

MINUTES  
REGULAR CITY COUNCIL MEETING  
SEPTEMBER 4, 2012 AT 6:00 P.M.  
206 NORTH MURPHY ROAD  
MURPHY, TEXAS 75094



Bret Baldwin  
Mayor

John Daugherty  
Mayor Pro Tem

Colleen Halbert  
Deputy Mayor Pro Tem

Dennis Richmond  
Councilmember

Scott Bradley  
Councilmember

Bernard Grant  
Councilmember

Dave Brandon  
Councilmember

James Fisher  
City Manager

Mayor Baldwin called the meeting to order at 6:02 p.m.

Mayor Baldwin gave the invocation and led the Pledge of Allegiance

Nancy Meadows certified a quorum with the following members present:

Mayor Bret Baldwin  
Mayor Pro Tem John Daugherty  
Councilmember Scott Bradley  
Councilmember Bernard Grant  
Councilmember Dave Brandon

Councilmember Dennis Richmond arrived at 6:06 p.m.

Deputy Mayor Pro Tem Colleen Halbert arrived at 6:17 p.m.

There were no public comments.

- Explorers Recognition  
Police Chief GM Cox recognized the Murphy Explorers Group for their awards received in Colorado July 16 - 21, 2012, during the National Competition.  
Mayor Baldwin spoke in appreciation of the Explorers.
- Fire Prevention Poster Finalist Recognition  
Fire Chief Mark Lee recognized Austin Svidlow as the Fire Prevention Poster Finalist and presented him with a Certificate of Achievement and recognized Austin as Murphy Fire Rescue Junior Firefighter.
- Proclamation – Keep America Beautiful 1<sup>st</sup> National Planting Day  
Mayor Baldwin read a Proclamation recognizing Keep America Beautiful 1<sup>st</sup> National Planting Day and presented it to the Parks Department.

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.

1. Consider and/or act upon the approval of the minutes from the Special City Council meeting of August 21, 2012.

2. Consider and/or act upon approval of an ordinance amending the Code of Ordinances correcting the designated school zones and times.

**Council Action**

Councilmember Brandon moved to approve the consent agenda with Mayor Baldwin's name corrected in the minutes. Councilmember Bradley seconded the motion which passed by a unanimous vote of 6-0, with Councilmember Halbert absent during the vote.



Mayor Baldwin took Public Hearing No. 3 first.

- 3 Hold a public hearing and take action on the application of ALLEN AND LOUCKS VENTURE, L.P. requesting approval of an SUP (Specific Use Permit) to allow a Drive-through window for a Del Taco on property zoned PD (Planned Development) District No. 09-02-784 for Retail Uses on property located at 102 N. Murphy Road, NE corner of FM 544. (ZF 2012-02)

**Staff Comments**

City Manager James Fisher explained that the item was the same item that had been considered in August.

**Public Hearing**

Mayor Baldwin opened the public hearing at 6:18 p.m.

Bill Dahlstrom, representing Del Taco, spoke in favor of the SUP to allow a drive through for Del Taco. Mr. Dahlstrom spoke of details in the 380 agreement for this property. He stated that the proposed site was a perfect site for a Del Taco. He spoke of the different conditions that were discussed with City Staff and the applicant and they were still in agreement with the requested conditions.

Keith Patton expressed disappointment with the Council for voting the item down and then bringing it back for reconsideration. Mr. Patton further discussed the large number of drive throughs in Murphy Marketplace. He welcomed Del Taco but probably not with a drive through.

With no one else present who wished to speak, Mayor Baldwin closed the public hearing at 6:27 p.m.

**Discussion**

Councilmember Halbert repeated that she agreed that it was a good location for a drive through. That was the reason she voted against other drive throughs; Council tried to steer them to this site because it is a better site. When Mr. Langford came before Council she asked him if there were any other plans for drive throughs and he told her no. Councilmember Halbert stated

that she did not feel that it is appropriate to approve anymore drive throughs for Murphy Marketplace.

Councilmember Brandon stated that his opinion has not changed. There are just too many drive throughs in Murphy. He stated that the drive through traffic at Chick Fil A is a nightmare and Golden Chick is becoming one.

**Council Action**

Councilmember Daugherty moved to approve the SUP application with conditions as determined by City Staff in consultation with the applicant, so that the proposed restaurant be designed and constructed in conformance with the Planned Development District Conditions requirements and requirements of the 380 Agreement and the related performance agreements, between Allen & Loucks Venture, L.P., and the City of Murphy, the Murphy Economic Development Corporation and the Murphy Community Development Corporation, which require that the proposed restaurant be **“of such quality or higher quality, as approved by the City”** as described in the agreements.

Councilmember Richmond seconded the motion, which passed by a vote of 4-3, with Mayor Baldwin, Councilmember Halbert, and Councilmember Brandon voting in opposition.

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

**Staff Comments**

Mr. Fisher did an overview of the proposed tax rate.

**Public Hearing**

Mayor Baldwin opened the public hearing at 6:40 p.m.

With no one present who wanted to speak, Mayor Baldwin closed the public hearing at 6:40 p.m.

Mayor Baldwin stated that the vote on the tax rate would be held Tuesday, September 18, 2012 at 6:00 p.m. at City Hall, 206 N. Murphy Road

2. Hold the second public hearing on the proposed fiscal year 2012-2013 City of Murphy Annual Budget.

**Staff Comments**

Mr. Fisher gave an overview of the proposed budget using a power point presentation. Mr. Fisher stated that the City Council would consider adoption of the budget on September 18, 2012.

**Public Hearing**

Mayor Baldwin opened the public hearing at 6:42 p.m.

Keith Patton had questions on the IT budget. He spoke against outsourcing.

With no one present who wished to speak, Mayor Baldwin closed the public hearing at 6:44 p.m.

Mayor Baldwin stated that the vote on the proposed fiscal year 2012-2013 City of Murphy Annual Budget would be September 18, 2012 at 6:00 p.m. at city hall 206 N. Murphy Road.

1. Consider and/or act on the application of **ALLEN AND LOUCKS VENTURE, L.P.** requesting approval of a site plan for a Del Taco on property zoned PD (Planned Development) District No. 09-02-784 for Retail Uses on property located at 102 N. Murphy Road, NE corner of FM 544. (ZF 2012-02)

**Staff Comments**

Mr. Fisher stated that this was a request for a site plan for Del Taco. Mr. Fisher included that if there was a motion to approve, Council would probably want to include the conditions determined by staff. He turned the floor over to Kristen Roberts, Director of Community and Economic Development. Ms. Roberts explained that staff had reviewed the site plan numerous times. She explained that conditions as discussed between staff and the applicant had been agreed upon.

**Discussion**

Council members discussed concerns with traffic flow, parking, and future development. The required parking spaces had been met. Bill Dahlstrom stated that he was of the understanding that Del Taco had met all of the requirements.

**Council Action**

After a discussion, Councilmember Halbert moved to approve the site plan, landscape plan and elevations with the following conditions:

- Include Copper colored Roof
- Patio and Wrought-iron enclosure
- Façade to include stone to match Murphy Market Place
- Trash dumpster moved and doors upgraded
- Signage limited to one per side
- Circulation has been altered so that it is one way on northern side of property
- Lot next door grassed, landscaped and irrigated
- Continuation of Fire Lanes to second property
- No parking along the center section of site plan north of the drive through lane
- Extension of the landscape island at north east curve of drive thru

Councilmember Bradley seconded the motion, which passed by a vote of 6-1. Mayor Baldwin voted in opposition to the motion.

2. Consider and/or act on approving the proposed Rules and Procedures of the Ethics Review Commission.

This item was postponed until September 18, 2012 to allow more time for review.

#### **Ethics Commission**

Angie Gentry, Ethics Review Commission Secretary was present to represent the Ethics Review Commission. Ms. Gentry explained that the Ethics Review Commission had been working on their rules and procedures, and based them on Councils own procedures and on Roberts Rules of Order.

Council members thanked Ms. Gentry for the work and for attending.

3. Consider and/or act on recommendations, requests and notifications of the Ethics Review Commission.

This item was postponed until September 18, 2012 to allow more time for review.

4. Consider and/or act upon approval of status report and professional services for Timbers Nature Preserve Park project FEMA and Section 404 permits.

#### **Staff Comments**

Kim Lenoir, Director of Parks and Public Works explained that the city has applied for a \$100,000 Grant with Texas Parks and Wildlife. There were 42 applications requesting \$4,000,000. We will know January, 2013 if we get funded. We have requested \$600,000 from Collin County for the trail. Plano has also requested \$500,000 to extend the project through their City.

Wade Peterson, HOK Park Planner gave updates as follows:

- Request from Texas Parks and Wildlife
- The U.S. Army Corps of Engineers
- Draft decision document - Environmental Consultant -may cost up to \$5,000 to respond , could speed up the process
- FEMA Permit Update
- Home Owners

Mr. Peterson showed that upon completion of the project, homes would be removed out of the flood plain and there would be one ball field in the 100 year flood plain. Upon successful completion of the project, home owners should not have to carry flood insurance.

Barry Young of Oncor gave an update. He stated that Oncor could not allow a bridge on their property because of the liability. He stated that they could put down a culvert.

There was a lengthy discussion about relocating, or eliminating the bridge and widening the channel.

Mr. Paterson stated that relocating or eliminating the bridge would not solve the flooding.

Mr. Peterson stated that if it had to be redesigned, it would cost potentially an additional \$50,000 to \$60,000 and an additional nine months.

Mr. Peterson stated that after a future work session with city staff and Oncor staff, they could come back and discuss what could work.

**Council Action**

No action was taken.

5. Consider and/or act upon recommendations from Parks and Recreation Board regarding Murphy Central Park and PSA Murphy Project.

**Discussion**

Council members discussed different concerns they had regarding the PSA Murphy facility and the effect on Murphy Central Park. There are concerns with traffic flow, parking, green space, etc...

**Public Comment**

Keith Patton hoped PSA could have some kind of air conditioned walking track.

**Staff Comment**

Mr. Fisher stated that we did ask PSA about the air conditioned walking track and it is cost prohibitive at this time.

**Council Action**

Councilmember Halbert moved to direct City Staff to fast-track the determination of locations of proposed additional multi-use practice fields in Murphy. Councilmember Bradley seconded the motion which passed unanimously by a vote of 7-0.

Councilmember Halbert moved to leave the natural land east of the Central Park pond undeveloped. Councilmember Bradley seconded the motion which passed by a unanimous vote of 7-0.

Councilmember Halbert moved to proceed with plans for PSA Murphy Center with location as presented on that handy thing projector. Councilmember Brandon seconded the motion which passed by a unanimous vote of 6-1.

Councilmember Halbert moved to leave the city hall loop road and do not include straightening it as designed for the new Tom Clevenger Road. Councilmember Bradley seconded the motion which passed unanimously by a vote of 7-0.

Mr. Fisher reported on the following items:

- September 18 – Regular Meeting, Adoption of the FY 2013 Annual Budget and Tax Rate
- Board Scope and Description
- TML Annual Conference, November 13-16, Gaylord Texan Conference Center
- Murphy Maize Days and 3<sup>rd</sup> Annual 5K/Fun Run, September 29
- DRAFT Lease Agreement with PSA (Plano Sports Authority) regarding PSA Murphy Center.
- North Murphy Road –
  - Phase 1A – West side of 2551 from Maxwell Creek Bridge North to Parker Road
  - Phase 1B -East Side of 2551 from Maxwell Creek Bridge Southeast to 544Also working on culverts and traffic signals at Spring Ridge
- Phase 2 East Side of 2551 from Maxwell Creek Bridge North to Parker Road and West Side of 2551 from Maxwell Creek Bridge South to 544
- Phase 3 Turning Lanes and median openings

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:

§ 551.074 PERSONNEL MATTERS - to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee – City Secretary.

§ 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation involving George Parker and Parker Tree Services.

§ 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682.

§ 551.072 DELIBERATION REGARDING REAL PROPERTY – to deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Susan Kinder-Alessio v. Sarah Helms-Asmore, Aaron McCarty, Snow Robertson, G.M. Cox, & City of Murphy, Civil Action No. 4:12-CV-000493-RC-ALM

**Executive Session**

The City Council convened into Executive Session at 8:15 p.m.

The City Council reconvened into regular session at 8:42 p.m.

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:

§ 551.074 PERSONNEL MATTERS - to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee – City Secretary.

**Council Action**

Councilmember Brandon made a motion to appoint Kristi Gilbert as City Secretary effective October 1, 2012. Also, on October 1, 2012, anyone filling any temporary or acting positions of the city secretary will no longer be serving in that capacity. Councilmember Halbert seconded the motion which passed unanimously by a vote of 7-0.

§551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation involving George Parker and Parker Tree Services.

**Council Action**

No action was taken on this item.

§ 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682.

**Council Action**

No action was taken on this item.

§ 551.072 DELIBERATION REGARDING REAL PROPERTY – to deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Susan Kinder-Alessio v. Sarah Helms-Asmore, Aaron McCarty, Snow Robertson, G.M. Cox, & City of Murphy, Civil Action No. 4:12-CV-000493-RC-ALM

**Council Action**

No action was taken on this item.

There being no further business to discuss at this time, the meeting adjourned at 8:44 p.m.

APPROVED:



Bret Baldwin, Mayor

ATTEST:

  
Nancy Meadows, Interim City Secretary