

COUNCIL MINUTES
DECEMBER 2, 2014 CITY COUNCIL MEETING

1. CALL TO ORDER

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

2. INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Barna gave the invocation and led the Pledge of Allegiance to the United States flag.

3. ROLL CALL & CERTIFICATION OF A QUORUM

Susie Quinn, City Secretary, certified a quorum with the following Councilmembers present:

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

4. PUBLIC COMMENTS

Ray Shahan, resident, stated that it is disappointing that the audio is not available for November 4, 2014. He discussed deed restrictions again and the fact that the deed restrictions are not being filed with the County. He wants Ordinance No. 03-10-590 restrictions enforced. He is pleased and appreciative about the steps the city government is taking to correct the Windy Hills Farm subdivision errors. He stated he has been discussing various issues for two years with Council regarding sidewalks, fencing and open record requests.

5. PRESENTATION ITEMS

A. Proclamation in appreciation to Russ Hargrave of Hargrave Custom Foundation Repair.

Fire Chief Mark Lee explained that the generator at the Fire Station was no longer level on the foundation pad which was jeopardizing the generator. Several phone bids were sought and the expense was going to be in the thousands of dollars. Mr. Hargrave was called and said he would do the job and to not worry about the costs. Mr. Hargrave donated his time as well as his crew's time to install piers under the generator and graciously donated the materials for leveling and stabilizing the generator.

B. Presentation of financial report as of October 31, 2014.

Financial Director Linda Truitt presented the October 31, 2014 financial report. The interest rate is .10% which has not changed. The sales tax revenues for October and November are both up in comparison to the prior year at this time. In the General Fund revenues, we are up a little over this time last year. Property taxes will not be reflected until later in the year. Permits are down in comparison to last year. The General Fund expenditures are right at 8% with a couple of departments being higher because of annual payments (i.e. IT maintenance) which are made in October. In the Utility Fund, the revenue is showing 9% which is due in part to the new rates that began October 1, 2014 and because more water was used. The Utility Fund expenditures are up because of two payments to the North Texas Water District which are made in October.

6. INDIVIDUAL CONSIDERATION

- A. Consider and/or act upon approval of an ordinance amending the FY 2013-2014 revenue, expenditure budgets and fund balances for the General Fund, Animal Shelter Fund, Cable Peg Fund, Capital Improvement Fund, Murphy Community Development Corporation (Type B) and the Murphy Municipal Development District (MMDD) 3.

This item is more of a housekeeping type item to make adjustments in the General Fund. Three departments were over in their respective budgets and funds were reallocated from other departments to balance the General Fund. The Animal Shelter Fund was created to allow for donations from citizens and a budget was created. The Cable Peg Funds are used to defray costs relating to streaming technology. The Capital Improvement Fund is completing the security and surveillance project started in 2013. The Murphy Community Development Corporation (Type 4B) and the Murphy Municipal Development District (MMDD) 3 funds which were allocated for promotional use have to remain in that line item and this adjusts for that.

COUNCIL ACTION (6.A.):

APPROVED

Mayor Pro Tem Bradley moved to approve an ordinance amending the FY 2013-2014 revenue, expenditure budgets and fund balances for the General Fund, Animal Shelter Fund, Cable Peg Fund, Capital Improvement Fund, Murphy Community Development Corporation (Type 4B) and the Murphy Municipal Development District (MMDD) 3. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0. (Ordinance No. 14-12-991)

- B. Hold a public hearing to discuss the application of Tiger Food, Inc. requesting a variance specifically to exterior construction standards (Section 28-131) and consider and/or act on the application of Tiger Food, Inc. requesting approval of a site plan, landscape plan, building elevations and construction plat for a PDQ restaurant at 104 E. FM 544.

Kristen Roberts, Community Development Director, explained that the applicant has submitted a site plan, landscape plan, building elevations and construction plat for the building of a PDQ restaurant at 104 E. FM 544. The facility is a one story 3600 square foot building with a drive through and patio. No rezoning is being requested and the current use allows for the drive through. Demolition of the current building includes removing the gas tanks as well as parking lot pavement as it is an overall site redevelopment and down to the dirt demolition. A variance is also being requested for the thickness of stone to be used on the building. This is the second PDQ to be built in Texas; the first one is in Frisco. Planning and Zoning approved the variance and the applications with a 5 to 1 vote.

The dedicated right turn lane was discussed since the City maintains the right of way.

The applicant, Adam Smith with Foremark which represents PDQ introduced himself. The applicant presented photos of the current tenant at that corner. PDQ plans to enhance the corner. They understand the city's wish to change the roof color which Corporate has done; it went from bright red to a deeper muted red. Because of Murphy's standards, the design has been changed for the better. The pictures depict what the building will look like. The value of the building should be at 1,000,000 dollars. Sales tax should generate around \$30,000 to \$50,000 annually. Thirty-three locations are in the United States. He discussed the variance request. The

stone thickness allows it to be attached to the building, anything thicker requires stacking. The Frisco building is stone with larger stone accents and the same stones that are being presented at the meeting were the ones used. He was asked why PDQ was interested in Murphy. Mr. Smith replied that the corner is a prime location, and the fact that PDQ offers a healthy menu gives people of Murphy and surrounding areas a choice. The patio was discussed as having 4 to 5 tables with umbrellas and seating. Additional landscaping will be added as well as keeping any existing trees.

Mayor Barna opened the public hearing at 6:39 pm. No one spoke at the public hearing; Mayor Barna closed the public hearing at 6:39 pm.

Council expressed concerns regarding the drive-through which is permitted by right. All agreed it is an improvement for the corner.

COUNCIL ACTION (6.B.):

APPROVED

Mayor Pro Tem Bradley moved to approve the site plan, landscape plan, building elevations, and construction plat, with the variance considerations as noted within the agenda item. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- C. Hold a public hearing on the request to amend the Concept Plan for approximately 6.43 acres of property zoned PD (Planned Development) District No. 09-02-785, as amended, located on FM 544 approximately 800' west of Heritage Parkway.

Ms. Roberts stated that this is an amendment to the concept plan but noted that it will not change any proposed development as they would be required to submit all documents to Planning and Zoning and Council prior to building.

A public hearing is needed before approving the amendment because it is a zoning change to the concept plan since they are relocating lot lines and building areas and sizes. Planning and Zoning did approve the change 6-0.

Council discussed the distances behind the property and its nearness to homes in the area. The plan does fall within the current set-back requirements. Side-walks were discussed and are on hold until approved in the master plan for that area.

The applicant, Steve Homeyer of Homeyer Engineering stated that the middle building area may be housed by a dentist and another medical use. But anyone wanting to use that property will have to follow all the requirements and submit the proper documents as stated earlier.

Council asked the applicant to keep in mind that the area is part of the east entry into Murphy and should be aesthetically pleasing as Dr. Carbonell building appears to be with its stone and brick.

Mayor Barna opened the public hearing at 6:53 pm. No one spoke at the public hearing; Mayor Barna closed the public hearing at 6:53 pm.

COUNCIL ACTION (6.C.):

APPROVED

Mayor Pro Tem Bradley moved to approve the request to amend the Concept Plan for approximately 6.43 acres of property zoned PD (planned Development) district No. 09-02-785,

as amended located on FM 544 approximately 800' west of Heritage Parkway. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- D. Consider and/or act upon the City of Murphy sidewalk program.

Bernie Parker, Public Services Director explained the matrix that has been developed to determine which sidewalks should be repaired or replaced depending on numeric scores the various sidewalks receive. The City Engineer also assisted in developing the criteria. Guidance from Council will be sought in February or early March for approval to implement the new sidewalk policy. The listing is to prioritize the sidewalks for repair or replacement. Questions were asked regarding citizen requests concerning their sidewalks once the repair and/or replacement program is in place. Ordinance Number 14-10-990 was approved by Council in October and \$50,000 was allocated to improve sidewalks during fiscal year 2014-2015.

Council requested a website sidewalk explanation as well as a method of submitting requests for their sidewalks to be evaluated.

COUNCIL ACTION (6.D.):

NO ACTION

- E. Discussion on the City's Safe Routes to School Project.

City Manager James Fisher updated Council with regard to the progress on the sidewalks. The bids were opened July 30, 2014; they were submitted to TxDot at the end of September. They were executed in November and the notice to proceed was issued December 15, 2014. The first sidewalks were to be established near Rolling Ridge while school was out for Christmas vacation. The plan is start at the north end of town and work south. There are definite challenges with the construction on Murphy Road and concerns regarding medians were discussed. Concrete colored patterns are used for the crosswalks as this incorporates dye in the concrete and last for more years than painted crosswalks. In pavement lighting and overhead signals will alert drivers that pedestrians are in the crosswalks. The crosswalks are to be completed by June 2015. In addition to the various locations of the crosswalks, City Manager Fisher stated that in the future the City is in hopes that Plano Independent School District will consider moving the driveway at Murphy Middle School so that buses can move about more safely as a signal light could be installed if it is restructured.

COUNCIL ACTION (6.E.):

NO ACTION

- F. Consider and/or act upon the proposed revisions to the Murphy Personnel Policies and Procedures Handbook.

City Manager Fisher explained that the personnel policy is reviewed annually. Each proposed recommendation listed below was discussed with Council for several minutes:

Section 3.03: Meals and Incidental Expenses

In addition to our current per diem reimbursement policy, any per diem reimbursement request for a meal that is already provided complimentary by the destination event/conference shall be subject to proof of receipt and approval by the City Manager.

Section 3.12: Overtime Worked

A clarification was made that the definition of overtime as defined in our handbook (working in excess of forty (40) hours per week) does not include shift assigned fire suppression personnel.

Holiday and vacation time will now count as “hours worked” for purposes of calculating overtime for all non-exempt employees instead of just non-exempt sworn fire and police personnel.

Section 4.06: General Policy – Vacation Leave

City of Murphy employees will no longer have a maximum vacation accrual amount. Instead, a maximum payout amount has been determined for each employee based on their tenure with the City. Any employee who separates employment for any reason (voluntary or involuntary), that has successfully completed his or her initial introductory period of employment, shall receive pay for accumulated vacation time up to the maximum payout amounts. Any remaining leave above and beyond the maximum payout amount shall be forfeited. All employees will be required to take at least one (1) week of vacation per year.

Section 5.05: Longevity

Employees who terminate prior to the month of November each year will receive a prorated longevity payment on their final check that will be calculated based only on the number of months that have passed between September 1 and the date of their separation. The City Manager, on a case by case basis, has discretion to override this policy and pay the full longevity amount for an employee’s entire tenure upon their separation for employees that have been employed five (5) years or longer only.

Section 6.14: Smoking/Tobacco Products

The City would like to propose a tobacco-free hiring policy. This policy would not impact current employees, but would serve as a foundation in moving the City towards becoming a tobacco free employer.

Following Council discussion of each proposed item, not all the recommended changes were accepted by Council.

COUNCIL ACTION (6.F.):

APPROVED

Mayor Pro Tem Bradley moved to approve the proposed revisions of Sections 3.03 Meals and Incident Expenses, 3.12 Overtime Worked, 4.06 General Policy – Vacation Leave, and 5.05 Longevity Pay to the Murphy Personnel Policies and Procedures Handbook to be effective December 27, 2014. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- G. Consider and/or act upon approval of a resolution approving costs for personnel time to respond to requests for public information, including staff responses and resources allocated in responding to public information requests since June of 2014.

City Attorney Andy Messer explained the public requests for public information are completed timely and efficiently. City Attorney Messer went on to give some statistics of public record requests since June 1, 2014 which include 135 requests of which 32 have been to the City

Secretary and City Attorney. None of the requests have been forwarded to the Attorney General for withholding information as is permitted by law for certain exemptions; every request has received a response. One requestor has used 31 resource hours since October 1, 2014 for various public information requests. The resolution allows the City to charge personnel time when the total 36 hours in a year. The City Secretary and the City Attorney were commended for the work they do with regard to public information requests.

COUNCIL ACTION (6.G.):

APPROVED

Mayor Pro Tem Bradley moved to approve a resolution approving costs for personnel time to respond to requests for public information, including staff responses and resources allocated in responding to public information requests since June of 2014. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0. (Resolution Number 14-R-811)

- H. Discuss and/or consider implementing community blog(s) and regulations relating thereto for the City of Murphy website.

City Manager Fisher explained that the community blog will allow the City to place ideas on a city created website blog and allow conversations to take place to interact with citizens. Mayor Barna mentioned a program called Mind Mixer which is used by Fort Worth and it also allows for surveys to be conducted as well. Other Council comments were made and questions asked about legalities for this type of social media site. This is the beginning process and more conversations will be forthcoming regarding this in January. City Attorney Messer expressed that the blog will allow all of Council to participate in the blog and not require a posted meeting since a quorum of Councilmembers may be heard and will be interacting. It was asked if city staff monitors the site with regard to hate speech, how subjective they will be in their determination of what is or is not hate speech. It was suggested that the City Attorney rule if the monitor has a question about whether or not it may be hate speech.

COUNCIL ACTION (6.H.):

NO ACTION

- I. Discuss and/or consider creating a Video Streaming Policy for the City of Murphy and authorize the City Manager to execute a contract with Swagit for the provision of video streaming services for City Council meetings.

City Manager Fisher discussed the need to begin the process so that video streaming can begin in 2015. Council mentioned visiting other cities websites that stream their meetings. Policy will be a constant improving document as this is new territory for cities, too. The PEG fees were discussed to assist in purchasing the equipment to begin the project. PEG fees are mandated in what they shall or shall not be used for since they are derived from monthly cable fee charges.

COUNCIL ACTION (6.I.):

APPROVED

Mayor Pro Tem Bradley moved to create a Video Streaming Policy for the City of Murphy and authorize the City Manager to execute a contract with Swagit for the provision of video streaming services for City Council meetings. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- J. Consider and/or act upon the second meeting in December.

City Manager Fisher stated a second December meeting is necessary. Following Council discussion, a consensus was reached to meet on Tuesday, December 9, 2014 at 7:00 p.m. to complete the appointment process for the Boards and Commissions. The Council will be notified of the meeting location as the Council Chambers will not be available that evening. Maintenance will be taking place to replace some ceiling tiles which requires the seats to be removed to bring in a lift.

COUNCIL ACTION (6.J.):

APPROVED

Mayor Pro Tem Bradley moved to change the regularly scheduled December 16, 2014 Council meeting to be moved to Tuesday, December 9, 2014 at 7:00 p.m. Councilmember Spraggins seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

7. CITY MANAGER/STAFF REPORTS

- A. North Murphy Road Construction Update

City Manager Fisher explained that the concrete is ready for pouring on North Murphy. The current time for the finish of the road is still the end of January, 2015. Concerns about sidewalks, curbs and slopes of entry and exits into the various streets are being discussed with TxDot. The Timber Nature's Preserve is moving forward with 90% of the concrete sidewalks are complete. Eight trees have been relocated. The guideline situation has been resolved. Christmas in the Park will be on Thursday beginning at 5:00 p.m. with the tree lighting at 6:30 pm. Mayor Barna will be officiating at the Tree Lighting Ceremony. The Murphy Fire Department will begin the Santa's tour on Monday, December 8, 2014 at 6:30 pm to end at 8:30 pm. on Monday through Saturday, weather permitting and emergency calls permitting. Chief Lee was asked discuss the promotion of Greg Warner to Assistant Fire Chief. Major maintenance will be occurring in December to the Council Chambers and in the Customer Service area.

8. EXECUTIVE SESSION

The City Council convened into close Executive Session at 7:42 pm pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 551. 071 Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter in regard to open record requests and retention policy and code enforcement matters.

9. RECONVENE INTO REGULAR SESSION

The City Council reconvened into open session at 8:21 pm with the Mayor's announcement that no action was taken in Executive Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- A. § 551. 071 Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter in regard to open record requests and retention policy and code enforcement matters.

B. Take Action on any Executive Session Items.

10. ADJOURNMENT

With no further business, the meeting was adjourned at 9:04 pm.

APPROVED BY:

Eric Barna, Mayor

ATTEST:

Susie Quinn, City Secretary