



MURPHY CITY COUNCIL AGENDA
SPECIAL CITY COUNCIL MEETING
AUGUST 30, 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 August 30, 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 Special Meeting of August 9, 2011 and the Regular Meeting of August 16, 2011.

Scott Bradley
Councilmember

PUBLIC HEARINGS

Bernard Grant
Councilmember

1. Hold a public hearing on the proposed fiscal year 2011-2012 City of Murphy budget.
2. Hold a public hearing on the proposed tax rate of \$0.5725 per \$100 valuation.

Dave Brandon
Councilmember

INDIVIDUAL CONSIDERATION

3. Consider and/or act upon approval of an ordinance ordering a Special Election in the City of Murphy, Texas, to be held on November 8, 2011, for the purpose of submitting to the qualified voters, for adoption or rejection of a proposed proposition to terminate the Murphy Economic Development Corporation (Type A) and the abolition of its sales tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent, and concurrently, authorize the creation of the City of Murphy Municipal Development District with the imposition of a sales and use tax at the rate of one-half of one percent for the purpose of financing development projects beneficial to the district.

CITY MANAGER/STAFF REPORTS

James Fisher
City Manager

- September 5 – City offices closed in observance of Labor Day
- September 6 – Regular City Council Meeting; 2nd Public Hearing on Budget/Tax

- September 20 – Chamber Lunch
- September 20 – Adoption of Budget & Tax Rate
- September 24 – Maize Days

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 August 26, 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, MMC
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

DRAFT

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

**August 9, 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

Joy Hart, Executive Assistant, certified a quorum with the following:

Council Present

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

PUBLIC COMMENTS

There were no public comments.

PRESENTATIONS

- Presentation of Fiscal Year 2011-2012 Budget to City Council Pursuant to City Charter §7.02.

Action

Linda Truitt, Finance Director presented a summary of the FY 2012 Budget to the City Council.

INDIVIDUAL CONSIDERATION

1. Consider and/or act upon approval of the FY 2012 General and Utility Fund Capital Projects.

Council Action

Councilmember Daugherty moved to approve the FY 2012 General and Utility Fund Capital Projects with the following edits:

- Fire Department – Remove EMS Coordinator Computer and EMS Coordinator Printer
- Change the price of the cardiac monitor to \$45,000 in the text.
- Defer the Identity Management Solution and DNS Management Appliance
- Clarify the Administrative Captain's vehicle by breaking up the cost of the vehicle and cost of the equipment

Councilmember Bradley seconded the motion. The motion passed unanimously.

2. Consider and/or act upon a Resolution approving the 2011 appraisal roll with a taxable value of \$1,474,146,277 as certified by Bo Daffin, Chief Appraiser of the Collin Central Appraisal District, and a protested taxable property value of \$25,468,692 under review by the Appraisal Review Board.

Council Action

Councilmember Halbert moved to adopt a resolution approving the 2011 appraisal roll with a taxable value of \$1,474,146,277 as certified by Bo Daffin, Chief Appraiser of the Collin Central Appraisal District, and a protested taxable property value of \$25,468,692 under review by the Appraisal Review Board.

Councilmember Daugherty seconded the motion and it passed unanimously.

3. Consider and/or act upon a Resolution establishing two dates, August 30, 2011 and September 6, 2011, at 6 pm to conduct a Public Hearing on the City of Murphy proposed tax rate of \$0.5725 per \$100 valuation and establishing two dates, August 30, 2011 and September 6, 2011 at 6 pm for a Public Hearing on the proposed 2011-2012 municipal budget.

Council Action

Councilmember Halbert moved to adopt a resolution establishing two dates, August 30, 2011 and September 6, 2011, at 6 pm to conduct a Public Hearing on the City of Murphy proposed tax rate of \$0.5725 per \$100 valuation and establishing two dates, August 30, 2011 and September 6, 2011 at 6 pm for a Public Hearing on the proposed 2011-2012 municipal budget. Councilmember Daugherty seconded the motion and it passed unanimously.

4. Consider and/ or act upon authorizing the City Manager to initiate Stage 2 of the Drought Contingency and Water Emergency Response Plan (Ordinance No. 11-03-875) to be effective August 15, 2011.

Council Action

Councilmember Halbert moved to authorize the City Manager to initiate Stage 2 of the Drought Contingency and Water Emergency Response Plan to be effective August 15, 2011. Councilmember Daugherty seconded the motion and it passed unanimously.

5. Consider and/ or act upon approval of projects to be funded by Economic Development Corporation (4A) and Community Development Corporation (4B).

Council Action

After some discussion, Mayor Baldwin tabled this item until after the joint Work Session with Murphy Economic Development Corporation members and Murphy Community Development Corporation members.

CITY MANAGER/STAFF REPORTS

City Manager Fisher reported on the following:

- **Aug 16 – Regular Council Meeting**
- **Aug 18 – CLC Meeting 7:30 am**
- **Aug 30 – Special Meeting - 1st Public Hearing on Budget/Tax**

DRAFT

- **Sept 6 –Regular City Council Meeting – 2nd Public Hearing on Budget/Tax**

Additionally, Mr. Fisher reported on the following:

August 27th –Electronic Recycling

JOINT WORK SESSION

City Council convened into Work Session in the Community Room at 7:03 p.m.

Members present from MEDC: Kenneth Tatsch, Betty Spraggins, and Mike Smith

Members present from MCDC: Brian Epstein, Katie Westhora, and Cary Walker

- **Discussion regarding combining the 4A Economic Development Board and 4B Community Development Board or convert the 4A into a Municipal Development District.**

Council Discussion

Ben Wyse with the City Attorney's office, presented options to the Council and board members and opened the topic for discussion. Mr. Smith commented that he would like for the 4A Economic Development Board to meet at its next scheduled meeting to discuss this further. City Manager Fisher stated that if the Council would like to consider converting the 4A into a Municipal Development District, an election would need to be called no later than September 6th.

Item 5 from Individual Consideration:

- 5. Consider and/ or act upon approval of projects to be funded by Economic Development Corporation (4A) and Community Development Corporation (4B).**

Council Action

Councilmember Halbert moved to bring this item back to the table for discussion, seconded by Mayor Baldwin. Councilmember Halbert moved to remove the EMS Mule item from the projects list and approve the list of recommended projects for 4A and 4B to potentially fund. Councilmember Bradley seconded the motion. The motion passed 6-1 with Councilmember Grant in opposition.

ADJOURNMENT

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

APPROVED BY:

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary

DRAFT

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

**August 16, 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 Dennis Richmond
Councilmember Scott Bradley
Councilmember Bernard Grant
Councilmember Dave Brandon

PUBLIC COMMENTS

No public comments were 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 Special Meetings of July 26 and July 28, 2011, and the Regular Meeting of August 2, 2011.**
- B. Consider and/or act upon approval of an ordinance approving a negotiated resolution between the Atmos cities steering committee (“ACSC” or “Steering Committee”) and Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”) regarding the company’s fourth annual rate review mechanism (“RRM”) filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; requiring the company to reimburse cities’ reasonable ratemaking expenses; and repealing conflicting resolutions or ordinances.**
- C. Consider and/or act upon a Resolution authorizing the City Manager to execute a two year Interlocal Agreement between North Central Texas Council of Governments (NCTCOG) and City of Murphy for 911 Services.**

Council Action

Councilmember Halbert moved to approve the Consent Agenda, Items A-C as presented. Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

INDIVIDUAL CONSIDERATION

- 1. Consider and/or act upon the issuance of a special permit to allow a fireworks display during the Murphy Maize Days celebration on September 24, 2011.**

Council Discussion

Mr. Fisher explained that if drought conditions continue, the firework display may be suspended. Council discussed suspending if necessary due to safety and postponing until the Christmas celebration. There was some discussion regarding the contract with the vendor and whether or not fireworks were already scheduled for the Christmas celebration.

Public Comments

Mr. Keith Patton addressed council and requested to suspend the firework show due to fire hazards and the close proximity to his home.

Council Action

Councilmember Bradley moved to approve contingent upon approval of the Fire Marshal for safe conditions; and if not, then approval for display at the Christmas celebration. Councilmember Richmond seconded the motion. A vote was taken and passed, 7-0.

- 2. Consider and/or act upon approval of a professional services contract with Dunkin Sims Stoffels Inc., for architectural services for buildings, parking, and other facilities needed with the Murphy Central Park Project.**

Council Discussion

Councilmember Daugherty requested clarification on what additional items were not included in this contract. Dennis Sims, representing Dunkin Sims Stoffels, Inc., explained that it would be additional construction of the amphitheater to include stone seating, lighting and arches. He further explained that the sloped grass seating area was included in the proposed contract. There was some discussion on including funding for the amphitheater now, but Council determined to wait until the 4B (Murphy Community Development Budget) is approved.

Council Action

Councilmember Daugherty moved to approve a professional services contract with Dunkin Sims Stoffels Inc. for architectural services for buildings, parking, and other facilities needed with the Murphy Central Park Project. Councilmember Halbert seconded the motion. A vote was taken and passed, 7-0.

- 3. Consider and/ or act upon award of bid contract to relocate water and sewer lines on North Murphy Road for the upcoming TXDOT road widening project/ FM 2551.**

Council Action

Councilmember Daugherty moved to award a contract to relocate water and sewer lines on North Murphy Road for the upcoming TXDOT road widening project/ FM 2551 to Muniz Construction in the amount of \$2,028,026.00. Councilmember Halbert seconded the motion. A vote was taken and passed, 7-0.

- 4. Consider and/or act upon approval of an Ordinance amending the Murphy Code of Ordinances Chapter 30, Article II (Smoking) Section 21, Definitions; Section 23, Smoking prohibited in certain public areas; Section 27, where smoking is not prohibited, adding a new section, Section 28, to provide for air circulation and ventilation; providing for a penalty not to exceed five**

hundred dollars (\$500) for each offense; providing severability, repealer, and savings clauses; and providing an effective date.

Council Action

There was no action on this item. Councilmember Brandon suggested three changes to the original ordinance as listed below.

Section 30.21 - Changes to definitions of enclosed area – means all space between a floor and ceiling which is enclosed on all sides by walls or windows (exclusive of doors or passage ways) which extend from the floor to the ceiling. Patio – means an improved and defined unenclosed outside area associated with a food service establishment or bar used for purposes of dining or entertainment, provided that walkways are not to be considered patios. Smoking would be prohibited on a patio within 15 feet from any door, operable window, or other opening to an indoor enclosed area.

Section 30.27 - Where Smoking is not Prohibited – keep line (7) and add line (8) Patios as defined above.

There was Council discussion on the practical application of the changes proposed by Councilmember Brandon, concerns with measurements and enforcement, and grandfathering current businesses.

Council determined to review the practical applications and bring back within a month.

5. Consider and/or act upon the request to prepare construction documents for the widening of the north loop of City Hall Drive and the extension of the parking lot in front of City Hall.

Public Comments

Mr. Keith Patton addressed Council and requested that the road be widened at the intersection of the loop road and Tom Clevenger. He explained that it is very narrow and hard for buses to turn on that corner.

Council Action

Councilmember Bradley moved to approve the preparation of construction documents for the widening of the north loop of City Hall Drive not to exceed \$125,000.00. Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

6. Consider and/or act upon the consideration of closing Tom Clevenger Drive from North Murphy Road east to City Hall Drive.

Public Comments

Mr. Keith Patton addressed Council and requested that the closure of the road be delayed until after the construction of North Murphy Road.

Council Action

Councilmember Halbert moved to approve the closing of Tom Clevenger Drive from North Murphy Road east to City Hall Drive; not to occur until the street is completed on the north loop of City Hall Drive and with a 45-day notice to residents. Councilmember Daugherty requested to amend the motion to clarify Willow Wood residents and Councilmember Halbert agreed to the amendment. Councilmember Daugherty seconded the amended motion. A vote was taken and passed, 7-0. Councilmember Halbert requested that Willow Wood residents be notified by letter and all other residents be notified by other means such as press releases and signage.

7. Consider and/ or act upon an ordinance of the City Council of the City of Murphy, Texas, repealing Ordinance No. 06-07-699 in its entirety, repealing Ordinance No. 11-03-875, amending article 82, section ix, drought contingency and water emergency response plan; establishing procedures and criteria for declaring a water emergency and implementing and terminating drought response stages; establishing restrictions on certain water uses during drought response stages; establishing penalties for violating the restrictions and provisions for enforcement of these restrictions; establishing procedures for granting variances; providing for the adequate watering of landscaping and new grass; providing a severability clause; providing a penalty clause; and providing an effective date.

Council Discussion

Councilmember Grant asked for clarification on the differences in the proposed ordinance provided in the agenda packet and the proposed ordinance handed out at the meeting regarding the enforcement section; specifically the provisions regarding strict liability and rebuttable presumption. Ben Wyse, City Attorney's office, explained the provisions. Councilmember Grant stated he felt the provisions were conflicting and would have liked more time to review the revised ordinance.

Councilmember Brandon asked if there is a process regarding variances to the plan. Mr. Fisher stated there is. There was some discussion of having City Council review variances but it was determined that it should be the responsibility of the City Manager unless the policy in place is not effective. Councilmember Brandon clarified that the City Manager is authorized to initiate Stage 3 by approval of this policy. Mr. Fisher stated he does have that authorization but prefers to bring it to Council if possible.

Council Action

Councilmember Halbert moved to approve an ordinance of the City Council of the City of Murphy, Texas, repealing Ordinance No. 06-07-699 in its entirety; repealing Ordinance No. 06-08-703 in its entirety; repealing Ordinance No. 11-03-875 in its entirety; repealing Chapter 82, article IX., Sections 82-371 through 82-377 of the City of Murphy Code of Ordinances in its entirety; amending the City of Murphy Code of Ordinances by amending Chapter 82, Article IX as presented. Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

DISCUSSION

- Discussion regarding the maintenance of the Timbers subdivision drainage ditches

Council Discussion

Council discussed concerns with maintaining private and/or HOA property; issues with Corp of Engineers restrictions; and debris and drainage issues. City Engineer Gary Hendricks clarified the role of the Corp of Engineers and stated that the property in question was originally classified as a drainage ditch. He explained that it may have been reclassified as a wetland by the Corp of Engineers. Mr. Hendricks further explained the mitigation process. Mayor Baldwin requested a list of other properties with similar issues. Mr. Hendricks stated he will research the property and list of other wetlands in the City.

- Discussion regarding Senate Bill 100 and election implications.

Council Discussion

Mr. Fisher explained that Collin County, school districts, cities, and other government entities are working to resolve election issues that have resulted from the passage of Senate Bill 100. He explained some of the options including changing the length of terms from 3-year to 2-year or 4-year so that elections are only held in odd-numbered years. He stated that another option would be to move the

election cycle to November. Mr. Fisher said that more options and information would be discussed in September. He also said that Murphy was fortunate that an election is not scheduled for May 2012 therefore giving the City more time to determine what option is best for Murphy.

CITY MANAGER/STAFF REPORTS

City Manager Fisher reported on the following:

- **August 18 – CLC meeting at 7:30 am**
- **August 30 – Special Meeting – 1st Public Hearing on Budget/Tax**
- **September 5 – Labor Day Holiday – City Offices Closed**
- **September 6 – City Council Meeting – 2nd Public Hearing on Budget /Tax**
- **September 20 – Budget/Tax Rate adoption**

In addition, Mr. Fisher reported that he would be out of the office the rest of the week for professional development training and to take care of family business.

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.**
- §551.072. **Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.**

Council Action

Mayor Baldwin convened into Executive Session at 7:42 p.m.

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.**
- §551.072. **Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.**

Council Action

Mayor Baldwin reconvened into Regular Session at 8:04 p.m. No action was taken as a result of the Executive Session.

DRAFT

ADJOURNMENT

With no further business, the meeting was adjourned at 8:05 p.m.

APPROVED BY:

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary

Issue

Hold a public hearing on the proposed fiscal year 2011-2012 City of Murphy budget.

Background

Pursuant to Texas Local Government Code 102.006 and City Charter Section 7.05, the City Council has set a date for the Public Hearing on the municipal budget to be Tuesday, August 30, 2011 at 6:00 PM and a second Public Hearing on Tuesday, September 6, 2011 at 6:00 PM. The date set must be at least 15 days after the date the proposed budget is filed with the City Secretary and before the date the City makes its tax levy. The proposed budget was filed with City Secretary on August 9, 2011.

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

Financial Considerations

See the fiscal year 2011-2012 budget provided to City Council on August 9th. The budget is also available on the City's website.

Staff Recommendation

N/A

Announce after Public Hearing:

"The vote on the proposed fiscal year 2011-2012 budget will take place on Tuesday, September 20, 2011 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas."

Attachments

- 1) Notice of Public Hearing on Proposed Budget
- 2) Fiscal Year 2011-2012 Budget – previously provided and available online

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

NOTICE OF PUBLIC HEARING
CITY OF MURPHY
PROPOSED OPERATING BUDGET FISCAL YEAR 2011-2012

The City of Murphy will conduct a Public Hearing on the Proposed Operating Budget for the fiscal year 2011-2012 on Tuesday, September 6, 2011 at 6:00 p.m. at the Murphy Municipal Complex, City Council Chambers, 206 North Murphy Road, Murphy, Texas 75094.

This budget will raise more total property taxes than last year's budget by \$268,998, or 3.24%, and of that amount \$158,268 is tax revenue to be raised from new property added to the roll this year.

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

Dated this 9th day of August, 2011.
Linda Truitt
Finance Director

Issue

Hold a public hearing on the proposed tax rate of \$0.5725 per \$100 valuation.

Background

The City Council voted to propose a tax rate of \$0.5725 per \$100 valuation for the 2011 tax year, and increase of \$0.007449 for debt service. The proposed M&O rate is \$0.317493, an increase of \$0.000051, for a total tax rate increase of \$0.0075 per \$100 valuation.

Financial Considerations

The City is proposing a Maintenance and Operations (M&O) tax rate of \$0.317493 per \$100 valuation. The M&O tax rate funds a large portion of the City's operations, including Parks, Public Safety and Public Works. The second portion of the tax rate is for debt service, which provides funding for the current portion of the long-term debt. This year the debt service tax rate is set at \$0.255007 per \$100 valuation, an increase from last year's tax rate due to the 3rd and final issuance (\$4,800,000) of the \$16 million bonds approved by the voters in November, 2008.

Staff Recommendation

N/A

Announce after Public Hearing:

"The vote on the proposed tax rate will take place on Tuesday, September 20, 2011 at 6:00 PM in the City Council Chambers at Murphy City Hall, 206 North Murphy Road, Murphy, Texas."

Attachments

- 1) Notice of Public Hearing on Tax Increase

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

Notice of Public Hearing on Tax Increase

The City of Murphy will hold two public hearings on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 1.74 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

The first public hearing will be held on August 30, 2011 at 6:00 PM at City of Murphy Council Chambers, 206 N. Murphy Road, Murphy, Texas 75094.

The second public hearing will be held on September 6, 2011 at 6:00 PM at City of Murphy Council Chambers, 206 N. Murphy Road, Murphy, Texas 75094.

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

FOR:	Bret Baldwin	Colleen Halbert
	Scott Bradley	Dave Brandon
	John Daugherty	Dennis Richmond
	Bernard Grant	
AGAINST:	None	
PRESENT and not voting:	None	
ABSENT:	None	

The average taxable value of a residence homestead in City of Murphy last year was \$251,493. Based on last year's tax rate of \$0.565000 per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$1,420.94.

The average taxable value of a residence homestead in City of Murphy this year is \$254,373. If the governing body adopts the effective tax rate for this year of \$0.562726 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$1,431.42.

If the governing body adopts the proposed tax rate of \$0.572500 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$1,456.29.

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

Issue

Consider and/or act upon approval of an ordinance ordering a Special Election in the City of Murphy, Texas, to be held on November 8, 2011, for the purpose of submitting to the qualified voters, for adoption or rejection of a proposition to terminate the Murphy Economic Development Corporation (Type A) with the abolition of its sales tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent, and concurrently, authorize the creation of the City of Murphy Municipal Development District with the imposition of a sales and use tax at the rate of one-half of one percent for the purpose of financing development projects beneficial to the district.

Background

At the August 9, 2011 Joint Work Session, City Council, the Murphy Economic Development Corporation (MEDC- Type A/4A) and the Murphy Community Development Corporation (MCDC –Type B/4B) discussed options regarding the MEDC as listed below.

Option 1: Combine 4A and 4B into one Board. However, doing this will not combine the sales tax collection to 1 cent; it will stay at ½ cent.

Option 2: Convert the 4A into a Municipal Development District (MDD). The uses of 4A dollars are very restrictive and consideration of changing to a MDD may give the City additional flexibility to address some opportunities.

If the City Council desires to convert 4A to an MDD, a Special Election will need to be called. The next Uniform Election Date is November 8, 2011. The deadline to call a Special Election for this date is September 7, 2011.

Financial Considerations

If a Special Election is called, a joint contract with Collin County for Election services will be brought back for Council consideration in September. The November 2010 Charter Election estimated cost was \$20,495.78. The City received at reimbursement of \$4307.00, making the total cost for the November 2010 election \$16,188.78. The City Secretary/Election budget for FY2011 has \$3800.00 remaining and \$20,000.00 has been budgeted in FY2012.

Board/Staff Recommendation

Council direction is requested.

Attachments

- 1) Ordinance calling Special Election
- 2) Proposed Ballot Language –Ben Wyse, City Attorney
- 3) Checklist for Municipal Development District
- 4) Sales Tax Implementation Calendar
- 5) 4A/4B Comparison Chart
- 6) Type A Sales Tax Use

James Fisher, City Manager

Submitted By

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, ORDERING AND PROVIDING NOTICE OF A SPECIAL ELECTION TO BE HELD IN THE CITY OF MURPHY, TEXAS, ON NOVEMBER 8, 2011, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS, FOR ADOPTION OR REJECTION, A PROPOSITION TO TERMINATE THE CITY OF MURPHY ECONOMIC DEVELOPMENT CORPORATION (TYPE A) WITH THE ABOLITION OF ITS SALES AND USE TAX FOR THE PROMOTION AND DEVELOPMENT OF NEW AND EXPANDED BUSINESS ENTERPRISES AT THE RATE OF ONE-HALF OF ONE PERCENT, AND CONCURRENTLY, AUTHORIZE THE CREATION OF THE CITY OF MURPHY MUNICIPAL DEVELOPMENT DISTRICT WITH THE IMPOSITION OF A SALES AND USE TAX AT THE RATE OF ONE-HALF OF ONE PERCENT FOR THE PURPOSE OF FINANCING DEVELOPMENT PROJECTS BENEFICIAL TO THE DISTRICT; PRESCRIBING THE FORM OF THE BALLOTS; PROVIDING FOR CONDUCTING THE SPECIAL ELECTION; PROVIDING FOR NOTICE OF THE ELECTION; PROVIDING SEVERABILITY, CUMULATIVE/ REPEALER AND SAVINGS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Murphy, Texas (“City Council”), in the exercise of the discretion reposed in it by the Constitution and laws of this State, and in accordance with the provisions of Chapters 377 and 504 of the Local Government Code and Chapter 321 of the Tax Code, has determined that the City may and shall submit the following proposition at a special election to be held concurrently with the general election to be held on November 8, 2011, to the qualified voters of the City to terminate the City of Murphy Economic Development Corporation (Type A) with the abolition of its sales and use tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent, and concurrently, authorize the creation of the City of Murphy Municipal Development District with the imposition of a sales and use tax entirely and only within the corporate boundaries of the City of Murphy, Texas, which boundaries shall automatically conform to any changes in the corporate boundaries of the City, at the rate of one-half of one percent for the purpose of financing development project beneficial to the district; and

WHEREAS, the City Council has found and determined that a special election, as to such proposition set forth herein, has not been previously held within one year from the date of this ordinance; and

WHEREAS, the City Council hereby further finds and determines that the City is not disqualified from adopting the proposed sales and use tax in that the combined rate of

all sales and use taxes imposed by the City, and other political subdivision having territory within the City does not and will not, with the abolition of the Type A economic development sales and use tax concurrently with the adoption of the proposed municipal development sales and use tax, exceed two percent at any location within the City; and

WHEREAS, the City Council has found that a general election shall also be held on the 8th day of November, 2011, and the City Council has determined that it is in the public interest that the general election and the special election be conducted on the same day.

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

**Section 1
FINDINGS INCORPORATED**

The findings contained in the preamble set forth above are determined to be true and correct and are hereby incorporated into the body of this ordinance as if fully set forth herein.

**Section 2
ELECTION ORDER AND NOTICE OF ELECTION**

There is hereby ordered a special election to be participated in by the qualified voters of the City of Murphy, Texas, to be held on November 8, 2011, for the purpose of submitting to the qualified voters of the City, for adoption or rejection, a ballot proposition set forth below regarding the termination of the City of Murphy Economic Development Corporation (Type A) and the abolition of its sales and use tax, and concurrently, to authorize the creation of the City of Murphy Municipal Development District (“District”) and the adoption of a sales and use tax related to the creation of the District, the boundaries of which shall be entirely and only within the corporate boundaries of the City and such boundaries shall automatically conform to any changes in the corporate boundaries of the City. This special election shall be held within the corporate boundaries of the City of Murphy, Texas, which boundaries shall also be the same boundaries of the District.

**Section 3
PROPOSED PROPOSITION**

PROPOSITION NO. 1

Shall the City of Murphy Economic Development Corporation (Type A) be terminated with the abolition of its sales and use tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent, and concurrently, authorize the creation of the City of Murphy Municipal Development District with the imposition of a sales and use tax within

the incorporated City limits of the City of Murphy, Texas, which boundaries shall automatically conform to any changes in the corporate boundaries of the City at the rate of one-half of one percent for the purpose of financing development projects beneficial to the district?

- YES
- NO

Section 4 OFFICIAL BALLOT

The official ballots to be used in this special election shall comply with the applicable provisions of the Texas Election Code, the Local Government Code, and the Tax Code and shall state the proposition distinctly so that the each voter may vote “Yes” or “No”. Any non-substantive changes that need to be made for the ballot are hereby approved.

Section 5 POLLING PLACES

The polling places to be used in this special election shall be designated by the Collin County Elections office as listed in “*Exhibit A.*”

Section 6 EARLY VOTING

The early voting hours and locations for this special election shall be designated by the Collin County Elections office as listed in “*Exhibit B.*” The Early Voting Clerk shall be appointed by the Collin County Elections office.

All applications for an Early Voting mail ballot shall be received and processed by the Collin County Elections Administration Office, 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069.

Section 7 NOTICE OF ELECTION, PUBLICATION AND POSTING

The Mayor and City Secretary are hereby directed to give notice of the election by:

- (a) Publishing the notice of the election at least once, not more than thirty (30) days nor less than ten (10) days before the election in at least the official newspaper and the official City website;
- (b) Publishing a sample ballot in the official newspaper of the City, on the City website, and printing copies to be made available at City Hall;

- (c) Filing with the City Secretary, a copy of the notice of the election; and
- (d) Posting a copy of the notice on the bulletin board used for posting notices of the meetings of the City Council at least twenty-one (21) days before the Election.

The contents of the notice must comply with the Texas Election Code and:

- (1) Include a substantial copy of the proposition wording and the boundaries.

The Mayor or City Secretary shall file with the City Secretary a copy of the Publisher's Affidavit, which complies with the Texas Election Code, as amended, that the notice was published, with the name of the newspaper and the dates of publication.

Section 8 SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 9 CUMULATIVE/REPEALER CLAUSE

This ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Murphy, Texas, whether codified or uncodified, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 10 SAVINGS CLAUSE

All rights and remedies of the City of Murphy, Texas, are expressly saved as to any and all violations of the provisions of this ordinance or any other ordinance which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 11
EFFECTIVE DATE

This ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this the 30th day of August, 2011.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney
City of Murphy

Exhibit A
[Polling Places]

<Will be provided by Collin County after approval by Commissioner's Court>

Exhibit B

[Early Voting Locations and Hours]

NOVEMBER 8, 2011

CONSTITUTIONAL AMENDMENT, SPECIAL ELECTION

Early Voting Locations, Dates and Hours

Polling Place		Address		City	Commissioner Precinct	
Collin County Elections (Main Early Voting Location)		2010 Redbud Blvd. Ste 102		McKinney	Precinct 3	
Allen Municipal Courts Bldg.		301 Century Pkwy.		Allen	Precinct 3	
Carpenter Park Recreation Center		6701 Coit Road		Plano	Precinct 1	
Celina ISD Administration Building		205 S. Colorado		Celina	Precinct 1	
Christ United Methodist Church		3101 Coit Road		Plano	Precinct 4	
CCCCD-Central Park Campus		2200 W. University Drive		McKinney	Precinct 3	
CCCCD-Preston Ridge Campus		9700 Wade Blvd.		Frisco	Precinct 1	
CCCCD-Spring Creek Campus		2800 E. Spring Creek Pkwy.		Plano	Precinct 2	
Farmersville City Hall		205 South Main		Farmersville	Precinct 3	
Frisco Senior Center		6670 Moore Street		Frisco	Precinct 1	
Haggard Library		2501 Coit Road		Plano	Precinct 4	
Harrington Library		1501 18 th Street		Plano	Precinct 2	
Lucas City Hall		665 Country Club Road		Lucas	Precinct 2	
McKinney Fire Station #7		861 S. Independence Pkwy.		McKinney	Precinct 1	
Murphy City Hall		206 North Murphy Road		Murphy	Precinct 2	
Old Settlers Recreation Center		1201 E. Louisiana		McKinney	Precinct 3	
Parr Library		6200 Windhaven Pkwy.		Plano	Precinct 1	
PISD Administration Center		2700 W. 15 th Street		Plano	Precinct 4	
Renner-Frankford Library		6400 Frankford		Dallas	Precinct 4	
Texas Star Bank		402 W. White		Anna	Precinct 3	
Wylie Municipal Building		300 Country Club		Wylie	Precinct 2	
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Oct 23	Oct 24 Early Voting 8am – 5pm	Oct 25 Early Voting 8am – 5pm	Oct 26 Early Voting 8am – 5pm	Oct 27 Early Voting 8am – 5pm	Oct 28 Early Voting 8am – 5pm	Oct 29 Early Voting 8am – 5pm
Oct 30	Oct 31 Early Voting 8am – 5pm	Nov 1 Early Voting 8am – 5pm	Nov 2 Early Voting 8am – 5pm	Nov 3 Early Voting 7am – 7pm	Nov 4 Early Voting 7am – 7pm	Nov 5

Important Note: Eligible Collin County registered voters (with an effective date of registration on or before November 8, 2011) may vote at any of the above early voting locations.

Proposed Ballot Language for Abolishing the 4A EDC and Adopting an MDD

Proposition No. 1.

Vote “Yes” or “No”

“Shall the City the Murphy Economic Development Corporation (Type A) be terminated with the abolition of its sales and use tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent, and concurrently, authorize the creation of the City of Murphy Municipal Development District with the imposition of a sales and use tax at the rate of one-half of one percent for the purpose of financing development projects beneficial to the district?”

Statutorily required ballot language is in yellow highlights:

“Termination of the City of Murphy Economic Development Corporation (Type A) ...

[LGC §504.352 – Ballot (4A Corp.)]

and the adoption **“of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent”**

[LGC §504.256 – Ballot (adopting 4A tax)]

“[A]uthorizing the creation of the [City of Murphy] Municipal Development District and the imposition of a sales and use tax at the rate of one-half of one percent for the purpose of financing development projects beneficial to the district.”

[LGC §377.021(c) - Creation (the ballot must have this language to create the MDD)]

The proposition must be subject of a “yes or no” vote.

[Tax Code §321.404]

The city may combine the sales tax ballot propositions in substantially the same language required by law for the separate propositions.

[Tax Code §321.409]

CITY CHECKLIST FOR MUNICIPAL DEVELOPMENT DISTRICT SALES TAX ELECTION AND CREATION

- City creates a map of the proposed boundaries of the Municipal Development District.
- City council passes ordinance calling sales tax election to be held on a uniform election date. (Election should be ordered at least 62 days prior to election.)
- City submits election to U.S. Department of Justice for “preclearance”.
- City publishes notice of election, including proposition wording and boundaries, in newspaper 10-30 days prior to election.
- City holds election on uniform election date using statutory ballot wording (Attorney General provides sample ballot wording in its *Economic Development Handbook for Texas Cities* publication).
- City council canvasses returns and enters resolution or ordinance declaring election results into meeting minutes 3-6 days after election.
- If tax rate increase is approved, city secretary sends certified copy of resolution or ordinance declaring election results to the Comptroller of Public Accounts by certified or registered mail.
- Comptroller notifies city secretary within 30 days that tax will be administered.
- City council determines the initial board of directors.
- Development corporation board holds organization meeting to adopt bylaws and elect officers.
- City council approves bylaws of development corporation by resolution.
- District establishes a development project fund.
- City council determines method of transferring sales tax proceeds to district’s development project fund.

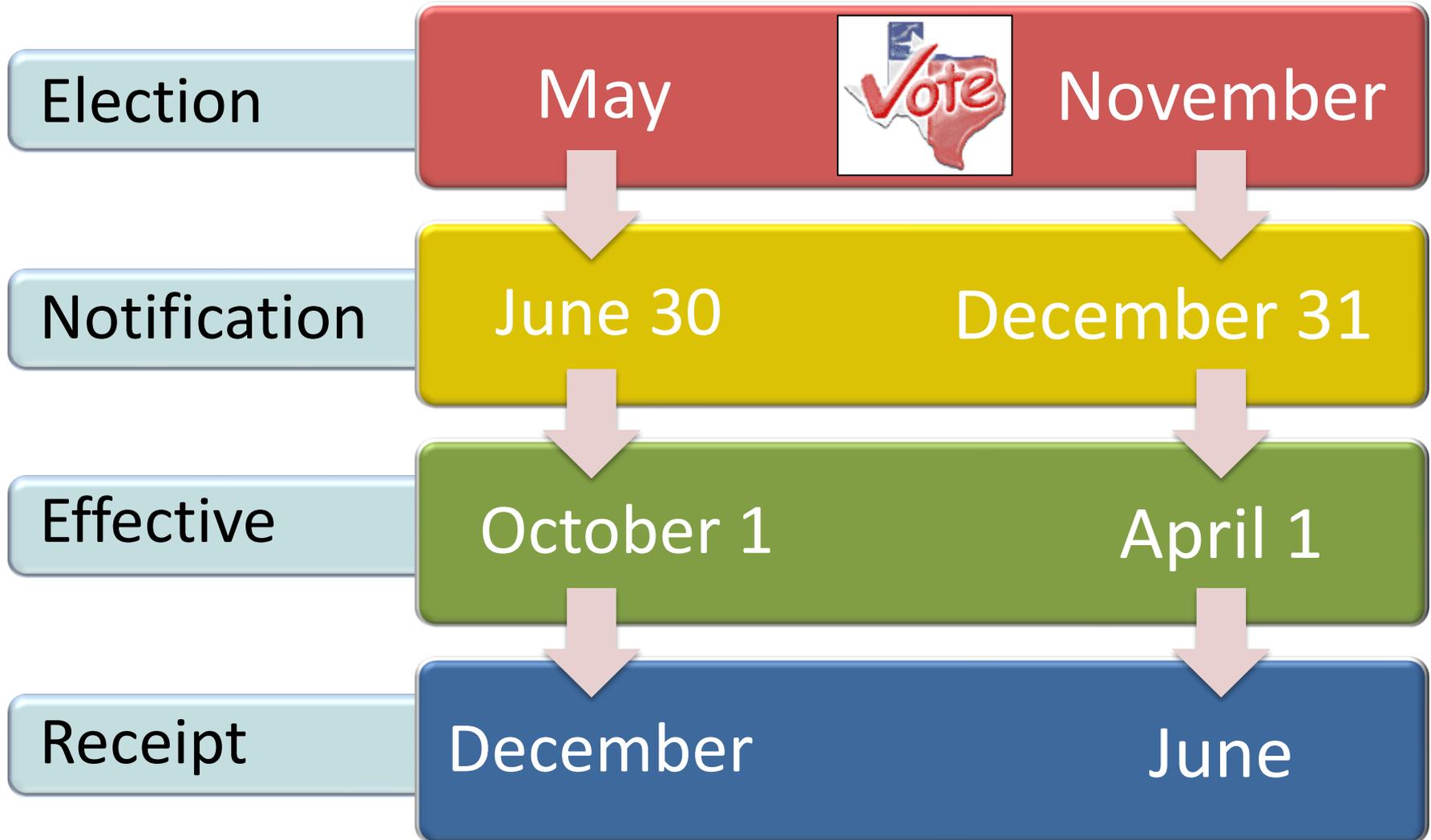
Note: Use this checklist only for Municipal Development District elections.

For assistance, please call the Comptroller’s Local Government Assistance Division toll free at 1-800-531-5441, extension 3-4679.

This document is intended for reference only and does not constitute legal advice. For legal guidance consult with an attorney, your county elections administrator or the Texas Secretary of State.



Local Government Assistance



COMPARISON OF TYPE A, TYPE B AND MDD ECONOMIC DEVELOPMENT ENTITIES

Nature of the Entities

<u>Type A</u>	<u>Type B</u>	<u>MDD</u>
Misc. limiting provisions	All Cities	All Cities
A corporation which administers the sales and use tax	A corporation which administers the sales and use tax	Not a corporation - a district and political subdivision of the state and the city
Files Articles of Incorporation	Files Articles of Incorporation	No Articles of Incorporation (not a corporation)
Corporation is governed by the Development Corporation Act of 1979 found now in Chapters 501-505 of the Local Gov't Code ("LGC") and the Texas Non-Profit Corporation Act (Business Organizations Code formerly Art. 1396-1.01. V.T.C.S)	Same as Type A	Created by LGC Ch. 377
Bylaws	Bylaws	Authorized to adopt rules to govern the operation of the district and its employees and property [LGC §377.071(5)]
Not a political subdivision	Not a political subdivision	Political subdivision of the state and the city [LGC §377.022]
Boundaries: City limits	Boundaries: City limits	Boundaries of MDD: (1) within all or part of city limits; (2) within all or part of city limits; and ETJ; or (3) within all or part of ETJ
Tax: 1/8, 1/4, 3/8 or 1/2 of 1% of sales and use tax	Same	Same

Board of Directors

Type A

Type B

MDD

At least 5 members; appointed by the city council	Seven members exactly; appointed by the city council; three members of the Board must not be employees, officers or city council members	Governed by a board of at least four directors; appointed by the city council (All council could be directors. I would recommend at least a 5 member board for purposes of a quorum)
May be removed by city council at will	Same	Same
Terms not to exceed 6 years	2-year terms (not necessarily staggered)	Staggered two-year terms
Qualification are not specified by statute	If City has population less than 20,000, must be a resident of the city; of the county in which the majority of the city is located; or reside within 10 miles of the city in a county which borders the county in which a majority of the city is located.	Director must reside within boundaries of the City or the MDD
All expenditures authorized require approval by City Council	Same	Establishes a Development Project Fund by resolution to pay costs of planning, acquiring, establishing, developing, constructing or renovating a project, and for operating and maintaining a project. [LGC §377.072]
Conflict of Interest: Ch. 171, LGC does not apply; Bylaws apply	Conflict of Interest: Ch. 171, LGC does not apply; Bylaws apply	Conflict of Interest: Ch. 171, LGC does apply; and may not have a personal interest in a contract executed by the district other than as an employee, officer, or member of the city council [LGC §377.051]
Compensation: Reimbursement only	Same	Same [LGC §377.052]
Quorum: Majority of entire membership	Same Majority of entire membership	Quorum: Not specified in LGC Ch. 377, Gov't Code Ch. 551 is applicable

Administrative Expenses

Type A

Type B

MDD

Authorized to pay the administrative expenses (including staff) to implement the projects.	Same	Employ necessary personnel [LGC §377.071(4)]
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Open Meeting, Public Hearings and Public Information

Type A

Type B

MDD

Subject to TOMA (Gov't Code, Ch. 551) [LGC §501.072]	Same	Subject to TOMA as a political subdivision
Meetings to be held in the city or county in some cases (new law)	Same	Meetings to be held in the city
<p>Public Hearings: Not required for Type A projects.</p> <p>But they are required for Type B (LGC Ch. 505) projects – along with a special election to be held on a uniform election date. [LGC §504.152 - §504.153]</p> <p>Plus: two (2) separate readings are required by the City Council if the project expenditure is \$10,000 or more. [LGC §505.158(b)]</p>	<p>Public Hearings: At least one public hearing is required on a proposed project before spending money to undertake the project unless the project is a project that is defined under Subchapter C, Ch. 501 of the LGC) and if the population of the city is < 20,000. [LGC §505.159]</p>	<p>None; no publications, public hearings, performance agreements, or elections are required.</p>
60 day waiting period to expend funds following first public notice of a Type B project only	Same	None

Subject to Public Information Act (Gov't Code Ch. 552) [LGC §501.072]	Same	Subject to PIA as a political subdivision
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Projects

Type A

Type B

MDD

Intended for manufacturing and industrial development	For economic development and community development	Very similar to Type B (“for the purpose of finance development projects beneficial to the district”) [LGC §377.021]
<p><u>Projects that Create or Retain Primary Jobs</u></p> <p>A Type “A” economic development corporation may fund the following projects <u>provided</u> the projects create or retain “primary jobs:”</p> <p>See LGC §501.002 for definition of “primary job” which means a “job that is ... available at a company for which a majority of the products or services of that company are <u>ultimately exported</u> to regional, statewide, national or international markets <u>infusing new dollars</u> into the local economy”; and that is included in one of nearly sixteen (16) NAICS sector codes.¹</p> <p>See LGC §§501.101 and 504.103 for description of projects authorized under Chapters 501 and 504.</p>	<p><u>Projects that Create or Retain Primary Jobs</u></p> <p>A Type “B” economic development corporation may fund the following projects, <u>provided</u> the projects create or retain “primary jobs:”</p> <p>Type B corporations may provide land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements (one or more) that are for the creation or retention of primary jobs and that are found by the board of directors to be required or suitable for the development, retention, or expansion of:</p> <ol style="list-style-type: none"> (1) manufacturing and industrial facilities; (2) research and development facilities, (3) military facilities, including closed or realigned military bases; (4) transportation facilities (including 	<p>Same as Type B [LGC §505.151-505.158]</p> <p>Plus: A convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, or auditorium, including parking areas or facilities that are used to park vehicle and that are located at or in the vicinity of other convention center facilities. [LGC §377.001(3)]</p>

¹ The NAICS sector code categories include: crop production; animal production; forestry and logging; commercial fishing; support activities for agriculture and forestry; mining; utilities; manufacturing; wholesale trade; transportation and warehousing; information; securities, commodity contracts, and other financial investments and related activities; scientific research and development services; management of companies and enterprises; telephone call centers; correctional institutions; and a job included within National Security sector number 928110.

<p><u>Authorized Projects for “Primary Jobs” under §501.101:</u></p> <p>(1) manufacturing and industrial facilities;</p> <p>(2) research and development facilities;</p> <p>(3) military facilities;</p> <p>(4) recycling facilities;</p> <p>(5) distribution center;</p> <p>(6) small warehouse facilities;</p> <p>(7) primary job training facility by institutions of higher education; and</p> <p>(8) regional or national corporate headquarters.</p> <p>[LGC §501.101]</p> <p><u>LGC § 501.101 projects which are excluded under Chapter 504 – for Type A corporations</u></p> <p>(1) transportation facilities ;</p> <p>(2) sewage or solid waste disposal facilities;</p> <p>(3) air or water pollution control facilities;</p> <p>[LGC §504.103]</p>	<p>but not limited to airports, ports, mass commuting facilities, and parking facilities);</p> <p>(5) sewage or solid waste disposal facilities;</p> <p>(6) recycling facilities;</p> <p>(7) air or water pollution control facilities;</p> <p>(8) distribution centers;</p> <p>(9) small warehouse facilities capable of serving as decentralized storage and distribution centers;</p> <p>(10) primary job training facilities for use by institutions of higher education; and</p> <p>(11) regional or national corporate headquarters facilities.</p> <p>[LGC 505.151; See LGC § 501.101]</p>	
<p>Additionally, Type “A” corporations may fund the following projects <u>without creating or retaining primary jobs</u>:</p> <p><u>Ch. 501 Authorized Projects:</u></p> <p>(1) job training classes [LGC §501.102];</p> <p>(2) <u>certain targeted infrastructure</u> [LGC §501.103];</p> <p>(3) career center not located within the taxing jurisdiction of a junior college district [LGC §501.105];</p>	<p>Type B corporations may provide land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises <u>that create or retain primary jobs</u>, including a project to provide:</p> <p>(1) public safety facilities;</p> <p>(2) streets and roads;</p> <p>(3) drainage and related improvements;</p> <p>(4) demolition of existing structures;</p> <p>(5) general municipally owned improvements; and</p>	

<p><u>Ch. 504 (expressly Type A) Projects:</u></p> <p>(4) a general aviation business airport which is an integral part of an industrial park [LGC §504.103(c)(1)];</p> <p>(5) port related facilities [LGC §504.103(c)(2)];</p> <p>(6) airport-related facilities for communities located 25 miles from U.S./Mexico border only [LGC § 504.103(c)(3)];</p> <p><u>Ch. 502 Projects:</u></p> <p>(7) development, improvement, maintenance of commuter rail, light rail or motor buses [LGC § 502.052];</p> <p><u>Ch. 504 Additional Projects</u></p> <p><u>(8) Type “B” projects with voter approval</u> [LGC § 504.152 - .153]; and</p> <p><u>Ch. 504 Promotional Purposes:</u></p> <p>(9) <u>promotional projects</u> [LGC § 504.105].</p>	<p>(6) any improvements or facilities that are related to any of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises <u>that create or retain primary jobs</u>. [LGC §505.155]</p>	
<p><u>HB 3302</u> <u>New LGC §504.171</u> Effective 06/17/11</p> <p><u>Type A corporations in Cities with population under 7,500 having both a Type A and a Type B EDC may now, if permitted by ordinance of the authorizing municipality, undertake any project that a Type B corporation may undertake under Chapter 505.</u></p>	<p><u>Projects that are NOT Required to Create or Retain Primary Jobs</u></p> <p>Additionally, Type B corporations may fund the following projects <u>without</u> creating or retaining <u>primary jobs</u>:</p> <p>(1) job training classes [LGC §505.151; See §501.162];</p> <p><u>Ch. 501 Authorized Projects:</u></p> <p>(2) <u>certain targeted infrastructure</u></p>	

Until this new provision, a Type A could undertake a Type B project only by conducting a special election to gain public approval and conduct a public hearing.

projects necessary to promote or develop new or expanded business enterprises, limited to streets and roads, rail spurs, water and sewer utilities, and electric utilities, gas utilities, drainage, **site improvements, and related improvements**, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico

[LGC §501.103];

(3) land, buildings, equipment, facilities, and expenditures required or suitable for a career center not located within the taxing jurisdiction of a junior college

[LGC § 501.105];

Ch. 505 Authorized Projects:

(4) projects consisting of professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events [Local Gov't Code § 505.152];

(5) affordable housing projects [LGC §505.153];

(6) water supply facilities projects, with the requisite voter approval [LGC § 505.154(1) and § 505.304];

(7) water conservation programs, with the requisite voter approval [LGC §505.154(2) and § 505.304];

(8) development or expansion of airport or railport facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or railport facility, if the project is undertaken by a Type B corporation and enters into a development agreement with an entity who acquires a leasehold or other possessory interest from the Type B corporation and is authorized to sublease the entity's interest for other authorized projects

	<p>[LGC § 505.1561]; and</p> <p><u>Ch. 502 Projects:</u> (9) development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses [LGC § 502.052];</p> <p><u>Ch. 505 Certain Small Cities Projects:</u> <u>(10) Type B corporations with a city population of 20,000 or less, may provide land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to promote new or expanded business development, provided projects which require an expenditure of more than \$10,000 the city council must adopt a resolution authorizing the project after giving the resolution at least two (2) separate readings</u> [LGC § 505.158].</p>	
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How Type A sales tax revenue can be used

The Type A sales tax is primarily intended for manufacturing and industrial development. EDCs may use Type A revenue to fund land, buildings, equipment, facilities expenditures, targeted infrastructure and improvements for projects including:

- manufacturing and industrial facilities, recycling facilities, distribution centers, and small warehouse facilities;
- research and development facilities, regional or national corporate headquarters facilities, primary job training facilities operated by higher education institutions, job training classes, telephone call centers and career centers not located within a junior college taxing district;
- certain infrastructure improvements that promote or develop new or expanded business enterprises;
- aviation facilities;
- commuter rail, light rail or commuter bus operations;
- port-related facilities, railports, rail switching facilities, marine ports, inland ports; and
- maintenance and operating costs associated with projects.

With voter approval, Type A EDCs may fund projects eligible under Type B without voting to abolish the Type A tax and impose the Type B tax. In this situation, a Type A EDC must publish notice of its intent to fund a Type B project, hold at least one public hearing and conduct a special election. For specific legal requirements and procedures, please see the Attorney General's [Economic Development Handbook \(PDF\)](#).

Type A EDCs also may seek voter approval to spend Type A sales tax funds to clean up contaminated property.

A Type A corporation cannot assume, or pay principal or interest on, debts that existed before voters agreed to establish

How Type B sales tax revenue can be used

The Type B sales tax may be used for any project eligible under Type A rules and several other project types, including quality of life improvements. Type B corporations may pay for land, buildings, equipment, facilities, targeted infrastructure and improvements for:

- professional and amateur sports and athletic facilities, tourism and entertainment facilities, convention facilities and public parks;
- related store, restaurant, concession, parking and transportation facilities;
- related street, water and sewer facilities; and
- affordable housing.

To promote and develop new and expanded business enterprises that create or retain primary jobs, a Type B EDC may fund:

- public safety facilities;
- recycling facilities;
- streets, roads, drainage and related improvements;
- demolition of existing structures;
- general municipally owned improvements; and
- maintenance and operating costs associated with projects.

Type B EDCs also may seek voter approval to spend Type B sales tax funds for a water supply, water conservation program or to clean up contaminated property.

Exceptions for Small Cities and Landlocked Communities

Type B EDCs created by cities with a population of 20,000 or less and those classified as landlocked communities may use sales tax proceeds to fund projects that promote new or expanded business development that do not create or retain primary jobs. A landlocked community must be located in either Harris or Dallas counties and have less than 100 acres within its city limits and extraterritorial jurisdiction zoned for manufacturing or industrial facilities.