boundary Line, said line being the projection

of the west boundary line of the Isaac Herring Survey Abstract 403 into the Mary Scott Survey as described in Resolution 263 of the City of Murphy;

Thence N 89° 23' 21" E, along the present City Limit Line of the City of Parker, said line also being the north property line of the called 1.820 acre Jerold Herringer & Helga tract, 3.317 acre James Bartoszewicz tract, 1.168 acre Michele Krantz tract, said line also being the south property line of Lots 7, 9, 11, 13, 14, 15 of the said Dublin Road Estates Phase II, a distance of 1600.47 feet, to a point for corner, said point being the northeast corner of the said 1.168 acre Michele Krantz tract and the southeast corner of Lot 15, said point also being in the mutual survey boundary line between Mary Scott Abst. 859 and G. Pegeus Survey Abst. 699, said point also being in the present City Limit Line of Murphy, and said point also being in the said Mutual ETJ Boundary Line;

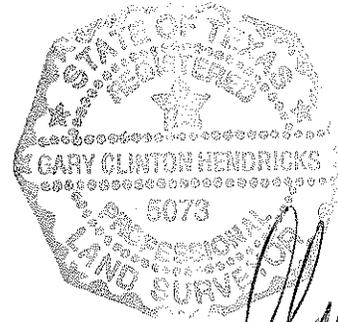
Thence S 0° 15' 42" W, along the said City Limit Line of Murphy and the Mutual ETJ Boundary Line, said line also being the said mutual survey boundary line, and said line also being the east property line of the said 1.168 acre Michele Krantz tract, 3.317 acre James Bartoszewicz tract and the called 4.197 acre James Bartoszewicz tract, a distance of 454.30 feet to a point for corner, said point also being the southeast corner of the said 4.197 acre James Bartoszewicz tract, said point also being the northeast corner of Lot 14R, Block G, Windy Hills Farms, Phase 6 recorded in cabinet Q, Pages 253, and said point also being in the said City of Murphy City Limit Line and the Mutual ETJ Boundary Line;

Thence N 89° 55' 58" W, continuing along the said Murphy City Limit Line and the Mutual ETJ Boundary Line, said line also being the south property line of the said 4.192 acre James Bartoszewicz tract and called Frizell WM Childs Jr. 11.49 acre tract, and said line also being the north property line of Lots 1A through 1E, Lots 2R through 8R, Lot 12R through 14R, Block G, of the said Windy Hills Farms Phase 6, a distance of 1605.55 feet to a point for corner, said point being in the south property line of the said Frizell WM Childs Jr. 11.49 acre tract, and said point also being in the north property line of a 1.03 acre tract conveyed to Joe D. Deweese by deed recorded in Volume 1511 Page 26 of the Collin County Deed Records, Texas (CCDRT) and shown by Collin Central Appraisal District Property Identification Number 2137827 and said point also being 114 feet from the northwest corner of the said 1.03 acre Joe D. Deweese tract, said point also being in the said Murphy City Limit line and said point also being the projection of the west boundary line of Isaac Herring Survey Abst # 403 on the south property line of the said Frizell WM Childs Jr. 11.49 acre tract ;

Thence N 00° 0'0" W, leaving the said Murphy City Limit Line and the Mutual ETJ Boundary Line, and along the projection of the west boundary line of Isaac Herring Survey Abst # 403, said line also passing through the said 11.49 acre Frizell WM Childs Jr. tract and the said 3.178 acre Lonnie Brown & Joni tract, a distance of 469.56 feet to a point for corner, said point being in the north property line of the said Lonnie Brown tract, said point also being 266.76 feet from the southwest corner of Lot 7 of Dublin Estates Phase II, and said point being the POINT OF BEGINNING containing 17.00 acres more or less.

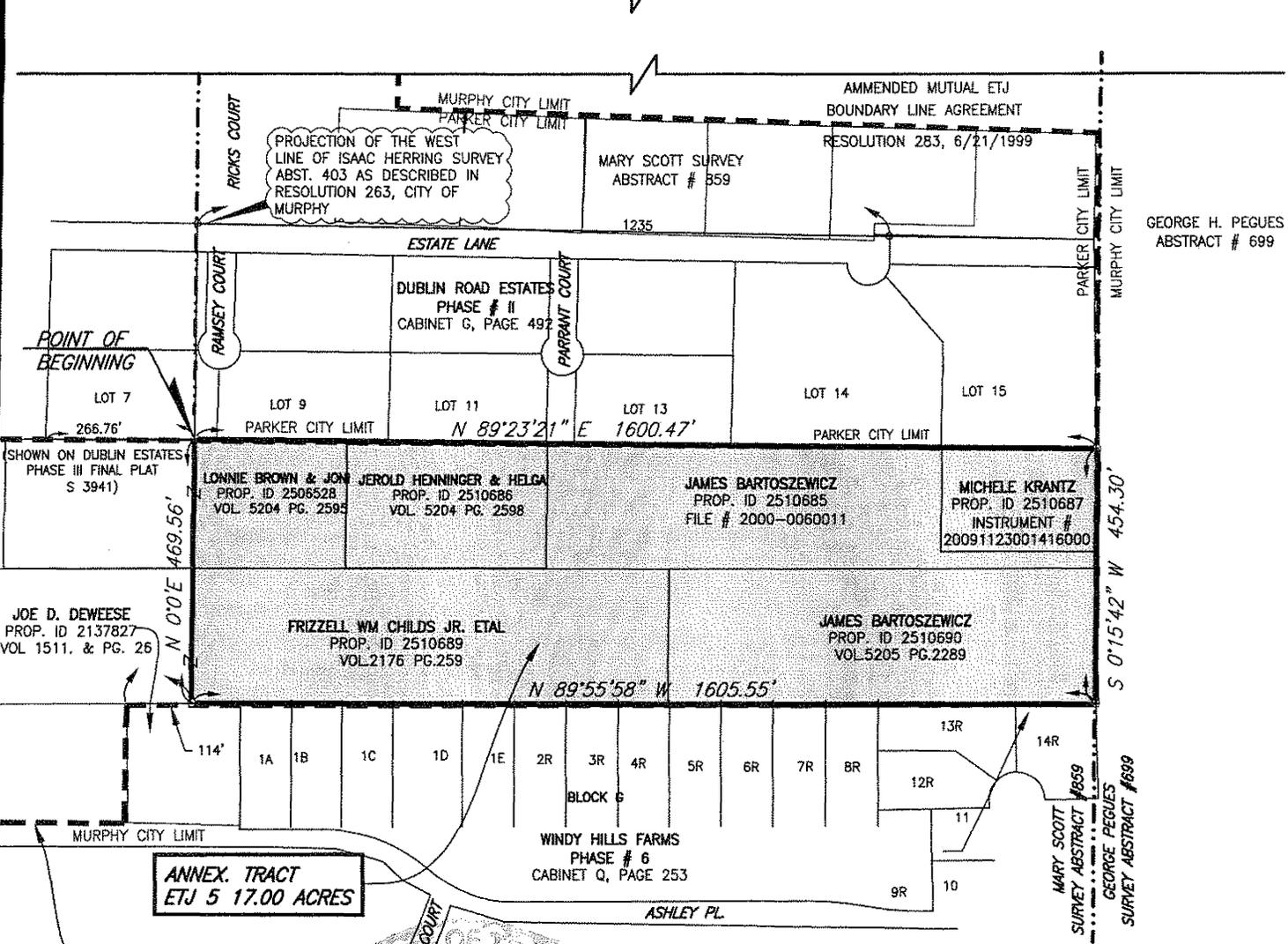
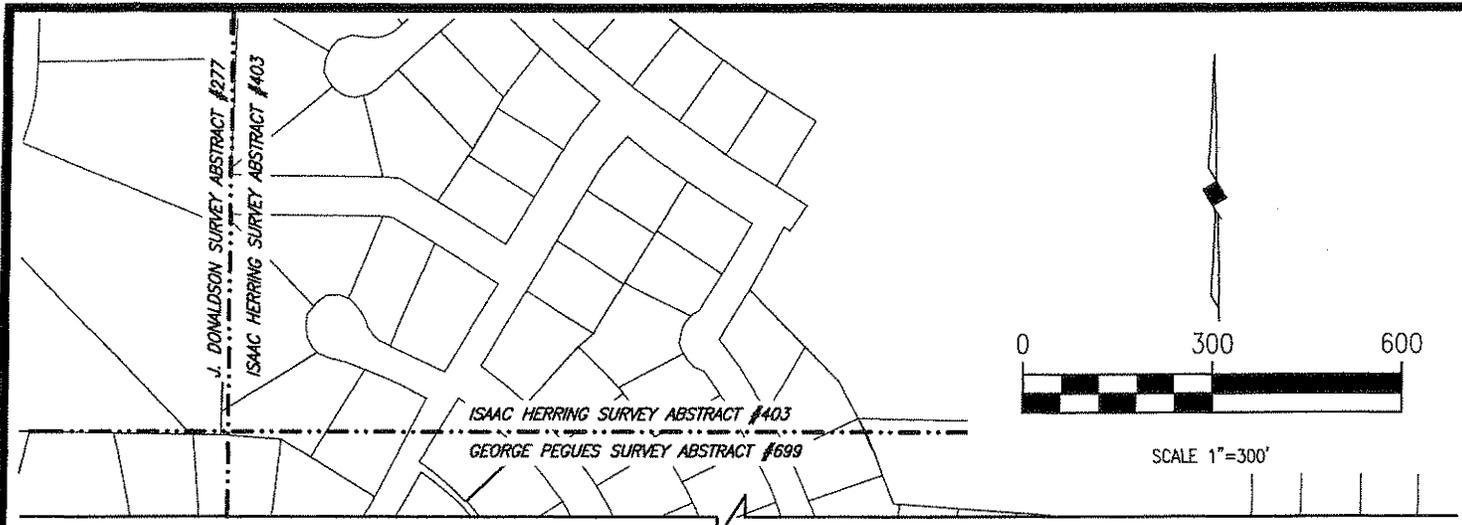
This document was prepared under 22 TAC §663.21, does not reflect the results of an on ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which is was prepared.

A plat map of even date herewith accompanies this field note description.



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02/19/10

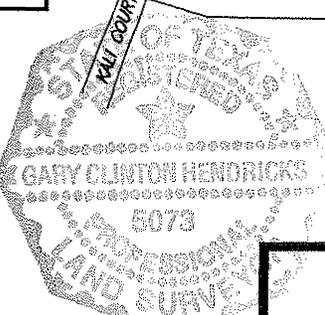
REVISED: 2/17/10 - SRI BENIKI H:\Projects\Murphy\4025-182 2010 Annexation Description\Annexation Plats\ETJ5.dwg



**ANNEX. TRACT
ETJ 5 17.00 ACRES**

MUTUAL ETJ BOUNDARY
LINE AGREEMENT
RESOLUTION 263,
10/20/1997

[Handwritten signature]
6/21/10



This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

CITY OF MURPHY, TEXAS

2010 ANNEXATIONS ANNEXATION PLAT - ETJ 5

Feb, 2010

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
PROFESSIONAL ENGINEERS TEXAS FIRM F526
11910 GREENVILLE AVE., SUITE 600
DALLAS, TEXAS 75243 214-361-7900

Issue

North Murphy Road Project

Background

The purpose of this item is to review and discuss the proposed improvements to North Murphy Road.

The anticipated letting date for the construction documents is June 2011. The City's engineer is preparing a series of display boards that show the layout of the road from FM 544 north to our city limits. The engineer will also be presenting a plan for the Safe Routes to School grant that will create a pedestrian zone on North Murphy Road.

The federal SRTS grants Murphy applied for in summer 2009 and received in 2010 are for two different projects. One is additional sidewalk connections within 2 miles of the middle school and the various elementary schools. Staff has identified several areas for improvement (Brentwood Park, area in Rolling Ridge, area in Maxwell Creek, and additional sidewalks in Murphy Central Park for Willow Wood will all qualify). The second project is for two "enhanced crosswalks" on North Murphy Road. This includes traffic calming devices, added warning up lights, paving changes, etc. to alert traffic that these are major pedestrian crossings for school children. It is important that we create this pedestrian zone not only for the SRTS grants program, but also to create a safe crossing area for our residents to safely cross NMR. The zone is intended to slow down traffic and make drivers aware of the schools and of a high probability of pedestrians in the immediate area. North Murphy Road is listed as a Regionally Significant Arterial in the NCTCOG 2030 Plan (2009 Amendment) and as a 6 lane road it will carry a lot of traffic. Also, it may serve as a north/south relief route for persons traveling from McKinney to Garland. If we have concerns or issues, we need to address them now and get a letter expressing them to TxDOT this month.

Submitted by

City Manager Approval

Issue

Council Calendar

Background

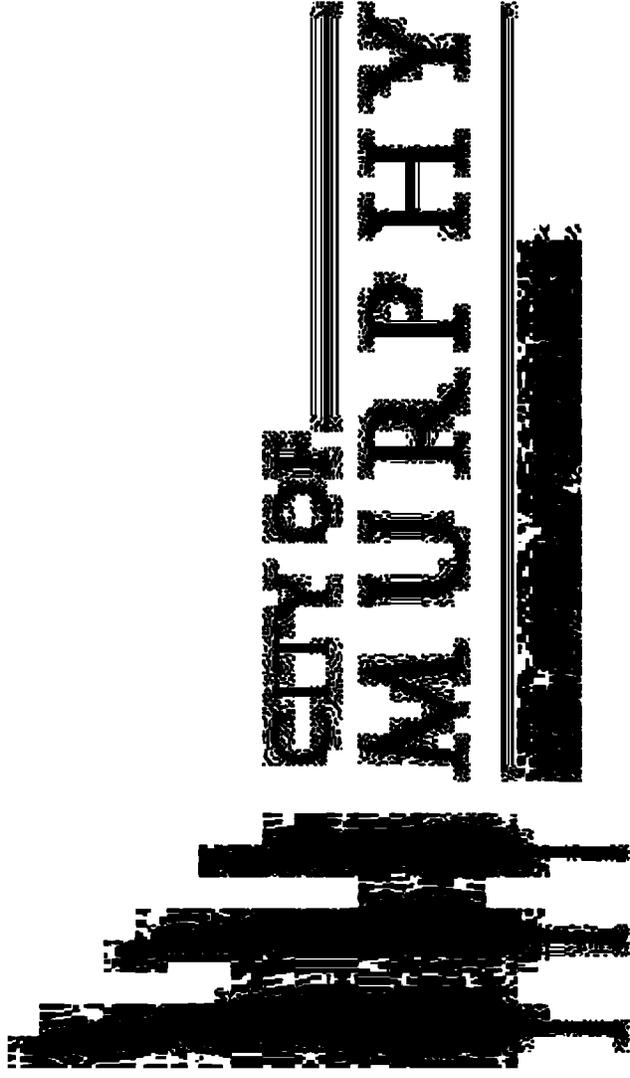
The purpose of this item is to review and discuss the proposed schedule for City Council.

Attachments

- 1) Council Calendar Month View
- 2) Council Calendar List View

Aimee Nemer, City Secretary
Submitted by

City Manager Approval



Financial Information

FY 2011

December, 2010

Investment Report

Accounts	FY2010			FY2011		
	<u>7/31/2010</u>	<u>8/31/2010</u>	<u>9/30/2010</u>	<u>10/31/2010</u>	<u>11/30/2010</u>	<u>12/31/2010</u>
Checking	141,760.77	887,878.96	491,680.52	109,810.88	303,297.97	100,331.65
Impact Fees	513,682.90	476,319.49	498,015.69	420,896.71	438,970.43	464,241.07
Park Escrow	328,099.48	308,985.89	309,052.27	309,116.37	309,155.20	168,228.24
General Obligation	1,630,333.15	995,620.01	996,222.55	1,016,931.71	1,177,093.99	2,663,177.86
Series 2009 GO	8,066,536.94	7,796,058.55	8,536,409.34	8,481,947.22	7,857,065.15	7,577,639.87
Series 2009 CO	7,638,140.72	7,639,905.01	6,476,085.24	6,432,845.60	6,321,901.35	6,237,162.19
General Fund	2,826,640.07	2,821,568.64	2,864,363.28	2,480,653.46	2,317,350.12	2,977,445.69
Water Fund	1,799,385.56	1,576,251.29	1,377,913.90	1,746,247.69	2,064,098.25	2,004,605.98
4A Econ Dev	573,485.60	568,750.07	621,150.50	621,279.34	621,395.77	621,505.59
4B Community Dev	718,337.99	705,486.50	745,395.59	745,550.20	723,187.00	723,314.81
Cap Improvement	284,342.48	266,449.27	266,506.51	266,396.76	204,165.00	204,201.08
Sidewalk Escrow	23,037.89	23,043.22	23,048.17	23,052.96	23,057.28	23,061.36
2010 Tax Notes	1,048,122.08	301,032.18	301,044.55	301,057.34	141,716.46	141,722.48
Bank Balances	<u>25,591,905.63</u>	<u>24,367,349.08</u>	<u>23,506,888.11</u>	<u>22,955,759.24</u>	<u>22,502,453.97</u>	<u>23,906,637.87</u>
Interest-Monthly	5,535	5,484	4,945	4,665	3,701	4,009
Interest Rate	0.26%	0.27%	0.26%	0.24%	0.23%	0.21%

Investment Report

(continue)

- Interest rate decreased to 0.21% in December.

Sales Tax – 2%

General Fund/4-A/4-B

	FY 2011	FY 2010	FY 2009	FY 2008
October	132,959	112,677	108,228	85,108
November	146,856	153,909	154,328	105,827
December	132,482	123,366	113,748	98,346
January		123,748	103,373	83,011
February		160,669	167,606	105,554
March		110,484	103,248	72,201
April		105,054	100,082	77,482
May		173,048	157,573	109,644
June		163,024	140,188	90,634
July		156,532	131,487	89,751
August		200,789	174,247	123,193
September		<u>131,702</u>	<u>124,004</u>	<u>121,845</u>
Total	<u>412,297</u>	<u>1,715,002</u>	<u>1,578,112</u>	<u>1,162,596</u>

Sales Tax – 1%

General Fund

	FY 2011	FY 2010	FY 2009	FY 2008
October	66,479	56,339	54,114	42,554
November	73,428	76,954	77,164	52,914
December	66,241	61,683	56,874	49,173
January		61,874	51,686	41,506
February		80,334	83,803	52,777
March		55,242	51,624	36,101
April		52,527	50,041	38,741
May		86,524	78,786	54,822
June		81,512	70,094	45,317
July		78,266	65,743	44,875
August		100,439	87,123	61,597
September		<u>65,851</u>	<u>62,002</u>	<u>60,923</u>
Total	<u>206,148</u>	<u>857,545</u>	<u>789,054</u>	<u>581,300</u>

**General Fund
FY 2011 Revenues
December, 2010**

	FY 2011	YTD	Budget	% of
Revenue	Budget	Actual	Balance	Budget
Property Taxes	4,741,000	2,357,972	2,383,028	49.74%
Sales Tax	905,000	206,149	698,851	22.78%
Franchise Tax	751,100	51,563	699,537	6.87%
Permits & Licenses	633,700	122,195	511,505	19.28%
Solid Waste	816,900	211,818	605,082	25.93%
Other Revenue	555,700	118,948	436,752	21.41%
Court Revenue	390,000	97,530	292,470	25.01%
Miscellaneous Revenue	<u>850,000</u>	<u>0</u>	<u>850,000</u>	0.00%
Total	<u>9,643,400</u>	<u>3,166,175</u>	<u>6,477,225</u>	32.83%

General Fund
FY 2011 Revenue Explanation
December, 2010

- Sales tax – collections as of December is 22.78% of budget.
- Permits & Licenses – issued 9 single family building permits in December compared to 10 at this time last year.

General Fund FY 2011 Expenditures December, 2010

	FY 2011	YTD	Budget	% of
Departments	Budget	Actual	Balance	Budget
Administration	419,700	127,393	292,307	30.35%
Human Resources	157,950	36,348	121,602	23.01%
Information Technology	494,550	162,999	331,551	32.96%
City Council	280,000	22,204	257,796	7.93%
City Secretary	185,950	58,844	127,106	31.65%
Finance	393,200	94,317	298,883	23.99%
Fire	2,048,600	401,118	1,647,482	19.58%
Public Works	250,100	49,908	200,192	19.96%
Facilities	463,300	73,319	389,981	15.83%
Community Development	477,000	77,288	399,712	16.20%
Police	2,838,700	591,410	2,247,290	20.83%

**General Fund
FY 2011 Expenditures
December, 2010**

	FY 2011	YTD	Budget	% of
Departments (continue)	Budget	Actual	Balance	Budget
Animal Control	68,400	11,562	56,838	16.90%
Parks	946,200	148,503	797,697	15.69%
Municipal Court	208,650	49,546	159,104	23.75%
Solid Waste	<u>655,700</u>	<u>160,959</u>	<u>494,741</u>	24.55%
Total	<u>9,888,000</u>	<u>2,065,718</u>	<u>7,822,282</u>	20.89%

General Fund
FY 2011 Expenditures Explanation
December, 2010

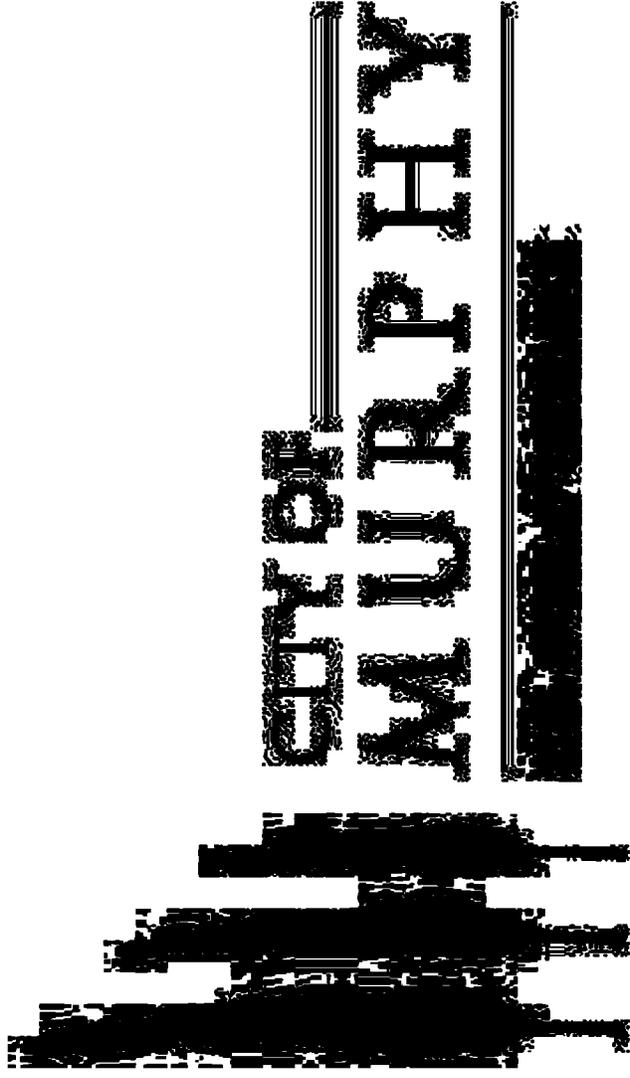
- Administration – includes the one time payments to employees.
- Information Technology – includes the purchase of capital items approved by Council.
- City Secretary – includes the cost of the charter election.

**Utility Fund
FY 2011 Revenue
December, 2010**

	FY 2011	YTD	Budget	% of
Revenue	Budget	Actual	Balance	Budget
Other Revenue	143,600	25,295	118,305	17.62%
Water Revenue	3,700,000	705,140	2,994,860	19.06%
Sewer Revenue	<u>1,500,000</u>	<u>327,136</u>	<u>1,172,864</u>	21.81%
Total	<u>5,343,600</u>	<u>1,057,571</u>	<u>4,286,029</u>	19.79%

**Utility Fund
FY 2011 Expenditures
December, 2010**

	FY 2011	YTD	Budget	% of
Departments	Budget	Actual	Balance	Budget
Water Distribution	2,922,400	439,973	2,482,427	15.06%
Wastewater Collection	1,133,300	253,005	880,295	22.32%
Customer Service	<u>394,800</u>	<u>77,968</u>	<u>316,832</u>	19.75%
Total	<u>4,450,500</u>	<u>770,946</u>	<u>3,679,554</u>	17.32%



Questions

FY 2011

December, 2010