

MURPHY CITY COUNCIL AGENDA
REGULAR CITY COUNCIL MEETING (COUNCIL CHAMBERS)
JANUARY 19, 2016 AT 6:00 PM
206 NORTH MURPHY ROAD
MURPHY, TEXAS 75094



Eric Barna
Mayor

Scott Bradley
Mayor Pro Tem

Owais Siddiqui
Deputy Mayor Pro Tem

Ben St. Clair
Councilmember

Betty Spraggins
Councilmember

Sarah Fincanon
Councilmember

Rob Thomas
Councilmember

James Fisher
City Manager

Susie Quinn
City Secretary

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on January 19, 2016 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1. CALL TO ORDER

2. INVOCATION & PLEDGE OF ALLEGIANCE

3. ROLL CALL & CERTIFICATION OF A QUORUM

4. PUBLIC COMMENTS

5. PRESENTATIONS

- A. Presentation of Keep Murphy Beautiful 3rd Annual Mascot and Poster Contest Winners.
- B. Presentation of the Annual Traffic Contact Report for 2015 for the Murphy Police Department (also known as the Racial Profiling Report).
- C. Presentation of financial report and investment report as of December 31, 2015.

6. CONSENT AGENDA

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

- A. Consider and/or act on the January 5, 2016 regular meeting minutes.

7. INDIVIDUAL CONSIDERATION

- A. Consider and/or act on postponement of action until February 2, 2016 of the application of Anshu Jain requesting to amend the Concept Plan for approximately 6.43 acres of property zoned PD (Planned Development) District No. 09-02-785, as amended by Ordinance No. 14-04-975, located on FM 544 approximately 800' west of Heritage Parkway for Lots 2-3, Block A, Nelson Addition.

- B. Hold a public hearing and consider and/or act on the application of Ryan Betz of 4B & W Land, LLC., Ronald and Patricia Williford and Kevin McAllister requesting a change in zoning from SF-20 (Single Family 20 Residential) to Retail on approximately 5.56 acres of property located southeast of FM 544 and Maxwell Creek Road. **(This item was continued from January 5, 2016 City Council Meeting).**
- C. Consider and/or act upon the Agreement for Video Streaming Services between the City of Murphy and Swagit Productions, LLC; consider adding additional video streaming for Boards/Commissions meetings.
- D. Consider and/or act upon the Board and Commission Orientation/Work Session on Saturday, February 6th from 9:00 am until noon at the Murphy Community Center.
- E. Consider and/or act upon the recommendations from the Council Interview Panel regarding appointing board members to the Murphy Municipal Development District.
- F. Consider and/or act upon advertising board members to the Charter Review Commission.

8. CITY MANAGER/STAFF REPORTS

- A. Timbers Nature Preserve
- B. Betsy Lane Road Widening Project
- C. South Maxwell Creek Parallel Trunk Sewer Line
- D. North Murphy Road

9. EXECUTIVE SESSION

In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council will now recess into Executive Session (closed meeting) to discuss the following:

- A. § 551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of the Murphy Municipal Development District Members and Charter Review Commission.

10. 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:

- A. § 551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of the Murphy Municipal Development District Members and Charter Review Commission.
- B. Take Action on any Executive Session Items.

11. ADJOURNMENT

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on January 15 by 5:30 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.


Susie Quinn, TRMC
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 squinn@murphytx.org.

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

City Council Meeting January 19, 2016

Issue

Presentation of the Annual Traffic Contact Report for 2015 for the Murphy Police Department (also known as the Racial Profiling Report).

Background

The MPD is required to present the findings of its annual traffic contact (racial profiling) analysis report to the Council before March of each year. The Annual Traffic Contact Report for 2015 was prepared by Dr. Alex del Carmen, Del Carmen Consulting, LLC, who develops the report from data provided from MPD records. The city of Murphy is required to collect certain information on vehicle stops. This information is then tabulated at the end of each year. The data is analyzed and formatted into a report that provides an analytical and numerical picture of the enforcement activities of the police officers of the MPD. Furthermore, state law now requires that a report be filed electronically with the Texas Commission on Law Enforcement (TCOLE) on a form prescribed by them for that purpose.

The City of Murphy utilizes the U. S. Census Fair Roads Standard for comparison and analysis in developing its report. The City of Murphy is exempt from collecting Tier II data (much more information including pedestrian stops) since it has installed audio and video equipment in all police vehicles routinely utilized for traffic law enforcement.

Financial Considerations

There should be little or no fiscal impact by the receipt of the report. The city has entered into an agreement with Dr. del Carmen that does include an annual fee and is reflected in the annual budget for the MPD.

Other Considerations

The report has been required since 2001 with the passage of SB 1074. This law has since been codified in Articles 2.131 and 2.131 of the Texas Code of Criminal Procedure. In addition, certain standards and requirements have been established by rules of the Texas Commission on Law Enforcement (TCOLE) as well as the Texas Transportation Code.

Board/Staff Recommendation

Staff recommends that the Council accept delivery of the report. There is no other action required of City Council.

Recommended Motion

That Council accepts the delivery of the Annual Racial Profiling Report for 2015 for the Murphy Police Department.

Attachments

- 1) Annual Traffic Contact Report for 2015
- 2) TCOLE RP Report (Filed with TCOLE Electronically)



Annual Contact Report

2015

The Murphy Police Department

(I) Introduction

Opening Statement

January 7, 2016

Murphy City Council
206 North Murphy Road
Murphy, Texas 75094

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001 the Texas Racial Profiling Law. Since then, the Murphy Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements are now in place. These most recent requirements have been incorporated by the Murphy Police Department and are also being addressed in this report.

This particular report contains three sections with information on traffic and motor vehicle-related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Murphy Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074); which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation which demonstrates compliance by the Murphy Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/15 and 12/31/15. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Murphy Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an “agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.”

The article further defines race or ethnicity as being of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.” The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

S.B. No. 1074

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;
(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained;

and

(B) whether a search was conducted and, if so,

whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual

who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop;
and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax

effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;
- (4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;
- (5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;
- (6) whether a search of the vehicle was conducted and whether consent for the search was obtained;
- (7) the plea, the judgment, and whether bail was forfeited;
- (8) [~~7~~] the date of conviction; and
- (9) [~~8~~] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as

added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 200

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

Most Recent Legal Requirements (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle [~~traffic~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle [~~traffic~~] stops in which a citation is issued and to arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so,

whether the individual [~~person~~] detained consented to the search;
and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit [to the governing body of each county or municipality served by the agency] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [~~traffic~~] stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [~~traffic~~] stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC AND PEDESTRIAN~~] STOPS. (a) In this article, "race[+]

[~~(1)~~—"Race] or ethnicity" has the meaning assigned by Article 2.132(a).

[~~(2)~~—"Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance [~~regulating traffic or who stops a pedestrian for any suspected offense~~] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [~~each~~] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or

ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [~~traffic law or ordinance alleged to have been violated or the suspected offense~~];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [~~the type~~] of the contraband or evidence [~~discovered~~];

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [~~existed and the facts supporting the existence of that probable cause~~];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop [~~, including a description of the warning or a statement of the violation charged~~].

SECTION _____. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle [~~, "pedestrian~~] stop" has the meaning assigned by Article 2.132(a) [~~means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest~~].

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each [~~local~~] law enforcement agency shall submit a report containing the incident-based data [~~information~~] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [~~in a manner approved by the agency~~].

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor

vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities [~~determine the prevalence of racial profiling by peace officers employed by the agency~~]; and

(B) examine the disposition of motor vehicle [~~traffic and pedestrian~~] stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [~~the~~] stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic or pedestrian~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [~~traffic and pedestrian~~] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as

determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle [~~traffic and pedestrian~~] stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and
(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;
(2) the person receives community supervision, including deferred adjudication; or
(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION _____. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN

COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a

municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; [and]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION _____. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

SECTION _____. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(II) Responding to the Law

Institutional Policy on Racial Profiling

 MURPHY POLICE DEPARTMENT DIRECTIVE	
SUBJECT: Bias Based Profiling	NUMBER: 2.01.1
EFFECTIVE DATE: November 18, 2009	RELATED STANDARDS:
REVIEW DATE: March 10, 2015	APPROVED: _____ Chief G.M. Cox DATED: 03/10/15

- I. **PURPOSE:** To reaffirm the commitment of the Murphy Police Department’s to unbiased policing in the encounter with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.
- II. **POLICY:** It shall be the policy of the Murphy Police Department to police our community in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, state, and federal laws in a responsible and professional manner, without regard to race, ethnicity, or national origin. Officers are strictly prohibited from engaging in bias based profiling as defined in this policy. Bias based profiling is an unacceptable patrol tactic and will not be condoned.

This Directive is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in bias based profiling.

III. **DEFINITIONS:**

- A. Bias Based Profiling – The selection of an individual based solely on a trait common to a group for enforcement action. This includes, but not limited to: race, ethnic background, gender, sexual orientation, religion, economic status, cultural group, or any other identifiable group.
- B. Race or Ethnicity – persons of a particular descent
- C. Acts Constituting Bias Based Profiling – acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual’s race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes, rather than upon the individual’s behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.
- D. Pedestrian Stop – an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.
- E. Traffic Stop – the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulating traffic.

IV. DELIVERY PROTOCOL:**A. PROHIBITION:**

- a. Officers of the Murphy Police Department are strictly prohibited from engaging in bias based profiling in any form. The prohibition against bias based profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description when used as part of a description of a suspect or witness for whom an officer is searching.

B. COMPLAINT PROCESS:

1. No person shall be discouraged, intimidated or coerced from filing a complaint or be discriminated against because they have filed a complaint.
2. Any person who believes that a peace officer employed by the Murphy Police Department has engaged in bias based profiling with respect to that person, may file a complaint in accordance with the provisions in Directive 2.04.1 – Internal Investigations.
 - a. An employee who is contacted regarding a complaint against an officer shall follow the procedures set forth in Directive 2.04.1 – Internal Investigations.
 - b. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, “How to File a Complaint” and a complaint form. Brochures are maintained in the Murphy Police Department lobby and at Murphy City Hall.
3. Any supervisor who becomes aware of an alleged or suspected violation of this Directive shall report the alleged violation in accordance with Directive 2.04.1 – Internal Investigations.
4. Complaints of racial profiling shall be classified as a Level 1 complaint, and shall be investigated by the Chief of Police or his designee.

C. DISCIPLINARY AND CORRECTIVE ACTIONS:

1. Any department officer who is found, after investigation, to have engaged in racial profiling in violation of this Directive may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

E. PUBLIC EDUCATION:

1. The Murphy Police Department shall provide education to the public concerning the bias based profiling complaint process. The primary method of public education shall be through the brochure “How to File a Complaint” which are maintained in the lobby of the Murphy Police Department, and at Murphy City Hall. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet and/or public meetings.

F. COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED OR ARREST MADE

1. For each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, an officer involved in the stop shall collect the following information on the citation:
 - a. Information identifying the race or ethnicity of the person detained. The following codes will be used to identify the individual’s race:

- B = Black
- H = Hispanic
- A = Asian
- W = White
- I = Native American / American Indian
- M = Middle Eastern
- O = Other

Note: Officers may not ask the individual to identify their race. If the officer is unable to determine the race or ethnicity of the person contacted, then the race shall be entered as “other” on the citation(s) issued.

- b. Whether a search was conducted;
 - c. If a search was conducted, whether the person detained consented to the search;
 - d. Whether contraband was found;
 - e. Whether the person contacted is a resident or non-resident of the City of Murphy. This shall be reflected on each citation issued, using an (R) for residents or a (NR) for non-resident.
 - f. Whether the peace officer knew the race or ethnicity of the individual detained before detaining the individual.
2. The information collected shall be compiled in an annual report covering the period of January 1 through December 31 of each year, and shall be submitted to the governing body of the City of Murphy no later than March 1 of the following year. The report will include:
 - a) A breakdown of citations by race or ethnicity;
 - b) Number of citations that resulted in a search;
 - c) Number of searches that were consensual;
 - d) Number of citations that resulted in custodial arrests;
 - e) Public education efforts concerning the racial profiling complaint process; and.
 - f) The number of complaints received by the department that officers were racially profiling.
 3. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

G. AUDIO AND VIDEO EQUIPMENT

1. Each motor vehicle regularly used by this department to make traffic stops is equipped with a mobile video camera system capable of recording video and audio.
2. Each traffic stop made by an officer of this department that is capable of being recorded by video and audio shall be recorded. In units equipped with mobile video camera systems, both video and audio recordings shall be required.
3. Supervisors and officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperable mobile video camera equipment shall not be utilized, under normal circumstances.
4. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile video equipment when situations dictate.

5. All in-car video recording boxes shall be locked at all times.
6. All recordings shall be kept for a minimum of ninety (90) days from the date of the recording. This is in compliance with Article 2.135. (2-b) of the Texas Code of Criminal Procedure.
7. All recordings will be kept in a secure location within the police department to prevent loss or tampering. The location will be designated by the Support Services Manager.
8. All recordings must be kept accessible by supervisory staff for review.

H. REVIEW OF VIDEO DOCUMENTATION

1. To ensure the Department meets the standards set forth under the State racial profiling laws, recording reviews shall be conducted. Each video shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a traffic stop. The Field Services Commander shall ensure that all recordings are properly stored and retained in accordance with applicable laws and this Directive.
2. If a complaint is received alleging that an officer has engaged in racial profiling, the tape shall be forwarded to the Chief of Police. The Chief of Police shall retain the recording until final disposition of the complaint has been made.
3. The Field Services Commander or her designee shall review a randomly selected sampling of video and audio recordings, made recently by officers employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted weekly and documented on the appropriate form.
 - a. Written documentation shall include:
 - i. The names of the officers whose contacts were reviewed;
 - ii. The date(s) of the tapes reviewed;
 - iii. The date the actual review was conducted; and
 - iv. The name of the person conducting the review.
 - b. The Field Services Commander or their designee shall view thirty (30) minutes of video on each officer every two weeks.
 - c. The recordings that are reviewed may be chosen at random, unless some event requires the review of specific recorded materials.
 - d. The Field Services Commander shall forward the required documentation to the Office of the Chief of Police.
 - e. The Office of the Chief of Police shall maintain a file of all tape review documentation performed, in compliance with this Directive.
4. In reviewing video recordings, the Field Services Commander or her designee, shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.
 - a. If any material on the recording does not comply with State racial profiling laws or Murphy Police Department Policy, the Field Services Commander or their designee shall insure that appropriate corrective action is taken in compliance with Article 2.132. (b-5) of the Texas Code of Criminal Procedure.

I. TRAINING

1. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement (TCOLE) not later than the second anniversary of the date the officer was licensed, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCOLE intermediate proficiency certificate, or who had held a peace officer license issued by TCOLE for at least two years, shall complete a TCOLE training and education program on racial profiling not later than September 1, 2003.
2. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT), not later than September 1, 2003.

IV. ADMINISTRATIVE REVIEW AND REVISION

- A. *Annually*, the Chief of Police shall review the Directive, making any revisions, as needed.

- V. **CLOSING STATEMENT:** Violations of this Directive would serve only as grounds for discipline within the Murphy Police Department.

Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the Murphy Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, the Murphy Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a complaint on a racial profiling violation by a Murphy Police officer. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

Racial Profiling Training

Racial Profiling Training

Since 2002, all Murphy Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Murphy Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Murphy has been included in this report.

It is important to recognize that the Chief of the Murphy Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Murphy Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

**Racial Profiling
Course Number 3256
Texas Commission on Law Enforcement
September 2001**

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle

5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/15---12/31/15, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the Murphy Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/15 ---- 12/31/15.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case

Additional Comments:

Tables Illustrating Traffic and Motor Vehicle-Related Contacts

Tier 1 Data

(I) Tier 1 Data

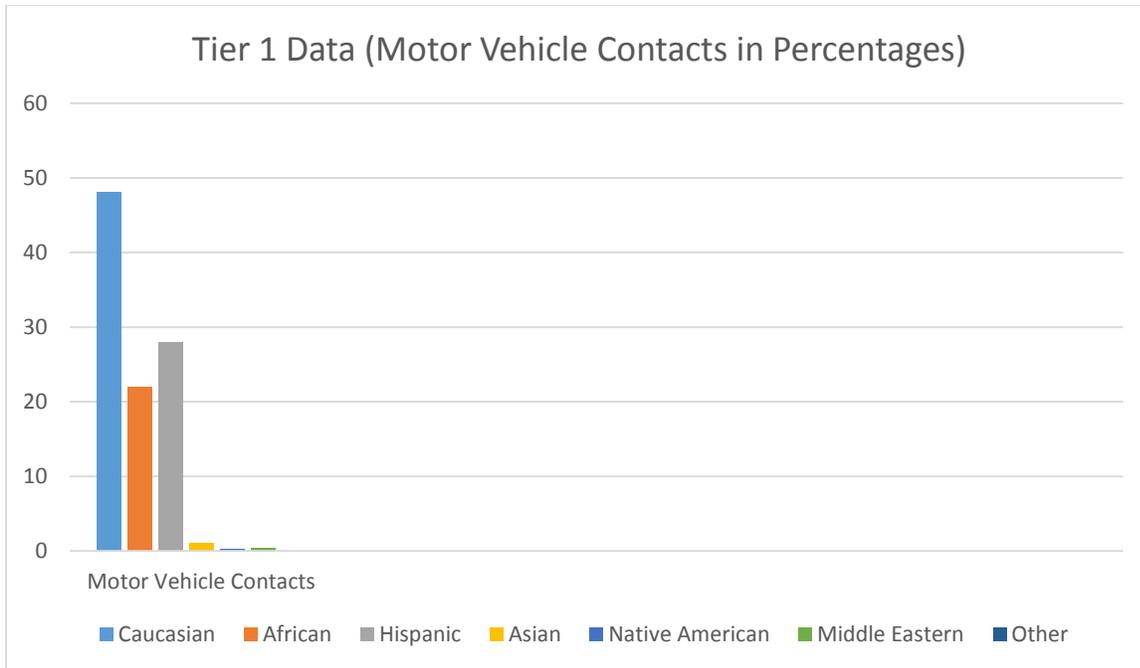
Motor Vehicle-Related Contact Information (1/1/15—12/31/15)

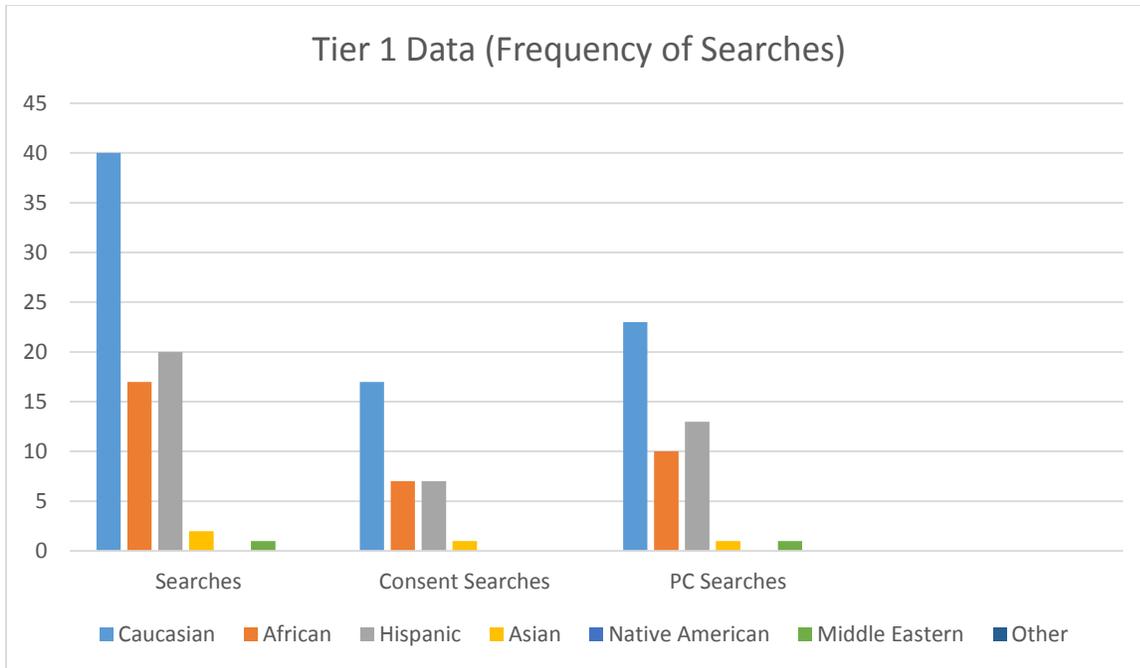
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	3,697	52	40	50	17	53	23	48	12	55
African	1,067	15	17	21	7	22	10	21	3	14
Hispanic	1,038	15	20	25	7	22	13	27	5	22
Asian	725	10	2	3	1	3	1	2	0	0
Native American	1	.01	0	0	0	0	0	0	0	0
Middle Eastern	524	7	1	1	0	0	1	2	2	9
Other	6	.08	0	0	0	0	0	0	0	0
Total	7,088	100	80	100	32	100	48	100	22	100

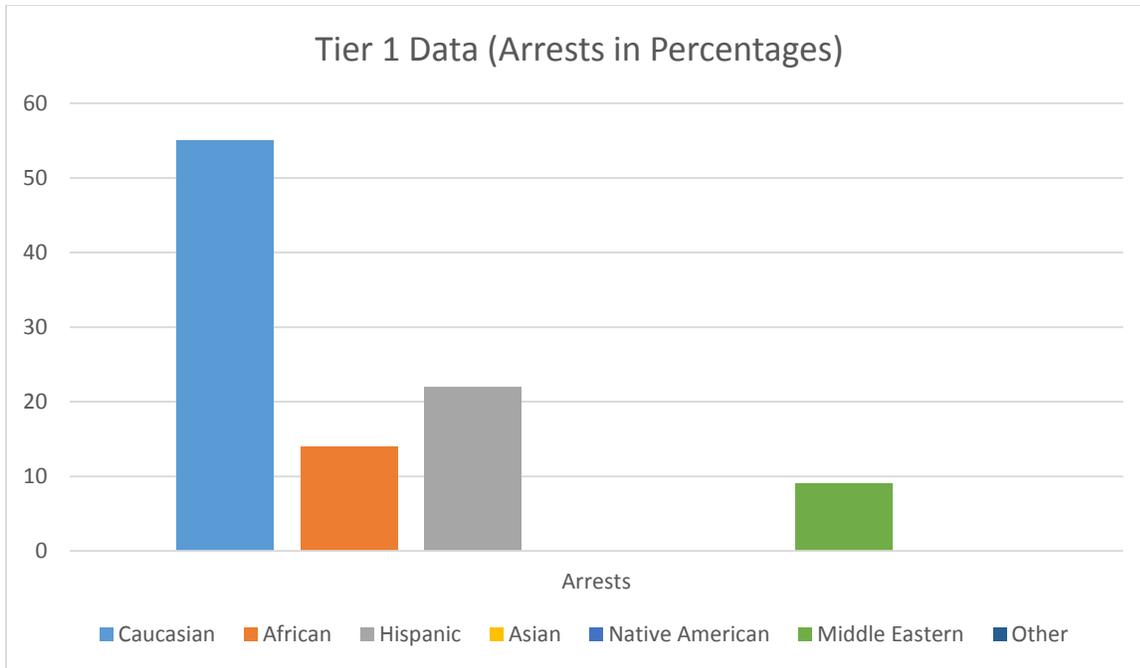
“N” represents “number” of traffic-related contacts

* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern”.

**Figure has been rounded

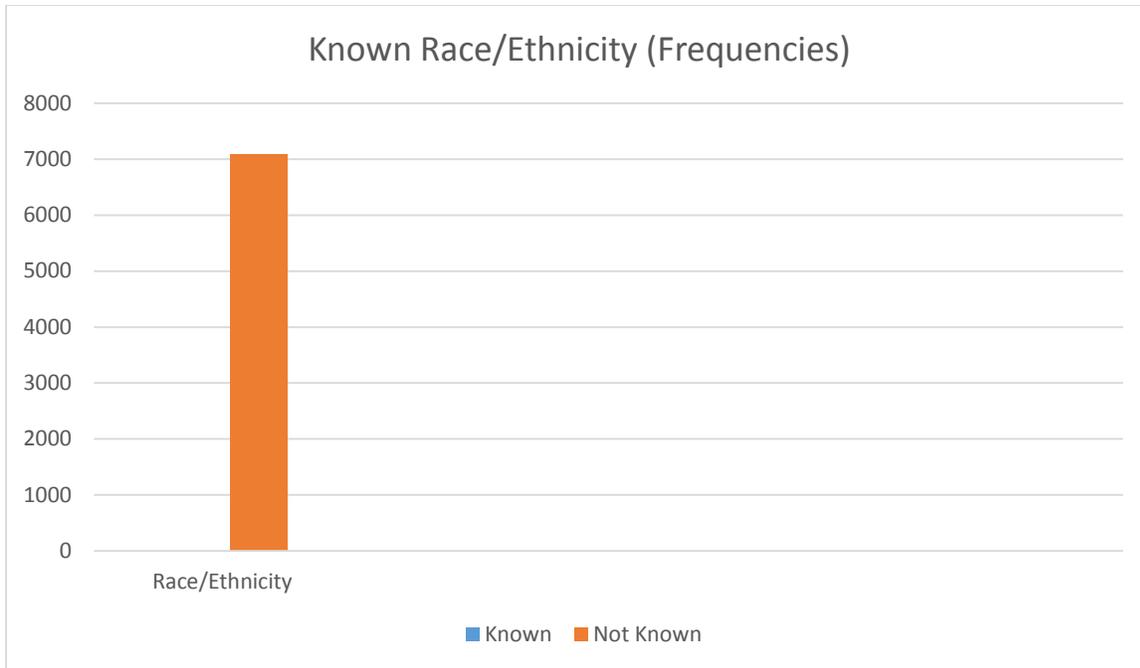






Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/15--12/31/15)

Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained	Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained
0	7,088



Tier 1 (Partial Exemption TCOLE Form)

Partial Exemption Racial Profiling Reporting (Tier 1)

Department Name - Murphy Police Department

Agency Number - 085216

Chief Administrator Name - ARTHUR COTTEN

Reporting Name - Murphy Police Department

Contact Number - 972-468-4235

E-mail Address - kparker@murphytx.org

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP): Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

- (A) the Commission on Law Enforcement Officer Standards and Education; and
- (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These policies are in effect

Arthur Catter 01/12/16
Chief Administrator Date

Partial Exemption Racial Profiling Reporting

(Tier 1)

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):

all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

Chris Cotton 01/12/16
Chief Administrator Date

Partial Exemption Racial Profiling Reporting (Tier 1)

(This is the TCLEOSE recommended form. The form is not mandatory. The information contained in this form, however, is mandatory. You may use your form, but all information must be provided.)

If you claim a partial exemption you must submit a report that contains the following data or use this format to report the data.

Instructions: Please fill out all boxes. If zero, use 0.

1. Total on lines 4, 11, 14, and 17 Must be equal

2. Total on line 20 Must equal line 15

Number of Motor Vehicle Stops:

1. _2228__ citation only

2. _22____ arrest only

3. _16____ both

4. _2266____ Total

Race or Ethnicity:

5. _270____ African

6. _260____ Asian

7. _1121____ Caucasian

8. _441____ Hispanic

9. _174____ Middle Eastern

10. _0____ Native American

11. _2266____ Total

Race or Ethnicity Known Prior to Stop?

12. _0_____ Yes

13. _2266___ No

14. _2266_____ Total

Search Conducted:

15. _80_____ Yes

16. _2186___ No

17. _2266_____ Total

Was Search Consented?

18. _32_____ Yes

19. _48_____ No

20. _80_____ Total Must Equal # 15

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

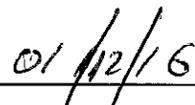
(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above requirements



Chief Administrator



Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

Tier 1 Baseline Comparison (Fair Roads Standard)

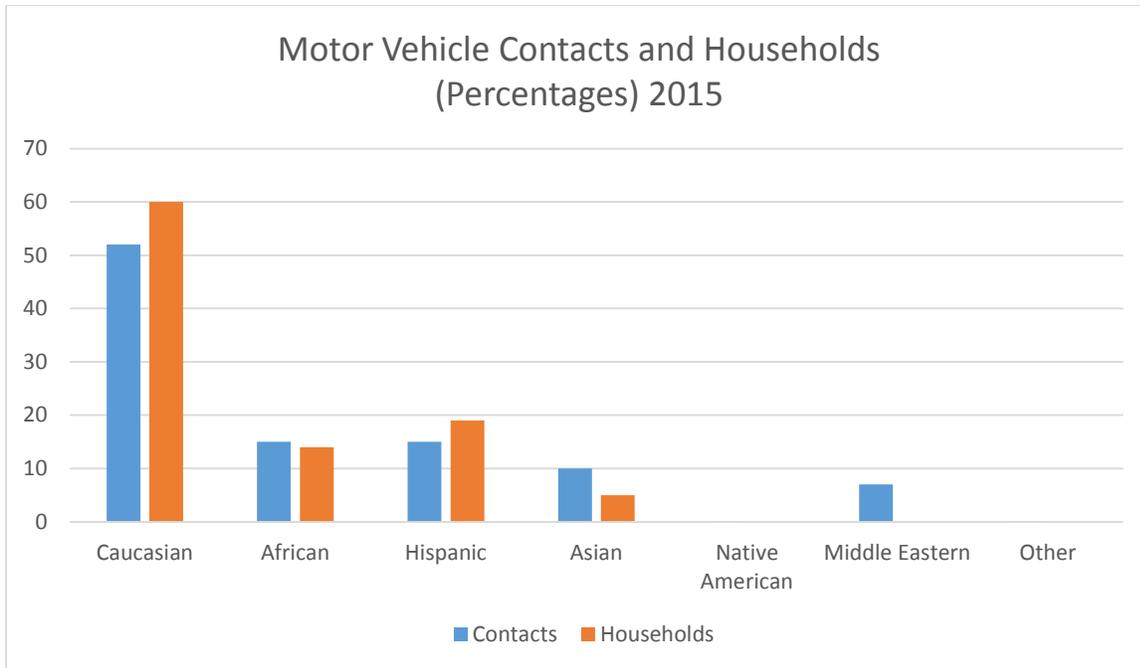
(II) Motor Vehicle-Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households in DFW that have vehicle access (in percentages). (1/1/15—12/31/15)

Race/Ethnicity*	Contacts (in percentages)	Households with vehicle access (in percentages)
Caucasian	52	60
African	15	14
Hispanic	15	19
Asian	10	5
Native American	.01	N/A
Middle Eastern	7	N/A
Other	.08	N/A
Total	100	98**

* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American and Middle Eastern”.

**Represents rounded figure



Analysis and Interpretation of Data

Analysis

In 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. That is, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

The Texas Racial Profiling Law also requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if individual police officers are engaging in racial profiling, from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic or motor vehicle-related contacts.

As stated previously, in 2009, the Texas Legislature passed House Bill 3389, which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These most recent changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the more recent law requires adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year. I am pleased to inform you that these additional requirements have been addressed, since 2009, by the Murphy Police Department as it is demonstrated throughout this report.

In an effort to comply with The Texas Racial Profiling Law, the Murphy Police Department commissioned the analysis of its 2015 motor vehicle contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2015 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2015 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Murphy Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Murphy Police Department in 2015 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Murphy Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort Worth (DFW) Metroplex.

Tier 1 (2015) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2015, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by Hispanic and African American drivers. With respect to searches, most of them were performed on Caucasian drivers. This was followed by Hispanics and African Americans. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in motor vehicle-related contacts; this was followed by Hispanics and African Americans.

Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in the DFW who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American

and Asian descent that came in contact with the police was higher than the percentage of African American and Asian households in DFW that claimed, in the 2010 census, to have access to vehicles. With respect to Caucasians and Hispanics, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Hispanic drivers that came in contact with the police in 2015 was lower than the percentage of Caucasian and Hispanic households in DFW with access to vehicles.

Summary of Findings

The comparison of motor vehicle contacts showed that the Murphy Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Hispanic drivers than the percentage that resided in DFW and had access to vehicles. Further, the data suggested that the percentage of African American and Asian drivers that came in contact with the police in 2015 was higher than the percentage of African American and Asian households in DFW with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

While considering the findings made in this analysis, it is recommended that the Murphy Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals; particularly with African Americans and Asians. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public.

As part of this effort, the Murphy Police Department is also encouraged to:

- 1) Perform an independent search analysis on the search data collected in the first quarter of 2016.
- 2) Commission data audits in 2016 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Murphy Police Department complied with recommendations made last year, in a similar report, regarding data audits. In sum, the information and analysis provided in this report serves as evidence that the Murphy Police Department has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements **were** met by the Murphy Police Department in accordance with The Texas Racial Profiling Law:

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Murphy Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2016.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting, LLC
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

CITY COUNCIL MINUTES
REGULAR CITY COUNCIL MEETING
January 5, 2016 AT 6:00 PM

1. CALL TO ORDER

Mayor Pro Tem Scott Bradley called the meeting to order at 6:01 pm.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Councilmember Betty Spraggins gave the invocation and Mayor Pro Tem Bradley led the Pledge of Allegiance.

3. ROLL CALL & CERTIFICATION OF A QUORUM

Executive Assistant Kim McCranie certified a quorum with the following Councilmembers present:

Mayor Pro Tem Scott Bradley
Deputy Mayor Pro Tem Owais Siddiqui
Councilmember Betty Nichols Spraggins
Councilmember Sarah Fincanon
Councilmember Rob Thomas

Absent:

Mayor Eric Barna
Councilmember Ben St. Clair

4. PUBLIC COMMENTS

Ray Shahan, resident wished council best wishes for the coming year. He gave his view of the legal classified advertisements from various years as being incorrect and some items are missing. He explained he feels Ordinance Number 03-10-590 was an incorrect document.

Councilmember Spraggins asked Shahan for clarification of what he is wanting from Council. Shahan explained he really wants language to state the HOA is responsible for the maintenance and staining of the fences which are part of the screening walls in the Ranch subdivision.

5. PRESENTATIONS

Finance Director, Linda Truitt gave a separate presentation for the October and November 2015 financials. She explained in October 2015 there was about a 10 million dollar decrease compared to September because there were a lot of bills paid in that month. Interest rates continue at .14%. Sales Tax from the General Fund/MDD/CDC show increases over this time last year. Revenues for October 2015 are at approximately 3% of the budget (instead of 8%); this will increase in December/January because of property taxes collections. As of October no building permits for single family homes have been issued. General Fund Expenditures are only about 6% for the budget. For the utility fund our revenue is at about 11% and expenditures are at 8%.

For the November 2015 data we continue to show General Fund Revenues are behind since we have not collected much in property taxes. In the Sales Tax in the General Fund/MDD/CDC still

shows a slight increase monthly and we hope this trend will continue. The City issued two (2) single family building permits, and issued one (1) commercial building permit with more on the horizon. We are at about 13% for expenditures for the General Fund. In the Utility Fund the City is approximately 18% for revenue. Utility Fund expenditures are at around 15%.

6. CONSENT AGENDA

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

- A. Consider and/or act on the December 1, 2015 regular meeting minutes.

COUNCIL ACTION (6.A.): ***APPROVED***
Deputy Mayor Pro Tem Siddiqui moved to approve the consent agenda as presented. Councilmember Thomas seconded the motion. For: Unanimous. The motion carried by a vote of 5 to 0 (Mayor Barna and Councilmember St. Clair were absent).

7. INDIVIDUAL CONSIDERATION

- A. Consider and/or act upon approval of Resolution Number 16-R-824 designating investment officers of the City and approving the investment policy for the investment of municipal funds.

Director of Finance Linda Truitt explained this item is an annual item. The investment officers are Steven Ventura - Assistant Finance Director, James Fisher - City Manager, and Linda Truitt - Finance Director.

Councilmember Thomas noted the resolution number is listed as 16-R-824 in the agenda and packet. City Manager James Fisher explained it was a typo and confirmed this can still be passed with a change to the motion number as 16-R825.

COUNCIL ACTION (7.A.): ***APPROVED***
Deputy Mayor Pro Tem Siddiqui moved to approve Resolution Number 16-R-825 designating investment officers of the City and approving the investment policy for the investment of municipal funds. Councilmember Thomas seconded the motion. For: Unanimous. The motion carried by a vote of 5 to 0 (Mayor Barna and Councilmember St. Clair were absent).

- B. Consider and/or act upon approval of Ordinance Number 16-01-1006 amending the FY 2014-2015 revenue budgets, expenditure budgets and fund balances for the General Fund, Cable PEG Fund, Utility Fund, Capital Improvement Fund, Police Seizure Fund, Murphy Community Development Corporation (Type B) and the Capital Construction Fund.

Finance Director, Linda Truitt explained this item occurs annually and is generally just a housekeeping item. This year we increased the General Fund by \$300,000 and the Utility Fund by \$442,000. Councilmember Thomas asked why the General Fund FY 2014 projected number

wouldn't be an actual number. Truitt explained we have to amend the budget based on the budget we had as it was presented in 2014 and it will become the actual number. All auditing has been completed it's just a formality.

COUNCIL ACTION (7.B.):

APPROVED

Deputy Mayor Pro Tem Siddiqui moved to approve Ordinance Number 16-01-1006 amending the FY 2014-2015 revenue budgets, expenditure budgets and fund balances for the General Fund, Cable PEG Fund, Utility Fund, Capital Improvement Fund, Police Seizure Fund, Murphy Community Development Corporation (Type B) and the Capital Construction Fund. Councilmember Thomas seconded the motion. For: Unanimous. The motion carried by a vote of 5 to 0 (Mayor Barna and Councilmember St. Clair were absent).

Discussion between items: City Manager James Fisher explained prior to discussing items C and D that staff is requesting the public hearings be held for these items today but continue any action until the January 19th City Council Meeting. These items were denied by the Planning and Zoning Commission and in order to overturn their decision it would need a super majority which requires a vote of 6 out of the 7 and there are only 5 councilmembers present at this time. Mayor Pro Tem Bradley asked about an appeal for Item 7D and Fisher confirmed the applicant has until January 7th to file the appeal. Andy Messer requested for 7D in its entirety be continued until the January 19th meeting since an appeal has not been filed as of this meeting.

Councilmember Spraggins asked for clarification of why Planning & Zoning voted these items down. Fisher explained they didn't give a reason when they voted they just gave their vote.

Councilmember Thomas also asked for clarification of why this item is on the agenda. Fisher explained because the public hearing was published in the newspaper with tonight's date, therefore it must be on the agenda. He also explained the notice was published prior to Planning & Zoning voting against the item. There was discussion on methods to get clearer/better information on why items are passed or failed by other boards.

- C. Hold a public hearing and consider and/or act on the application of Anshu Jain requesting to amend the Concept Plan for approximately 6.43 acres of property zoned PD (Planned Development) District No. 09-02-785, as amended by Ordinance No. 14-04-975, located on FM 544 approximately 800' west of Heritage Parkway for Lots 2-3, Block A, Nelson Addition.

Director of Economic & Community Development, Kristen Roberts gave a brief background of this item, and explained that Planning & Zoning denied this item with much discussion on this item. She also explained the minutes are not approved yet and that is the reason they were not included in this agenda packet. Roberts said staff is recommending approval for this plan for this and future development. The applicants gave a presentation of their concept plan explaining their vision for the property on FM544. The applicant also gave a background of her history with Murphy, she is a resident and wants to move her current dental location within the city to create a larger building and hoping to preserve the trees and area as best she can. The applicant also described the layout of the driveway as requested by the Fire Chief, and explained how they plan to address other concerns from residents and the Planning and Zoning commission. There was further discussion regarding the driveway and parking lots, the applicant verified they will invest in the road themselves and have the circle driveway in the back to avoid a K-turn for fire trucks

and other emergency vehicles. There was also discussion regarding the elevation difference of 16 feet.

Public Hearing opened at 6:47pm

Tammy Maxey, resident explained her house location in relation to the proposed development. She stated she was also speaking for her neighbors as well. She explained when she purchased her home it was said this area would be retained as greenspace. Maxy requested assurance that nothing is built within one hundred feet (100') from the creek. Council mentioned the current planned development on file is approved and the applicant would not have to go before Council or the Planning and Zoning Commission to build. Council clarified her concern was the circle driveway in the back.

Dwight Johnson, resident explained the residents in that area have been told nothing would be built from the backline of the vet clinic. He wants to clarify the 100 year floodplain line on the proposal to ensure nothing is built too close.

Diane Tingle, resident explained when the vet clinic was being built they changed the topography because of the amount of fill dirt they brought in to change the elevation. She stated she is concerned on how this will affect their homes with the 100 year floodplain and water run-off. She stated concerns regarding trees being removed, and the removal of the buffer the trees created to block the view of FM 544 and concrete. Property values will be affected (lowered) with elimination of the country feel the area currently has from viewing buildings on FM 544.

Bradley continued the public hearing until January 19, 2016.

Council asked for clarification from Roberts regarding the distance that will change for the new plan. Roberts confirmed from the rear of the building to the creek will be 65 feet and there is a 100 feet from the creek bed as setback for building. Council also clarified there is no current language in the existing planned development for this lot regarding how close to a residential lot something can be built. Council requested an exact overlay from a satellite image for the proposed development with a clearer idea of the proposed elevation, and also to look at ways to lessen the impact for the rear of the property.

The City Attorney clarified that the entire item will be brought forward to the January 19th meeting.

COUNCIL ACTION (7.C.):

NO ACTION AS THIS ITEM IS BEING CONTINUED

- D. Hold a public hearing and consider and/or act on the application of Ryan Betz of 4B & W Land, LLC., Ronald and Patricia Williford and Kevin McAllister requesting a change in zoning from SF-20 (Single Family 20 Residential) to Retail on approximately 5.56 acres of property located southeast of FM 544 and Maxwell Creek Road. **This public hearing will be continued until February 2, 2016.**

Mayor Pro Tem Bradley said item 7D is pulled in its entirety for this meeting and the public hearing will be continued until the January 19th meeting.

COUNCIL ACTION (7.D.):

NO ACTION AS THIS ITEM IS BEING CONTINUED

- E. Consider and/or act upon the recommendations from the Council Interview Panel regarding appointing board members to the Murphy Municipal Development District.

City Manager James Fisher explained this board was not appointed with the others. Council clarified the interview panel has not chosen appointees yet. This item will be postponed until January 19, 2016 meeting.

COUNCIL ACTION (7.E.):

NO ACTION AS THIS ITEM IS BEING POSTPONED

- F. Consider and/or act upon on the Interlocal Agreement between the City of Murphy and the Texoma Area Paratransit System, Inc. for demand-response transit services.

City Manager James Fisher explained this agreement was entered into a year ago. The interim CEO has requested we cancel this agreement.

COUNCIL ACTION (7.F.):

APPROVED

Deputy Mayor Pro Tem Siddiqui moved to cancel the Interlocal Agreement between the City of Murphy and the Texoma Area Paratransit System, Inc. for demand-response transit services. Councilmember Fincanon seconded the motion. For: unanimous. The motion carried by a vote of 5 to 0 (Mayor Barna and Councilmember St. Clair were absent).

- G. Discussion on the Board and Commission Orientation on Saturday, February 6th from 9 a.m. until noon at the Murphy Community Center.

City Manager James Fisher explained we do an orientation each year and reiterated the date for the proposed orientation. He described his hopes that Council will be in attendance as well to discuss what the Council is wanting regarding direction and reports. The comprehensive plan and charter review are on the horizon. Fisher also explained the attorney's office will present a lot of information on open meetings act, etc. Council suggested scheduling a work session for an hour to discuss their visions for the boards.

No action was required for this item.

8. CITY MANAGER/STAFF REPORTS

- A. Timbers Nature Preserve

Continuing to work on the trails, and address the trails for the future. Currently we are working and sharing the costs for making the trails stronger for the rain in the future.

- B. Betsy Lane Road Widening Project

This project is continuing to be on target and finishing items such as the bridge, sidewalk construction, median irrigation, etc.

C. South Maxwell Creek Parallel Trunk Sewer Line
Contract ends on March 25, 2016 and a new schedule was requested since it will not be completed by then. Due to the drought/flood this project has been delayed because the beginning point is currently underwater.

D. North Murphy Road

Representative Laubenberg will be setting up meetings with the HOAS and the City to discuss damages and resolutions. Meeting times have not been finalized yet. Council mentioned the left turn lane on Murphy Road and FM 544 regarding the need to open that up. Fisher explained the traffic analysis that the City prepared was given to TxDOT over a year ago and it is still being reviewed.

Comprehensive plan update, staff met with Freese and Nichols regarding this and it will be coming before Planning and Zoning Commission with items to update. Currently there isn't anything of huge impact, just miscellaneous items regarding thoroughfare, parks and open spaces, and southeast study.

Monday, January 18th the city offices will be closed in observance of Martin Luther King Jr. Day.

On December 26th our neighbors were devastated by tornados, Fisher publically thanked both chiefs and the City employees for their preparedness and hard work on assisting the surrounding communities.

7. EXECUTIVE SESSION

In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council recessed into Executive Session (closed meeting) at 7:23 p.m. to discuss the following:

- 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 carry laws.
- B. §551.076 Deliberation regarding security devices.
- C. §551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of the Murphy Municipal Development District Members.

8. RECONVENE INTO REGULAR SESSION

The City Council reconvened into Regular Session at 8:19 p.m., pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- 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 carry laws.
- B. §551.076 Deliberation regarding security devices.

- C. §551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of the Murphy Municipal Development District Members.
- D. Take Action on any Executive Session Items.

COUNCIL ACTION (8.A., 8.B., & 8.C.):

NO ACTION

11. ADJOURNMENT

With no further business, the regular council meeting was adjourned at 8:19 pm.

APPROVED BY:

ATTEST:

Scott Bradley, Mayor Pro Tem

Susie Quinn, City Secretary

**City Council
January 19, 2016**

Issue

Continue a public hearing and consider and/or act on the application of Anshu Jain requesting to amend the Concept Plan for approximately 6.43 acres of property zoned PD (Planned Development) District No. 09-02-785, as amended by Ordinance No. 14-04-975, located on FM 544 approximately 800' west of Heritage Parkway for Lots 2-3, Block A, Nelson Addition. **This item was continued from January 5, 2016.**

PROJECT UPDATE SINCE JANUARY 5, 2016

Following the January 5, 2016 Council meeting and considering feedback from the City Council, residents and Planning & Zoning Commission, the applicant met with staff to discuss site options.

The applicant worked with staff to draft a revised layout that proposed the driveway going east and tying into the neighboring property. Staff determined the new proposed layout created the access necessary for public safety while minimizing the concrete increase to the north of the applicant's property. After a meeting between the applicant and neighboring property owner, this new proposed layout was not accepted by the existing property owner (vet clinic) due to their intent for future site development to the north.

Background

- The Planned Development (PD) District Ordinance No. 09-02-785 was City of Murphy initiated and approved for this property by City Council on February 16, 2009.
- This property's zoning was amended in 2009 following public input and public hearings.
- Planned Development District No. 09-02-785 was created in order to provide consistent zoning that is compatible with the surrounding property including residential neighborhoods.
- PD No. 09-02-785 was amended by Ordinance No. 14-04-975 which allowed for veterinary use and added additional development requirements as noted in the Ordinance (Exhibit D).

Summary

This consideration item is for an amendment to the Concept Plan, which is an exhibit to the Planned Development Ordinance for this property.

Any proposed development would be required as such to submit full site plan and construction plat details for review and consideration; however, must be in line with the Concept Plan for this property.

Note: No changes to the Planned Development District, including building setbacks or permitted uses, are being requested.

City Council
January 19, 2016

Considerations regarding Concept Plan

The Concept Plan is recommended as a guide for future and unknown development for a site.

On November 24, 2014 the Concept Plan for this property was revised to accommodate potential future development of Lot 2.

The initial Concept Plan for the property was approved in April 2014 and users for Lot 2 were not identified at that time.

In order to accommodate future development of the same user (Smiles at Murphy) and offices from November 2014, the applicant is requesting an additional amendment to the Concept Plan.

Following the completion of the development to the east on Lot 1 (veterinary clinic), the topography on this site changed.

- By shifting and combining the north/south fire lanes into one fire lane as described below, the owner is able to continue to preserve an existing 26" pecan tree located on Lot 3, just north of the existing entrance from FM 544, which was intentionally preserved during development of Lot 1.
 - O The current Concept Plan would allow for this tree to be removed. The proposed amendment preserves this tree.
- The proposed Concept Plan amendment better facilitates a 24-foot elevation differential in the terrain from the eastern lot line of Lot 2, to the western line of Lot 3.
- To solve this difficult grading challenge, they combining the north/south fire lanes into one shared fire lane to be located over the common lot line of the two lots, with a complete turn-around at the open area on the north end of Lot 2, as shown in the proposed Concept Plan.
- This pavement, not the building, is being proposed approximately 65-feet further north than the previous Concept Plan, or about 55-feet from the nearest residential lot.
 - O As a reference, based on current Office District zoning set back requirements, the allowed building setback is 40 feet from the nearest residential property line.
- The overall building square footage is less by approximately 1,100 square feet than the previous Concept Plan.
- With this submittal, the applicant also requests that a wooden screening fence be allowed were no fences or residences currently exist along the north property lines of this property if desired by Council.

Public Notice

A public hearing notification for this proposed zoning change request was published in the newspaper as well as notification being mailed to the property owners included in the required 200 feet notification radius.

City Council
January 19, 2016

Board Discussion/Action

On December 28, 2015, the Planning & Zoning Commission voted to deny this Concept Plan amendment by a vote of 6-0. No reason for denial was given in the motion.

Applicant appeal process

Section 30.02.229 Approval Process and revisions -

If the planning and zoning commission recommends disapproval of a plan application, the commission shall state such disapproval and the reasons therefor. The applicant or property owner may appeal such decision to city council by filing a written notice of appeal in the office of the city manager, or his designee, no later than ten calendar days after the date upon which the commission denied the application.... The city council may change the decision of the commission only by a three-quarters vote of the full city council.

The applicant has submitted an appeal of the Planning & Zoning Commission's decision in writing, to be considered by City Council on January 5, 2016.

Recommendation

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 by Ordinance No. 14-04- 975, located on FM 544 approximately 800' west of Heritage Parkway for Lots 2-3, Block A, Nelson Addition to include the notation "A natural vegetative buffer including the existing tree line shall be maintained adjacent to the residential lots."

Also, at the time of site plan submittal, a tree survey and mitigation plan must also be submitted for consideration as it relates to the enhancement of the buffer between this site and the adjacent residences.

Attachments

Exhibit A – Property Location aerial

Exhibit B – Proposed amended Concept Plan

Exhibit C – Proposed Concept Plan versus Current Concept Plan

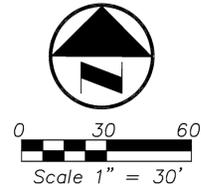
Exhibit D – Planned Development District Ordinance No. 09-02-785 as amended by Ordinance No. 14-04-975

Exhibit A

Property Location aerial



Exhibit B
Proposed amended
Concept Plan



WIND HILL FARMS #1
(CAB. M, PG. 601)
BLOCK F
LOT 19R

WIND HILL FARMS #1
(CAB. L, PG. 002)
BLOCK K

LOT 8 LOT 9 LOT 10

S.89°36'27"E. 75.47'

EX. 15' UTIL. ESMT. (VOL. 1105, PG. 89)

N.70°04'51"E. 265.43'

335.16'

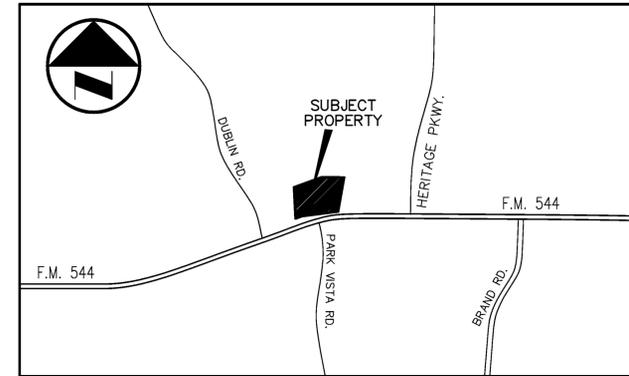
100' SETBACK FROM TOP OF CREEK BANK.

PROP. DUMPSTER ENCLOSURE TO MATCH BUILDING MATERIALS

PROP. 24' FIRELANE, ACCESS, UTILITY & DRAINAGE EASEMENT

PROP. 24' FIRELANE, ACCESS, UTILITY & DRAINAGE EASEMENT

NIKO JESSIE CARBONELL, LLC
(CC # 20140529000534500)
EAST PLANO ANIMAL HOSPITAL



VICINITY MAP
(NTS)

APPROXIMATE LOCATION OF THE 100-YEAR FLOODPLAIN AS SCALED FROM THE FEMA MAP PANEL 48085C0395J, EFFECTIVE DATE OF JUNE 2, 2009.

NELSON LIVING TRUST
(CC # 20101227001418120)
VACANT LAND

N.02°47'06"W. 359.55'

100' SETBACK FROM TOP OF CREEK BANK.

LOT 3
7,000 S.F.
FUTURE BUILDING
1,000 S.F.
GENERAL OFFICE
7,000 S.F.
MEDICAL OFFICE

7,820 S.F.
PROPOSED BUILDING
LOT 2

LOT 1
EXISTING BUILDING

EXISTING 24' FIRELANE

PROP. 24' FIRELANE, ACCESS, UTILITY & DRAINAGE EASEMENT

EX. 24' FIRELANE, ACCESS, UTILITY & DRAINAGE EASEMENT

EX. 24' FIRELANE, ACCESS, UTILITY & DRAINAGE EASEMENT

EX. 15' UTIL. ESMT. (VOL. 1105, PG. 89)

EX. 30' N.T.M.W.D. ESMT. (VOL. 512, PG. 506)

S.70°17'08"W. 82.78'

131.06'

S.82°44'26"W. 273.13'

142.07'

F.M. HIGHWAY NO. 544
(VARIABLE WIDTH R.O.W.)

PARK VISTA RD.

SITE DATA SUMMARY		
ITEM	LOT 2	LOT 3
ZONING:	PD-14-04-975 (Office)	PD-14-04-975 (Office)
PROPOSED USE:	MEDICAL OFFICE	MEDICAL OFFICE
TOTAL LOT AREA:	1.33 AC.	1.60 AC.
TOTAL BUILDING AREA:	7,820 S.F.	7,000 S.F.
BUILDING HEIGHT:	28'-0" (1-STORY)	28'-0" (1-STORY)
LOT COVERAGE:	13.5%	10.0%
PROPOSED FAR:	0.13	0.10
PARKING REQUIRED:	53 SPACES	44 SPACES
GENERAL OFFICE:	0 SPACES	4 SPACES
MEDICAL OFFICE:	53 SPACES	40 SPACES
PARKING PROVIDED:	53 SPACES	45 SPACES
HANDICAP PARKING REQUIRED:	3 SPACES	2 SPACES
HANDICAP PARKING PROVIDED:	3 SPACES	2 SPACES

ENGINEER:
**ROLAND FOERSTER
CIVIL ENGINEER**
5110 C.R. 424
ANNA, TEXAS 75409
(214) 544-8888
email: rfc@flash.net
Firm No. F-506

A ZONING DOCUMENT FOR PLANNING REVIEW
NOT INTENDED FOR CONSTRUCTION PURPOSES

REVISED CONCEPT PLAN

LOTS 2 & 3 BLOCK A
NELSON ADDITION

SMILES at MURPHY OFFICE BUILDING

CITY OF MURPHY, COLLIN COUNTY, TEXAS

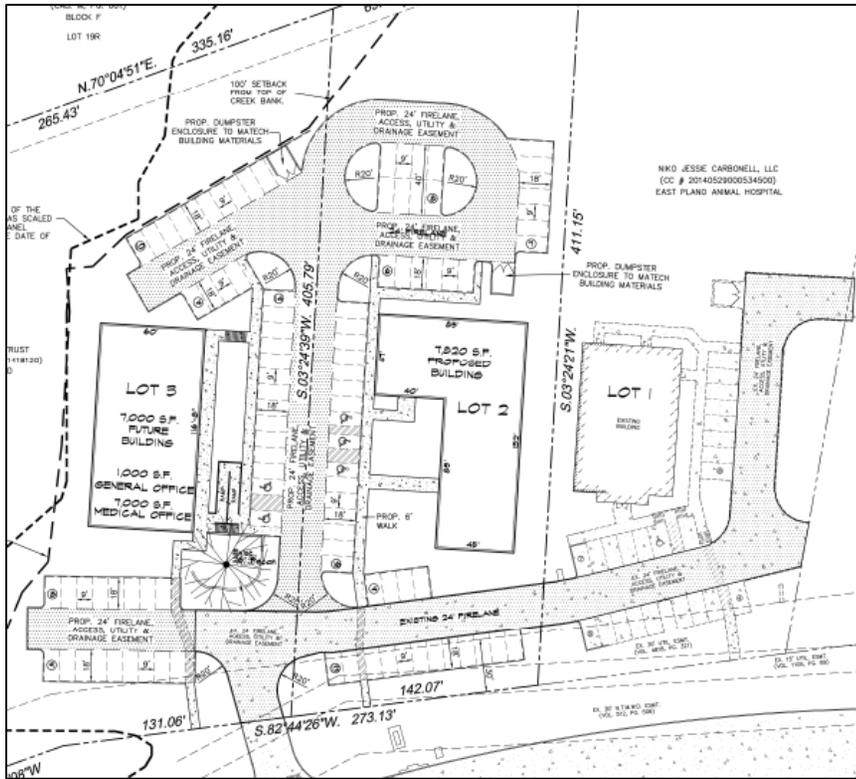
Date: November, 2015 Scale: 1" = 30' Sheet: CP-1

PROJ. # 6259

Exhibit C

Proposed Concept Plan
vs. Current Concept Plan
for reference

PROPOSED CONCEPT PLAN



CURRENT CONCEPT PLAN

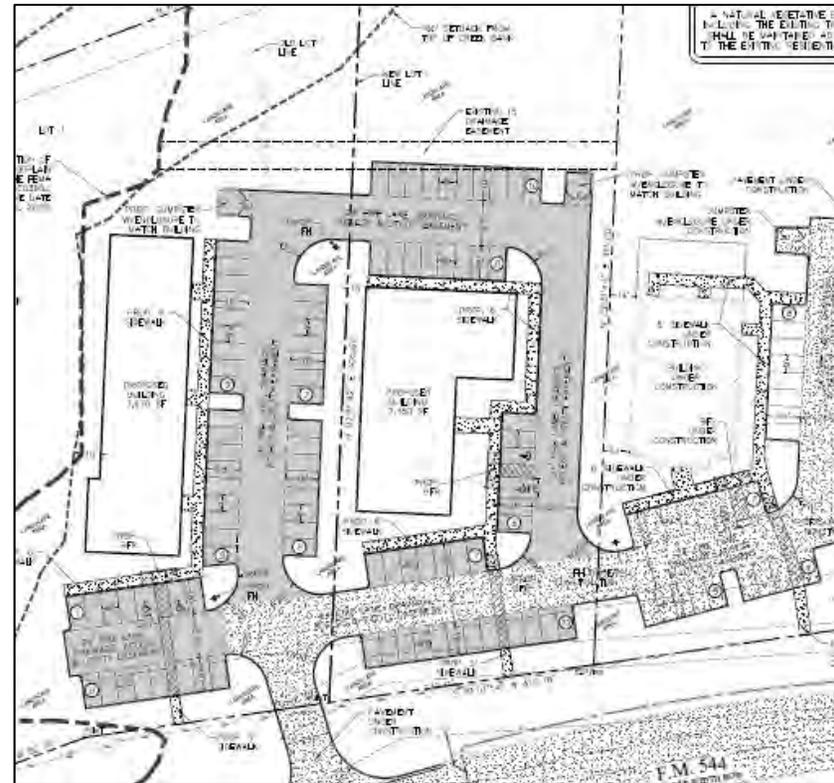


Exhibit D

Planned Development
District Ordinance No.
09-02-785 as amended by
Ordinance No. 14-04-975

ORDINANCE 09-02-785

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, COLLIN COUNTY, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE AND MAP, CHAPTER 86 OF THE CITY OF MURPHY CODE OF ORDINANCES BY CHANGING THE ZONING CLASSIFICATION ON APPROXIMATELY 6.43 ACRES OUT OF THE MARY SCOTT SURVEY, ABSTRACT NO. 859, LOCATED IN THE CITY OF MURPHY, COLLIN COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE FOR ALL PURPOSES, FROM SF-20 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO PD (PLANNED DEVELOPMENT) DISTRICT FOR OFFICE USES WITH CONDITIONS HERETO DESCRIBED AS EXHIBIT "B"; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A PENALTY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Murphy and the City Council of the City of Murphy, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of Murphy is of the opinion and finds that said changes should be granted and that the Comprehensive Zoning Ordinance should be amended;

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

Section 1. That the Comprehensive Zoning Ordinance and Map of the City of Murphy, Texas, be, and the same are hereby, amended so as to grant a Planned Development District for Office Uses for the property described as 6.43 acres, more or less, in the Mary Scott Survey, Abstract No. 859, in the City of Murphy, Collin County, Texas, and more particularly described in Exhibit "A" attached hereto and made part hereof for all purposes.

Section 2. That the development standards for this Planned Development District are attached hereto as Exhibit "B", and the same are hereby approved for said Planned Development District as required by Section 86-603, of the City of Murphy, Texas Code of Ordinances.

Section 3. That Chapter 86 of the City of Murphy Code of Ordinances, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 4. If any word, section, article, phrase, paragraph, sentence, clause or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect, for any reason, the validity of the remaining portions of the Comprehensive Zoning Ordinance, Chapter 86 of the City of Murphy Code of Ordinances, and the remaining portions shall remain in full force and effect.

Section 5. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, in the municipal court of the City of Murphy, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

Section 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

PASSED, APPROVED AND ADOPTED this the 16th day of February 2009.



Bret M. Baldwin, Mayor
City of Murphy

ATTEST:



Aimee Nemer, City Secretary
City of Murphy

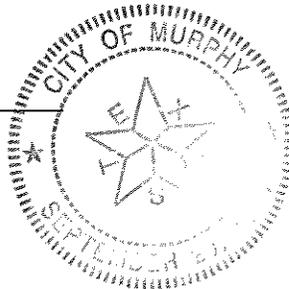


EXHIBIT A

Legal Description

Being a acre tract of land situated in the Mary Scott Survey, Abstract No. 859, City of Murphy, Collin County, Texas and containing 6.43 acres of land.

EXHIBIT B

ZONING FILE NO. 2009-02

FM 544

Between Dublin Road and Heritage Parkway

PLANNED DEVELOPMENT CONDITIONS

- I. **Statement of Purpose:** The purpose and intent of this Planned Development District is to permit the development of medical and office uses.
- II. **Statement of Effect:** This Planned Development shall not affect any regulation found in the City of Murphy Code of Ordinances, Ordinance No. 06-12-708, as amended, except as specifically provided herein.
- III. **General Regulations:** All regulations of the O (Office) District set forth in Article III, Division 12 of the City of Murphy Code of Ordinances (Ordinance No. 06-12-708), as amended, are included by reference, except as otherwise specified by this ordinance.
- IV. **Development Plans:**
- A. A Concept Plan shall be approved as outlined in Article II, Division 5 of the Code of Ordinances prior to the acceptance of a site plan for any part or all of this Planned Development District. The concept plan shall include proposed landscape areas and proposed building elevations and design elements. Approval of the Concept Plan shall be based on general conformance with the approved Planned Development District conditions and regulations set forth in this ordinance. Approval of a Concept Plan through the zoning public hearing process (as outlined in Article II, Division 5) is required. In addition, the Concept Plan shall have the following elements.
- Traffic circulation;
 - Cross access;
 - Driveway location;
 - Conceptual design elevations;
 - Development construction schedule;
 - Elements used to buffer nonresidential and residential development;
 - Pedestrian circulation;
 - Landscape buffer areas;
 - Building orientation.
- B. Concept Plan approval shall be for a period of one year from the date of City Council action on the plan. If within that one-year period a site plan has been submitted for a portion of the development, then the Concept Plan shall be deemed to have no expiration date. Site plans shall be valid for a period of six (6) months from the date of City Council action on the plan.
- V. **Specific Regulations:**
- A. Permitted Uses: Only the following uses shall be permitted.
1. Credit Agency
 2. Insurance Agency Offices
 3. Offices (Brokerage Services)

4. Offices (Health Services)
 5. Offices (Legal Services)
 6. Offices (Medical Office)
 7. Offices (Professional)
 8. Real Estate Offices
- B. Height Regulations: The maximum height shall be one (1) story or twenty-five (25) feet.
- C. Tree Preservation/Mitigation: All existing trees on the subject property shall comply with Section 86-740 of the Code of Ordinances. In addition, a tree preservation/mitigation plan shall be required to be submitted at the time of application. For any tree removed between 15.1 caliper inches and 24 caliper inches, a negative credit of (-6) shall be applied. For any tree removed larger than 24 caliper inches, a negative credit of (-8) shall be applied.
- D. Landscaping: All landscaping shall comply with Section 86-736 of the Code of Ordinances. In addition, a landscape plan shall be required to be submitted at the time of application.
- E. Screening: Screening between the north property line and the single family subdivision to the north shall be accomplished via the construction of an eight (8) foot high board-on-board fence at grade. This fence shall be required behind 120 Collin Court; 121 Sarah Drive; 628 John Close Drive and 632 John Close Drive.
- F. Exterior Building Materials: All exterior building materials shall comply with Section 86-802(3) of the Code of Ordinances. In addition, building elevations (indicating percentage of material per elevation) shall be required to be submitted at the time of application. A minimum of two masonry materials shall be required.
- G. Lighting: No exterior lighting shall be allowed to be placed on the outside perimeter on office buildings facing adjacent residential properties to the north. No light standards shall be placed in parking areas adjacent to residentially zoned property that are higher than four (4) feet. All light standards shall have shielding to prevent light pollution.
- H. Rooftop Mechanical Equipment: Rooftop mechanical equipment shall not be permitted.
- I. Outside Storage: No outside/outdoor storage shall be permitted.

ORDINANCE NO. 14-04-975

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, AMENDING ORDINANCE NO. 09-02-785 TO ADD VETERINARY CLINIC (NO OUTSIDE KENNELS) AS A PERMITTED USE, TO REMOVE A REQUIREMENT FOR WOOD SCREENING FENCE ON THE NORTH PROPERTY LINE, TO ALLOW A WOOD FENCE BEHIND A VETERINARY CLINIC AND TO ADD A BUILDING SETBACK REQUIREMENT; PROVIDING FOR SAVINGS, SEVERABILITY, CUMULATIVE EFFECT, PENALTY AND AN EFFECTIVE DATE.

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

Section 1. That Section V(A) “Permitted Uses” contained in Exhibit B to Ordinance No. 09-02-785 shall be and is hereby amended to read in its entirety as follows:

A. **Permitted Uses:** Only the following uses shall be permitted:

1. Credit Agency
2. Insurance Agency Offices
3. Offices (Brokerage Services)
4. Offices (Health Services)
5. Offices (Legal Services)
6. Offices (Medical Services)
7. Offices (Professional)
8. Real Estate Offices
9. Veterinary Clinic (no outside kennels)

Section 2. That Section V (E) “Screening” contained in Exhibit B to Ordinance No. 09-02-785 shall be and is hereby amended to read in its entirety as follows:

E. **Screening.** A wood screening fence shall be permitted at the rear of a veterinary clinic use.

Section 3. That Section V “Specific Regulations” contained in Exhibit B to Ordinance No. 09-02-785 shall be and is hereby amended to add Subsection H “Building Setback” which shall read in its entirety as follows:

H. **Building Setback.** The minimum building setback from the top of the creek bank shall be 100 feet.

Section 4. **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 5. 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 6. Penalty Clause.

Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to a fine in any sum not to exceed five hundred dollars (\$500.00) and each day of violation shall be deemed a separate offense.

Section 7. Savings Clause.

Ordinance No. 09-02-785 shall remain in full force and effect save and except as amended by this ordinance.

Section 8. Effective Date.

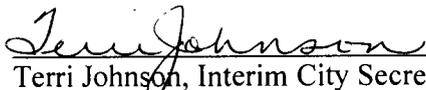
This ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this the 22nd day of April, 2014.



Eric Barna, Mayor
City of Murphy

ATTEST:


Terri Johnson, Interim City Secretary
City of Murphy

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney



HOMEYER ENGINEERING, INC.
 ENGINEERING, INC.
 T.BPE FIRM REGISTRATION NO. F-8440
 P.O. BOX 294527 • LEWISVILLE, TEXAS • 75029
 972-906-9985 PHONE • 972-906-9987 FAX
 WWW.HEI.US.GOV

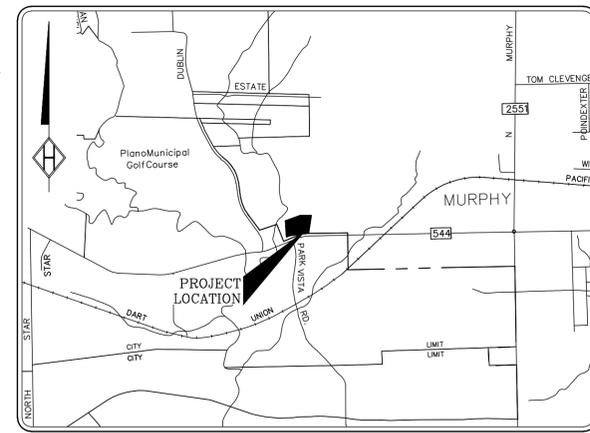


**LOTS 1 - 3, BLOCK A
 NELSON ADDITION
 M. SCOTT SURVEY, ABSTRACT 859
 CITY OF MURPHY
 COLLIN COUNTY, TEXAS**

**OVERALL
 CONCEPT PLAN**

**DRAWN: SRH
 DATE: 06/20/13
 HEI #: 13-147 CP**

**SHEET NO:
 C1**



Vicinity Map 1"=2000'

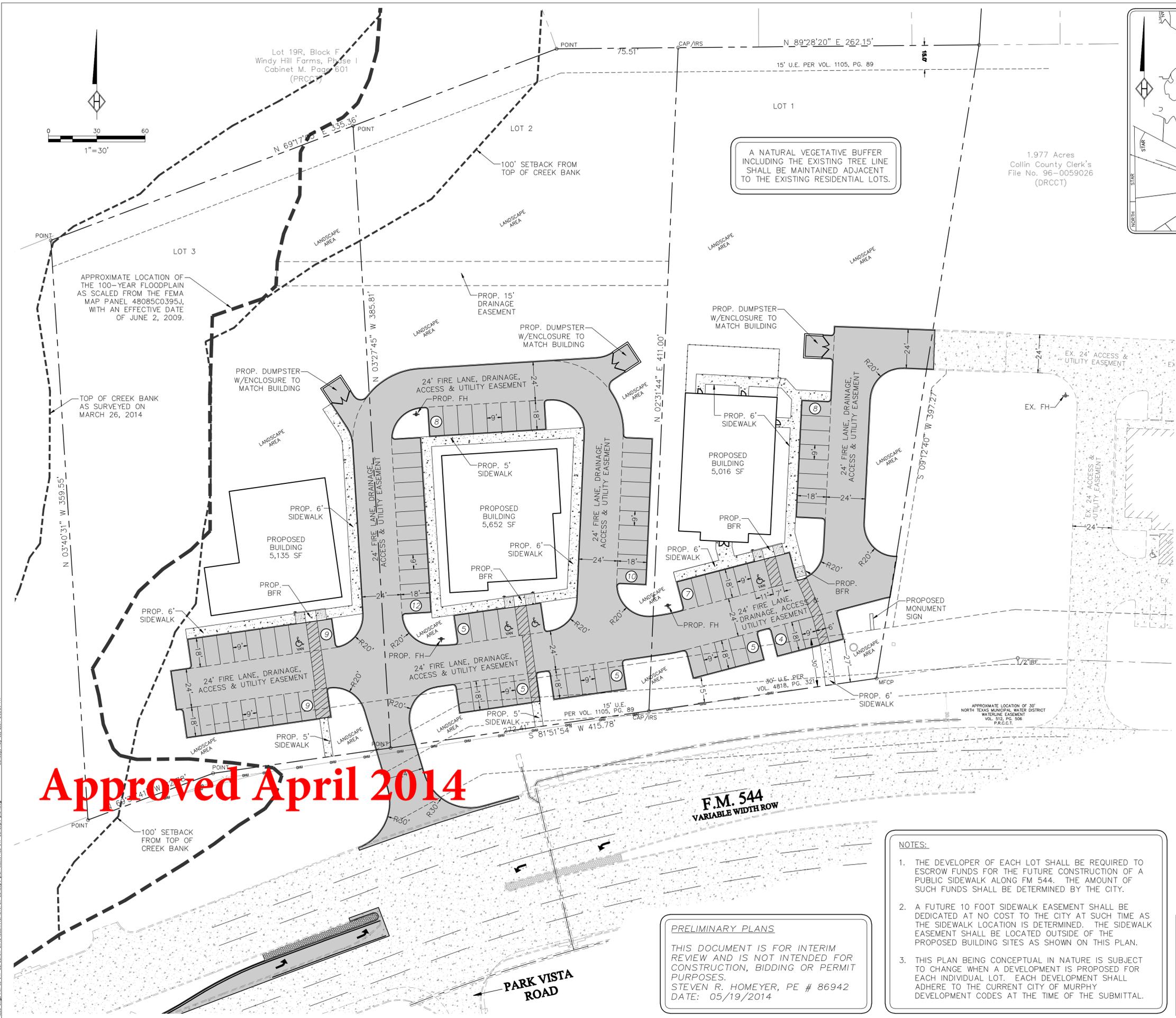
LEGEND

I.R.F.	IRON ROD FOUND
I.R.S.	IRON ROD SET
"x"	CUT X IN CONCRETE
F.C.P.	FENCE CORNER POST
///	ASPHALT
⊙	TELEPHONE MANHOLE
⊗	POWER POLE
⊙	LIGHT POLE
⊗	WATER VALVE
⊙SSMH	SANITARY SEWER MANHOLE
⊙	FIRE HYDRANT
⊗WM	WATER METER

SITE INFORMATION

LOT 1	PROPOSED BUILDING AREA = 5,016 S.F.
	PARKING REQUIRED: MEDICAL OFFICE
	1 SPACE PER 300 S.F. = 17 SPACES
	PARKING PROVIDED: 24 SPACES
	HANDICAP PARKING REQUIRED: 1 SPACE
	HANDICAP PARKING PROVIDED: 1 SPACE
LOT 2	PROPOSED BUILDING AREA = 5,652 S.F.
	PARKING REQUIRED: MEDICAL OFFICE
	1 SPACE PER 300 S.F. = 19 SPACES
	PARKING PROVIDED: 45 SPACES
	HANDICAP PARKING REQUIRED: 2 SPACES
	HANDICAP PARKING PROVIDED: 2 SPACES
LOT 3	PROPOSED BUILDING AREA = 5,135 S.F.
	PARKING REQUIRED: MEDICAL OFFICE
	1 SPACE PER 300 S.F. = 18 SPACES
	PARKING PROVIDED: 18 SPACES
	HANDICAP PARKING REQUIRED: 1 SPACE
	HANDICAP PARKING PROVIDED: 1 SPACE

**LOTS 1 - 3, BLOCK A
 NELSON ADDITION
 M. SCOTT SURVEY, ABSTRACT 859
 CITY OF MURPHY
 COLLIN COUNTY, TEXAS**



Approved April 2014

- NOTES:**
1. THE DEVELOPER OF EACH LOT SHALL BE REQUIRED TO ESCROW FUNDS FOR THE FUTURE CONSTRUCTION OF A PUBLIC SIDEWALK ALONG FM 544. THE AMOUNT OF SUCH FUNDS SHALL BE DETERMINED BY THE CITY.
 2. A FUTURE 10 FOOT SIDEWALK EASEMENT SHALL BE DEDICATED AT NO COST TO THE CITY AT SUCH TIME AS THE SIDEWALK LOCATION IS DETERMINED. THE SIDEWALK EASEMENT SHALL BE LOCATED OUTSIDE OF THE PROPOSED BUILDING SITES AS SHOWN ON THIS PLAN.
 3. THIS PLAN BEING CONCEPTUAL IN NATURE IS SUBJECT TO CHANGE WHEN A DEVELOPMENT IS PROPOSED FOR EACH INDIVIDUAL LOT. EACH DEVELOPMENT SHALL ADHERE TO THE CURRENT CITY OF MURPHY DEVELOPMENT CODES AT THE TIME OF THE SUBMITTAL.

PRELIMINARY PLANS
 THIS DOCUMENT IS FOR INTERIM REVIEW AND IS NOT INTENDED FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.
 STEVEN R. HOMEYER, PE # 86942
 DATE: 05/19/2014

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City Council
January 19, 2016

Issue

Hold a public hearing and consider and/or act on the application of Ryan Betz of 4B & W Land, LLC., Ronald and Patricia Williford and Kevin McAllister requesting a change in zoning from SF-20 (Single Family 20 Residential) to Retail on approximately 5.56 acres of property located southeast of FM 544 and Maxwell Creek Road. **This item was moved from January 5, 2016 City Council meeting.**

Summary

These properties are located with FM 544 to the north, and neighbor SF-20 to the west and south with the recently approved Planned Development District to the north east. These properties, in addition to the southeast sector of Murphy, were recently studied and conceptually designed by Freese & Nichols. Retail Uses along FM 544 were discussed. No action was taken by City Council on that study.

Since that time, three property owners have come together to apply for rezoning consideration.

Planning & Zoning Commission Action

- The Planning & Zoning Commission considered this item on December 28, 2015 and denied this zoning change request by a vote of 6-0. No reason for denial was given.
 - o There was lengthy discussion by the Commission and there seemed to be a general consensus that some retail could work but without details on limitations to the type of retail and how the site would be laid out, they couldn't support at this time. There was also discussion of the option of a Planned Development for the properties.
 - In the above statement, staff is not trying to assume the Commission's consideration as no reason for denial was given at the time of action taken.

Appeal Process

Sec. 30.02.157 City council consideration

(a) Applications forwarded from the planning and zoning commission to the city council.

(1) Every zoning application which is recommended for approval or approval with conditions by the planning and zoning commission shall be automatically forwarded to the city council for a second public hearing to be held following appropriate public hearing notification as prescribed in [section 30.02.154](#). The city council may then approve the request, approve it with conditions, or disapprove it by a single majority vote of the council members present and voting.

(2) An application which is recommended by the planning and zoning commission for denial shall not be forwarded to the city council unless the applicant files a written appeal with the city secretary within ten calendar days after the commission's decision. Upon notice of appeal, the application will be forwarded to the city council along with the commission's reasons for denial of the request. The

**City Council
January 19, 2016**

appeal shall be scheduled for the next possible city council agenda, following appropriate public notification as prescribed in [section 30.02.154](#). Ultimate approval of any zoning request which was recommended for denial by the planning and zoning commission will require a three-fourths majority vote of the full city council. No zoning change, however, shall become effective until after the adoption of an ordinance by the city council for same and its publication as required by law.

Applicants' Appeal Letter

4B&W Land, LLC
5707 Willow Lane
Dallas, Texas 75230

Ron and Patricia Williford
104 S. Maxwell Creek
Murphy, TX 75094

Kevin McAllister
108 S. Maxwell Creek
Murphy, TX 75094

January 7, 2016

RECEIVED

JAN 7 2016

VIA EMAIL jfisher@murphytx.org and HAND DELIVERY

City Manager's Office

James Fisher
City of Murphy
206 N. Murphy Road
Murphy, TX 75094

4:18 pm

RE: Appeal to City Council of the P&Z Denial for a zoning change on approximately 5.56 +/- acres of land located at SE and SW corner of Maxwell Creek Road and FM 544, Murphy, Texas owned by 4B&W Land, LLC, Ron and Patricia Williford, and Kevin McAllister from SF-20 to R

Dear Mr. Fisher:

Pursuant to your email from yesterday afternoon describing four options for the pending zoning application, please let this letter serve as the owners request to pursue Option 3 as detailed here:

Option 3 – Appeal to the City Council with the consideration in that appeal that they refer the item back to Planning & Zoning (as allowed per Code) to allow the applicant an opportunity to work with staff on the development of a Planned Development district for the properties. (Ryan I believe a couple Planning and Zoning Commissioners stated their preference was a PD application).

(Applicants' Appeal Letter continued on next page)

Applicants' Appeal Letter (continued)

We feel that this Option 3 is the best course of action for the following reasons:

1. Provide more clarity that the zoning request covers only a small portion of the 4B&W property, with the balance of the 4B&W Land, LLC property remaining SF-20.
2. Limit the uses on the Property from the broader uses currently allowed in R zoned areas, and maintain the requirement for uses that need an SUP under the R zoning category, will still require an SUP in the PD zoning.
3. Illustrate on a concept plan the proposed location and design (height, materials, and colors) of the proposed buildings, screening walls, sidewalks, road and driveway locations, and special handling along the banks of Maxwell Creek and the Timbers neighborhood.

In order to review the ordinances closely, prepare the needed exhibits, review and modify the PD document, meet with neighboring property owners to attempt to gain support and incorporate their ideas where possible, I propose the following schedule:

January	Applicants meet with neighbors during the week of January 11 th Draft PD and prepare concept plan during the week of January 18 th Applicants meet with the city at the January 27 th DRC meeting
February	Modify PD and prepare concept plan during the weeks of February 1-8 th Applicants meet with neighbors during the week of February 15 th Applicants meet with the city at the February 24 th DRC meeting
March	Modify PD and concept plan as needed based on the DRC comments Make formal application for zoning change to PD
April	Attend P&Z meeting April 24 th to present concept plan and PD
May	Incorporate changes and comments to the concept plan and PD based on the April P&Z meeting Attend P&Z meeting May 23 rd to present revised concept plan and PD for approval
June	Present PD and Concept Plan to Council for approval June 7th

(Applicants' Appeal Letter continued on next page)

City Council
January 19, 2016

Applicants' Appeal Letter (continued)

I understand that this schedule is speculative, but it should be achievable with the time and attention we are willing to commit to seeing it through. We look forward to continuing to work with our neighbors and the city to come up with a workable solution for the future use of this property.

Sincerely,


Ryan Betz
Manager,
4B&W Land, LLC

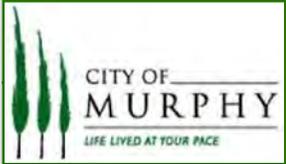

Ron Williford


Pat Williford


Kevin McAllister

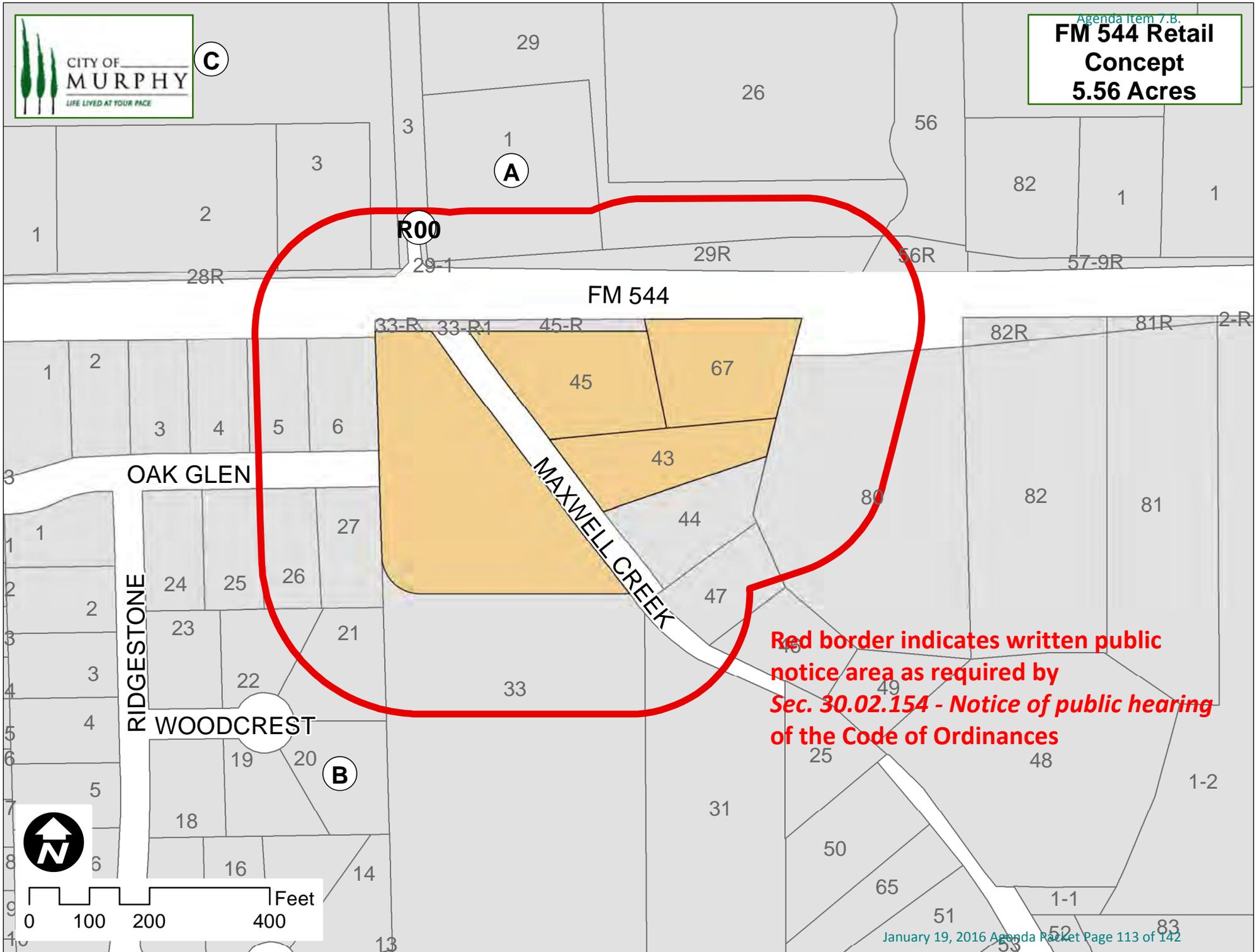
Staff Recommendation

Staff recommends City Council refer this item back to Planning & Zoning Commission. This will allow staff an opportunity to work with the applicants to develop a Planned Development District for consideration. When a Planned Development District is drafted, the City can address items of concern and work towards solutions. For example: allowed uses, landscape buffers, building setbacks, connectivity, etc....



C

Agenda Item 7.B.
**FM 544 Retail
Concept
5.56 Acres**



Red border indicates written public notice area as required by Sec. 30.02.154 - Notice of public hearing of the Code of Ordinances

**City Council Meeting
January 19, 2016**

Issue

Consider and take appropriate action, if any, on the Agreement for Video Streaming Services between the City of Murphy and Swagit Productions, LLC; consider adding additional video streaming for Boards/Commissions meetings.

Staff Resource/Department

James Fisher, City Manager

Summary

The City of Murphy entered in to this Agreement on December 29, 2014. It was decided at the time of adoption that the City will stream City Council meetings and other special meetings (the Southeast Corridor Study meetings) for one year before considering adding additional services. When the City Council discussed video streaming services in May and June 2014, the streaming of the Planning and Zoning Commission meetings and other decision-making boards was discussed by members of the City Council.

Financial Consideration

The current Agreement for services provides up to 30 Indexed On-Demand Meetings per year and additional Indexed On-Demand meetings are \$150.00 per meeting.

Action Requested

Consider adding Planning and Zoning Commission meetings. The cost to the City would be approximately \$1200 in FY 16 (it could be less if you use less than the 30 already allocated).

Attachments

Video Streaming Agreement

Excerpts from the May 6, 2014, June 17, 2014 and the December 2, 2014 City Council Meeting Minutes

**AGREEMENT FOR
VIDEO STREAMING SERVICES**

**CITY OF MURPHY
and
SWAGIT PRODUCTIONS, LLC**

This Agreement for Video Streaming Services ("Agreement") is made by and between the City of Murphy, Texas ("City"), a municipal corporation with offices at 206 N. Murphy Rd., Murphy, Texas 75094, and Swagit Productions, LLC, ("Provider") a Texas Limited Liability Company, with offices at 850 Central Parkway E., Suite 100, Plano, Texas 75074 effective as of the date written below.

RECITALS

- A. The City desires to enter into this Agreement in order to obtain video streaming services for scheduled Council meetings as outlined in the Scope of Services attached as Exhibit "A"; and
- B. Provider has available and offers to provide the personnel necessary to provide said services in accordance with the Scope of Services included in this Agreement (see Exhibit A attached hereto and incorporated herein); and
- C. Provider is in the business of providing video streaming services for businesses and governmental entities, and represents and warrants that it has the skills, qualifications, expertise and experience necessary to perform the work and services to provide and implement video streaming services as described herein in an efficient, cost-effective manner with a high degree of quality and responsiveness and has performed and continues to perform the same and similar services for other buyers; and
- D. On the basis of and in reliance upon such representations by Provider and others made herein and in Provider's proposal, the City desires to engage Provider to provide the work and services described herein under the terms and conditions of this Agreement.

For the reasons recited above, and in consideration of the mutual covenants contained in this Agreement, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Provider agree as follows:

1. SERVICES TO BE PERFORMED BY PROVIDER

Provider agrees to perform the following work and services for the City:

- 1.1 Provider agrees to provide the work and services as set forth in the Scope of Services.

- 1.2 Without limiting the foregoing provisions of Section 1.1, the services to be provided by the Provider include the installation ("Installation") by Provider of all hardware, software, cameras, wiring, and related equipment and materials identified and described in the Scope of Services (collectively, the "Equipment") within the City of Murphy City Council Chambers located at Murphy City Hall, 206 N. Murphy Rd., Murphy, Texas 75094 (the "Site"). Before installing the same, Provider shall deliver to the City's Information Technology Manager (the "Director"), for review and consideration of approval, drawings or plans and specifications for such Installation. The City's approval of any Installation or related plans does not and shall not constitute a representation or warranty by the City that the Installation or related plans comply with any specifications therefor or with any applicable governmental laws, rules, codes, standards, or regulations.

2. COMPENSATION OF PROVIDER

- 2.1 Provider agrees to provide all of the services and Equipment set forth in the Scope of Services and as described herein for the following amounts:

(a) A one-time charge not to exceed:

(i) **Six Thousand Seven Hundred Thirty-Five and No/100 Dollars** (\$6,735.00) for Swagit EASE hardware/software and other related (including, without limitation, Installation) costs (as identified and detailed on the attached Exhibit "A", page 3, "Streaming Video Hardware"); and

(ii) **Twenty-Four Thousand Six Hundred Fifty-Seven and No/100 Dollars** (\$24,657.00) for broadcast system hardware/software and other related (including, without limitation, Installation) costs (as identified and detailed on the attached Exhibit "A", page 5, "Cosmos Broadcast System"); and

(b) Following the Installation at the Site of all Equipment by Provider and the acceptance thereof by the City, the City shall pay to provider a monthly fee in the amount of **Nine Hundred Ninety-Five and No/100 Dollars** (\$995.00) for on-demand, live video streaming and remote switching (as identified and described on the attached Exhibit "A", page 3, "*Streaming Video Monthly Managed Services*").

- 2.2 (a) Payment for the work, services, and Equipment described in Section 2.1(a)(i) and 2.1(a)(ii), above, shall be due and payable following the completion of the Installation of the Equipment by Provider, the acceptance thereof by the Director, and the receipt by the City of an invoice from Provider for such work, service and Equipment; provided, however that with respect to the work, service and Equipment described in Section 2.1(a)(ii), fifty percent (50%) of the not-to-exceed amount set forth therein (or \$12,328.50) shall be due and payable not later than ten (10) days following the date Agreement has been signed by both parties.

- (b) Payment balance for the work, services, and Equipment described in Section 2.1(a)(ii) shall be due and payable following the completion of the Installation of the Equipment by Provider and the acceptance thereof by the Director.
- (c) Except as set forth herein, payments will be processed on a monthly basis with payment available within 30 days after receipt of an invoice for the previous month's service. All payments pursuant to this Agreement shall be paid in accordance with the Texas Prompt Payment Act, Texas Gov't Code Chapter 2251.
- (d) Should the City fail to pay any invoice that is outstanding more than 60 days, a 5% service fee will be applied to the total amount of that invoice, not including any shipping or sales tax.

3. RIGHTS, OBLIGATIONS AND REPRESENTATIONS OF PROVIDER

- 3.1 Independent Contractor. The parties agree that Provider performs specialized services and that Provider enters into this Agreement with the City as an independent contractor. Nothing in this Agreement shall be construed to constitute Provider or any of Provider's agents or employees as an agent, employee or representative of the City. Further, nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, a joint enterprise, or to allow the City to exercise discretion or control over the manner in which Provider performs the work and services, which are the subject matter of this Agreement. As an independent contractor, Provider is solely responsible for all labor and expenses in connection with this Agreement and for any and all damages arising out of Provider's performance under this Agreement.
- 3.2 Provider's Control of Work. All services to be provided by Provider shall be performed in accordance with the Scope of Services. Provider shall furnish the qualified personnel, materials, equipment and other items necessary to carry out the terms of this Agreement. Provider shall be responsible for and in full control of the work of all such personnel. Provider warrants and represents that all Equipment and other goods and materials provided by Provider shall be safe, fully operational, and will not cause injury or damage to any person or property, and that all persons provided by Provider to perform the work and services under this Agreement shall be adequately trained and capable of performing the work and services.
- 3.3 Reports to the City. Although Provider is responsible for control and supervision of work and services performed under this Agreement, the work and services provided shall be acceptable to the City and shall be subject to a general right of inspection and supervision to ensure satisfactory completion. This right of inspection and supervision shall include, but not be limited to, all reports to be provided by Provider to the City and the right of the City, as set forth in the Scope of

Services.

- 3.4 Compliance with All Laws. Provider shall comply with all applicable laws, statutes, ordinances, rules, regulations, standards, codes, and executive orders of the federal, state and local government, which may affect the performance of this Agreement.
- 3.5 Organization and Authorization. Provider warrants and represents that: (i) it is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Texas, and which shall remain in good standing throughout the term of this Agreement; (ii) it has the requisite power and authority to carry on its business as it is now being conducted; (iii) it has the legal capacity to enter into this Agreement; (iv) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement have been authorized and approved by all action required on the part of Provider; (v) has the right and authority to sell the hardware and software to the City; (vi) all hardware and software shall be in good working order; and, (vii) all licenses and warranties regarding the software and hardware shall be conveyed to the City.
- 3.6 No Conflict. Provider warrants and represents that the execution and delivery of this Agreement and ancillary agreements hereto by Provider does and will not: (i) conflict with, or result in any violation or breach of, any provision of Provider's charter documents; (ii) result in any violation or breach of, or constitute a default under, or require a consent or waiver under, any of the terms, conditions or provisions of any license, contract or other agreement to which Provider is a party; or (iii) conflict with or violate any franchise, license, judgment, order, statute, law, rule or regulation applicable to Provider.
- 3.7 Camera and Broadcast Operations. Although Provider is responsible for control and supervision of work and services performed under this Agreement, the City understands that the operation of the camera and broadcast system can be done remotely. Such remote operation requires access via inbound TCP port 2001, outbound TCP ports 21, 80, 443, 1935, 5721, and outbound UDP ports 53, 123. The City will need to supply the Provider with access to such TCP and UDP ports with respect to the City's Internet connection. If, such access is not given or the City's Internet connection fails during operations, the Provider will not be held responsible for remote camera operations. Additionally, in the event the Provider decides to operate such system manually, the City shall provide access to the equipment (as identified and described in the Scope of Services, page 5, "Cosmos Broadcast System") at the Site described in Section 1.2, above.
- 3.8 Warranty. Provider warrants that: (i) any streaming server hardware provided by Swagit not in good working order and used under normal operating conditions, will be fully replaced for a period of three (3) years; (ii) thereafter, all costs of streaming server hardware replacement due to any failure or caused by normal wear and tear, shall be at the City's expense; (iii) all operating and proprietary software for any streaming server shall be fully replaced or upgraded, at no cost to the City, for the

life of the contract; and, (iv) all hardware and software for the broadcasting equipment (as identified and described in the Scope of Services, page 5, "*Cosmos Broadcast System*"), shall be replaced or fixed with respect to each components manufacturer's warranties.

- 3.9 Provider's Service Network. Provider's content delivery network and service level represents that: (i) it maintains full N+1 redundancy on all service critical-infrastructure in order to protect against outages. Multiple mirror facilities provide diverse geographic redundancy. Within each facility servers have multiple power supplies, network interfaces and RAID protected storage. Provider is connected to upstream bandwidth providers by multiple gigabit uplinks, transitioning to gigabit and ten-gigabit connections to multiple "tier 1" bandwidth providers, offering route diversity and redundancy. These bandwidth providers maintain 24/7 staffs familiar with mitigating Denial of Service attacks, should the need arise, which they have sufficient capacity to absorb-and-filter; (ii) Provider utilizes external, 3rd party monitoring services to track server availability metrics. This service tracks availability from approximately 30 international points which helps isolate regional networking issues, in addition to any centralized failures; (iii) Content is stored and viewable to the public on the Provider's networks for a period of three years or as defined by the managed services agreement. All Content is stored and backed up offline indefinitely, or, at minimum, for the time period required by local and state records retention schedules regardless of Events of Default under Section 7 herein. Content can also be stored locally on the City's network for an indefinite period of time limited only by storage capacity, with the added benefit of cached delivery to local users. City is consulted before they exceed any storage horizon and may extend the window for additional years; (iv) Content is stored in widely accessible formats and is available for export at any time. Exported data will include multimedia content and associated documents in their native format as well as any structured metadata in XML format. Access to exported content can be via FTP but in such an event the City is encouraged to provide a portable hard drive to ease the transition of storage and bandwidth intensive content; (v) the City may verify compliance with these policies at any time in consultation with Provider engineers and officers; and (vi) Upon proper notice of termination of this Agreement, the City shall be entitled to all their Content stored on Provider's networks.

4. NOTICE PROVISIONS

Notice. Any notice concerning this Agreement shall be in writing and (i) sent by certified or registered mail, return receipt requested, postage prepaid, (ii) delivered personally, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight; and addresses for such notice are as follows:

To the City's Authorized Representative: To Provider:

Wendle Medford
Information Technology Manager
City of Murphy
206 N. Murphy Rd.
Murphy, TX 75094
972/468-4027

David Owusu
Director of Streaming
Swagit Productions, LLC
850 Central Parkway E., Ste 100
Plano, Texas 75074
800/573-3160

Notice shall be deemed given upon receipt by the party to whom it is sent.

5. INDEMNIFICATION

PROVIDER'S INDEMNITY OBLIGATION. PROVIDER COVENANTS, AGREES TO, AND SHALL DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO THE CITY), INDEMNIFY, AND HOLD HARMLESS THE CITY OF MURPHY, TEXAS AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE CITY OF MURPHY, TEXAS, INDIVIDUALLY OR COLLECTIVELY, IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES (THE CITY OF MURPHY, TEXAS, AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE CITY OF MURPHY, TEXAS EACH BEING A "MURPHY PERSON" AND COLLECTIVELY THE "MURPHY PERSONS"), FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, JUDGMENTS, LAWSUITS, DEMANDS, HARM, LOSSES, DAMAGES, PROCEEDINGS, SUITS, ACTIONS, CAUSES OF ACTION, LIENS, FEES, FINES, PENALTIES, EXPENSES, OR COSTS, OF ANY KIND AND NATURE WHATSOEVER MADE UPON OR INCURRED BY THE CITY OF MURPHY, TEXAS AND/OR ANY OTHER MURPHY PERSON, WHETHER DIRECTLY OR INDIRECTLY, (THE "CLAIMS"), THAT ARISE OUT OF, RESULT FROM, OR RELATE TO: (I) ANY OF THE WORK AND SERVICES OF THE PROVIDER AS DESCRIBED IN SECTION 1 OF THIS AGREEMENT, (II) ANY REPRESENTATIONS AND/OR WARRANTIES BY PROVIDER UNDER THIS AGREEMENT, AND/OR (III) ANY ACT OR OMISSION UNDER, IN PERFORMANCE OF, OR IN CONNECTION WITH THIS AGREEMENT BY PROVIDER, OR BY ANY OF PROVIDER'S OWNERS, DIRECTORS, OFFICERS, SHAREHOLDERS, MANAGERS, PARTNERS, EMPLOYEES, AGENTS, ENGINEERS, ARCHITECTS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, PATRONS, GUESTS, CUSTOMERS, TENANTS, SUBTENANTS, LICENSEE, SUBLICENSEE, CONCESSIONAIRES, OR ANY OTHER PERSON OR ENTITY FOR WHOM PROVIDER IS LEGALLY RESPONSIBLE, AND THEIR RESPECTIVE OWNERS, DIRECTORS, OFFICERS, SHAREHOLDERS, MANAGERS, PARTNERS, EMPLOYEES, AGENTS, ENGINEERS, ARCHITECTS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, INVITEES,

PATRONS, GUESTS, CUSTOMERS, PROVIDERS, AND CONCESSIONAIRES. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY MURPHY PERSON, OR CONDUCT BY ANY MURPHY PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

PROVIDER SHALL PROMPTLY ADVISE THE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST ANY MURPHY PERSON RELATED TO OR ARISING OUT OF PROVIDER'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT PROVIDER'S SOLE COST AND EXPENSE. THE MURPHY PERSONS SHALL HAVE THE RIGHT, AT THE MURPHY PERSONS' OPTION AND OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING PROVIDER OF ANY OF ITS OBLIGATIONS HEREUNDER. THE DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATIONS SET FORTH HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

6. INSURANCE

Provider and its subcontractors shall procure and maintain in a company or companies lawfully authorized to do business in Texas and until all of their obligations have been discharged and satisfied (and including during any warranty periods under this Agreement), insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the services and work hereunder by Provider, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits contained herein are sufficient to protect Provider from liabilities that may arise out of the performance of the services and work under this Agreement by Provider, its agents, representatives, employees or subcontractors and Provider is free to purchase additional insurance as may be determined necessary.

A. Minimum Scope and Limits of Insurance. Provider shall provide coverage at least as broad and with limits of liability not less than those stated below.

1. Commercial General Liability - Occurrence Form
(Form CG 0001, ed. 10/93 or any replacements thereof)

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage (Any one fire)	\$ 50,000
Medical Expense (Any one person)	Optional

(This coverage must be amended to provide for an each-project aggregate limit of insurance)

- | | | |
|----|---|-------------|
| 2. | <u>Workers' Compensation and Employer's Liability</u> | |
| | Workers' Compensation | Statutory |
| | Employer's Liability: Each Accident | \$ 500,000 |
| | Disease-Each Employee | \$ 500,000 |
| | Disease-Policy Limit | \$ 500,000 |
| 3. | <u>Professional Liability</u> | \$1,000,000 |

B. OTHER INSURANCE REQUIREMENTS: The foregoing insurance policies shall be endorsed to contain the following provisions:

1. The City of Murphy, its officers, officials, agents, employees and volunteers shall be named as additional insureds with respect to general liability, including liability arising out of activities performed by, or on behalf of, the Provider; products and completed operations of the Provider, and automobiles owned, leased, hired or borrowed by the Provider.
2. The Provider's insurance shall contain broad form contractual liability coverage.
3. The City of Murphy, its, officers, officials, agents, employees and volunteers shall be additional named insureds to the full limits of liability purchased by the Provider even if those limits of liability are in excess of those required by this Agreement.
4. The Provider's insurance coverage shall be primary insurance with respect to the City, its, officers, officials, agents, and employees (and must be endorsed to read as primary coverage regardless of the application of other insurance). Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, or volunteers shall be in excess to the coverage of the Provider's insurance and shall not contribute to it.
5. The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Coverage provided by the Provider shall not be limited to the liability assumed under the indemnification provisions of this Agreement.
7. The policies shall contain a waiver of subrogation in favor of the City, its officers, officials, agents, and employees.

8. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the City of Murphy.
 9. All insurance policies shall be endorsed to require the insurer to immediately notify the City of Murphy, Texas of any material change in the insurance coverage.
 10. Provider may maintain reasonable and customary deductibles, subject to approval of the City.
 11. Insurance must be purchased from insurers that are financially acceptable to the City and licensed to do business in the State of Texas.
- 6.1 Notice of Cancellation. Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled, or not renewed, except after sixty (60) days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then at least ten (10) days prior notice shall be given to the City. Such notice shall be sent directly to:

**Wendle Medford, Information Technology Manager
City of Murphy
206 N. Murphy Rd.
Murphy, TX 75094**

- 6.2 Acceptability of Insurers. Insurance shall be placed with insurers duly licensed or authorized to do business in the State of Texas and with an "A.M. Best" rating of not less than A- VII, or receiving prior approval by the City. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect Provider from potential insurer insolvency. All insurance must be written on forms filed with and approved by the Texas Department of Insurance.
- 6.3 Verification of Coverage. Prior to commencing work or services, Provider shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement (and update the same as needed to comply with this Agreement). The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

Certificates of Insurance shall:

1. List each insurance coverage described and required herein. Such certificates will also include a copy of the endorsements necessary to meet the requirements and instructions contained herein.

2. Specifically set forth the notice-of-cancellation or termination provisions to the City of Murphy.

All certificates and any required endorsements shall be received and approved by the City before work commences. Each insurance policy required by this Agreement shall be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of this Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal shall constitute a material breach of contract.

All certificates required by this Agreement shall be sent directly to **Wendle Medford, Information Technology Manager, City of Murphy, 206 N. Murphy Rd., Murphy, TX 75094**. The City reserves the right to request and receive within ten (10) days, complete copies of all insurance policies (certified to be true and correct by the insurance carrier) required by this Agreement at any time. The City shall not be obligated, however, to review same or to advise Provider of any deficiencies in such policies and endorsements, and such receipt shall not relieve Provider from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Provider's obligations under this Agreement.

- 6.4 Subcontractors. Providers' certificate(s) shall include all subcontractors as additional insureds under its policies or Provider shall furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements and all provisions identified above.
- 6.5 Approval. Any modification or variation from the insurance requirements in this Agreement shall be made by the City's manager, whose decision shall be final. Such action shall not require a formal amendment to this Agreement, but may be made by administrative action.

7. DEFAULT AND TERMINATION

- 7.1 Events of Default Defined. The following shall be Events of Default under this Agreement:
 - 7.1.1 Any material misrepresentation made by Provider to the City;
 - 7.1.2 Any failure by Provider to perform its obligations under this Agreement including, but not limited to, the following:
 - 7.1.2.1 Failure to commence work at the time(s) specified in this Agreement due to a reason or circumstance within Provider's reasonable control;
 - 7.1.2.2 Failure to perform the work with sufficient personnel and equipment or with sufficient equipment to ensure completion of the work within

the specified time due to a reason or circumstance within Provider's reasonable control;

- 7.1.2.3 Failure to perform the work in a manner reasonably satisfactory to the City;
- 7.1.2.4 Failure to promptly correct or re-perform within a reasonable time work that was rejected by the City as unsatisfactory or erroneous;
- 7.1.2.5 Discontinuance of the work for reasons not beyond Provider's reasonable control;
- 7.1.2.6 Failure to comply with a material term of this Agreement, including, but not limited to, the provision of insurance; and
- 7.1.2.7 Any other acts specifically stated in this Agreement as constituting a default or a breach of this Agreement.

7.2 Remedies. The following shall be remedies under this agreement.

- 7.2.1 Upon the occurrence of any Event of Default, the City may declare Provider in default under this Agreement. The City shall provide written notification of the Event of Default and any intention of the City to terminate this Agreement. Upon the giving of notice, the City may invoke any or all of the following remedies:
 - 7.2.1.1 The right to cancel this Agreement as to any or all of the services yet to be performed;
 - 7.2.1.2 The right of specific performance, an injunction or any other appropriate equitable remedy;
 - 7.2.1.3 The right to monetary damages;
 - 7.2.1.4 The right to withhold all or any part of Provider's compensation under this Agreement;
 - 7.2.1.5 The right to deem Provider non-responsive in future contracts to be awarded by the City; and
 - 7.2.1.6 The right to seek recoupment of public funds spent for impermissible purposes.
- 7.2.2 The City may elect not to declare an Event of Default or default under this Agreement or to terminate this Agreement upon the occurrence of an Event of Default. The parties acknowledge that this provision is solely for the benefit of the City, and that if the City allows Provider to continue to provide the Services despite the occurrence of one or more Events of Default, Provider shall in no way be relieved of any of its responsibilities or

obligations under this Agreement, nor shall the City be deemed to waive or relinquish any of its rights under this Agreement.

- 7.3 Right to Offset. Any excess costs incurred by the City in the event of termination of this Agreement for default, or in the event the City exercises any of the remedies available to it under this Agreement, may be offset by use of any payment due for services completed before termination of this Agreement for default or the exercise of any remedies. If the offset amount is insufficient to cover excess costs, Provider shall be liable for and shall remit promptly to the City the balance upon written demand from the City.

8. GENERAL PROVISIONS

- 8.1 Headings. The section and subsection headings contained herein are for convenience only and shall not be used in interpretation of this Agreement and are not intended to define or limit the scope of any provision of this Agreement.

- 8.2 Governing Law and Venue. This Agreement shall be governed by and administered and interpreted under the laws of the State of Texas, without regard to any conflict of laws provisions. Venue for any action, cause or action or proceeding under this Agreement lies exclusively in the State District Court of Collin County, Texas, and the parties agree to submit to the personal and subject matter jurisdiction of said court.

- 8.3 Severability. The sections, paragraphs, sentences, phrases, words, and all other provisions of this Agreement are severable, and if any part of this Agreement is determined by a court of competent jurisdiction to be illegal, unlawful, unconstitutional, or void for any reason, the parties intend that the remaining provisions of this Agreement shall remain in full force and effect unless the stricken provision leaves the remaining Agreement unenforceable.

- 8.4 Attorney's Fees. If suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

- 8.5 Assignment. This Agreement is binding on the heirs, successors and assigns of the parties hereto. This Agreement may not be sold, assigned, pledged, subcontracted, transferred or otherwise conveyed by any means whatsoever by either the City or Provider without prior written consent of the other, and any sale, assignment, pledge, subcontract, transfer or other conveyance by either party without the other party's prior written consent shall be null and void.

- 8.6 Conflict of Interest. Provider covenants that Provider presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the work and services required to be performed under this Agreement. Provider further covenants that in the performance of this

Agreement, Provider shall not engage any employee or apprentice having any such interest.

- 8.7 Authority to Contract. The undersigned officers and/or representatives of the parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that it has taken all actions necessary to authorize entering into this Agreement.
- 8.8 Integration; Modification. This Agreement represents the entire understanding of City and Provider as to those matters contained in this Agreement, and no prior oral or written understanding shall be of any force or effect with respect to those matters. This Agreement may not be modified or altered except in writing signed by duly authorized representatives of the parties.
- 8.9 Non-appropriation. If the City Council does not appropriate funds to continue this Contract and pay for charges hereunder, the City may terminate this Agreement at the end of the then current fiscal year, or at the time that funds are no longer available to meet the City's payment obligations hereunder. The City agrees to give written notice of termination to the Provider at least sixty (60) days prior to any termination for non-appropriation of funds and will pay the Provider in accordance with this Agreement through the date of termination of this Agreement.
- 8.10 Subcontractors. This Agreement or any portion hereof shall not be sub-contracted without the prior approval of the City. No subcontractor shall, under any circumstances, relieve Provider of its liability and obligation under this Agreement. The City shall deal through Provider and any subcontractor shall be dealt with as a worker and representative of Provider. Provider assumes responsibility to the City for the proper performance of the work and service of all subcontractors and any acts and omissions in connection with such performance. Nothing in this Agreement shall, or is intended or deemed to, create any legal, contractual or other relationship between the City and any subcontractor or sub-subcontractor.
- 8.11 No Waiver. The failure by the City to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement for any reason whatsoever, including with respect to any such right, power or option or to such compliance or to any other or subsequent default or breach hereof, nor a waiver by the City of its rights at any time to exercise any such right, power or option or to require exact and strict compliance with all the terms hereof. Any rights and remedies the City may have arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement.

- 8.12 No Third Party Beneficiaries. This Agreement and all of its provisions are solely for the benefit of Provider and the City and are not intended to and shall not create or grant any rights, contractual or otherwise, to any third person or entity.
- 8.13 "Includes". For purposes of this Agreement, "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.
- 8.14 Incorporation of Recitals and Exhibits. The Exhibits and Recitals to this Agreement are incorporated herein and made a part hereof for all purposes.

9. DISCLOSURE OF AGREEMENT; INTERLOCAL ARRANGEMENTS.

- 9.1 Disclosure of Agreement Terms. The terms and conditions of this Agreement may be disclosed by either party to other public agencies for the purpose of such other agencies purchasing services under this Agreement pursuant to an interlocal or cooperative arrangement with the City. In addition, Provider may disclose the terms and conditions of this Agreement in an effort to show that the terms offered to another public agency are fair and reasonable or to determine the best value. It is understood that the Provider shall not be precluded from disclosing the terms and conditions of its form of Service Agreement to any other third party at Swagit's sole discretion and for any reason.
- 9.2 Included Parties; Interlocal Agreement. Pursuant to any interlocal, intergovernmental, or other such cooperative agreement with the City, Provider will accept orders from, and will furnish the Provider's Software, Hardware, Professional Services, and Managed Services as outlined in the Proposal to any governmental agency or other public entity authorized by the City to use the Proposal, based upon substantially the same terms and conditions of this Agreement, with the exception of price schedules.
- 9.3 Political Subdivision Participation. The Provider agrees to supply, sell, and contract separately with other similar or related political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the City, based upon substantially the same terms and conditions of this Agreement, with the exception of price schedules, in an effort to establish the terms and conditions as fair and reasonable.

10. DURATION

This Agreement shall become effective on the last day of execution by the parties, and shall continue in force for an initial term of twelve (12) months, unless sooner terminated as provided above. All pricing is to remain firm during the contract period. This Agreement will automatically renew for additional one-year terms unless this Agreement is terminated by either party providing written notice of its intent to terminate the

Agreement to the other party not less than sixty (60) days prior to the end of the then current term.

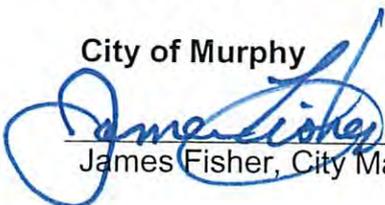
11. SURVIVAL OF COVENANTS

Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

12. COUNTERPARTS

This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

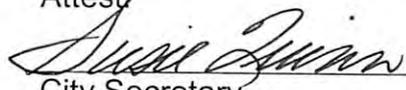
City of Murphy


James Fisher, City Manager

Swagit Productions, LLC

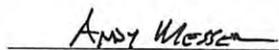

Bryan R. Halley, President

Attest:


Susan Quinn
City Secretary



Approved as to form:


Amy Messer
City Attorney

12/29/2014
Date of Execution:

EXHIBIT A
SCOPE OF SERVICES

Scope of Services – Exhibit A

EASE Solution

Built upon years of industry experience, Extensible Automated Streaming Engine (EASE) is a software framework comprised of foundation and extension modules that work together to automate many otherwise manually intensive tasks. This completely hands-off solution meets the current and future needs of your entity without creating any additional work for clerks or webmasters.

- **Video Capture and Encoding**

EASE Encoder records content according to your broadcast schedule and transfer the recorded audio/video to the Swagit Content Network via a secure Virtual Private Network (VPN) connection, making it available for live and/or on-demand streaming.

- **Indexing and Cross Linking**

Using your published meeting agendas as a guide, Swagit's Managed Service Division (SMSD) indexes the meetings without any work from the city. SMSD will annotate your content by adding jump-to points with specific item headings, giving users the greatest flexibility to find the specific content they need. With these jump-to points, users can step through video by searching for or clicking specific items.

- **Agenda Management Integration**

If meeting packets or other related information is available online, SMSD will link them directly to the video player for easy access.

Swagit's EASE solution integrates with all Document/Agenda Management solutions.

- **Archiving**

Client audio/video can be stored securely on the Swagit Content Network indefinitely. Fault tolerance and high availability is assured through replication of audio/video content to multiple, geographically redundant, Storage Area Networks (SAN). Our standard packages include 80GB of storage, enough for approximately three full years of city council meetings.

- **Presentation**

By navigating through the video library, users can view a list of meetings chronologically and once in a selected meeting you can unleash the power of the jump-to markers to search for specific points within individual audio/video clips.

- **Delivery**

In order to deliver on-demand content to end users in a format that is native to their computer's operating system, Swagit can deliver content in all major streaming video formats: HTML5, Flash, Windows Media, QuickTime and Real. Swagit is proud to support HTML5 and Flash as its default formats, which has proven itself as the format of choice from such vendors as YouTube, Google Video, Facebook, ABC and NBC/Universal.

EASE Solution

- **Monitoring**

Swagit is monitoring all aspects of the Swagit Content Network to ensure its health and availability. This monitoring extends to cover remote Swagit EASE Encoders deployed on client premises. In the rare event of trouble our engineers are promptly notified so that they may dispatch a swift response in accordance with our support procedures.

- **Statistics**

Swagit collates log files from our streaming servers monthly and processes them with the industry recognized Google Analytics. Google Analytics generates reports ranging from high-level, executive overviews to in depth quality of service statistics. These reports help to highlight growth trends and identify popular content.

- **Support**

Beyond our proactive monitoring and response, Swagit offers ongoing, 24/7 technical support for any issues our clients may encounter. While our choice of quality hardware vendors and a thorough pre-installation testing phase go a long way toward ensuring trouble free operation of our EASE Encoders, we do recognize that occasionally unforeseen issues arise. In the event that our engineers detect a fault, they will work to diagnose the issue. If necessary, next business day replacement of parts will be completed. Swagit offers continual software updates and feature enhancements to our services and products for the life of your managed services contract.



Investment-Streaming Video

Streaming Video Hardware

Item Description	Type	Up-front Cost
Hardware/Software/Provisioning	1U	\$6,735.00
Swagit Standard Encoder, Osprey 260e Video Capture Card with Simulstream Software, Microsoft Windows, OS Installation, Swagit EASE Tools, RAID 1, Encoder Software Installation, System Burn-in, Branded Video Library Design, Rackmount Kit, Branded Player Design, Remote Installation.		

Streaming Video Monthly Managed Services

Item Description	Monthly Cost
Package 1: Up To 30 Indexed Meetings per year (EASE) - Includes Media On-Demand, 24/7 LIVE Stream, and up to 10 hours of additional specialty content per month (No staff involvement—Hands Free).	\$995.00
With Remote Switching Included (Up To 30 Meetings per year)	

Optional Services/Overages/Individual Pricing

Item Description	Cost
Each Additional Indexed On-Demand Meeting	\$150.00
Each Year of Storage Beyond 36 Month Window	\$180.00/year
Programming, Development or Design Implementation	\$120.00/hour
Each Additional Remote Switched Meeting or Event	\$120.00/event

Broadcast System- Cosmos

Built upon years of industry experience, Cosmos is a complete package of cameras and pro video-switching equipment that enables any client to fully outsource the production and operation of a multiple camera broadcast system to Swagit.

During the meetings or events, Swagit personnel will operate the Cosmos system remotely from their facility in Plano, Texas. The Cosmos system enables Swagit to control and switch from camera to camera depending on events taking place. When bundled with Swagit EASE, Cosmos can offer a full end-to-end “hands-free” solution that requires no client staff involvement for the operation, broadcast and streaming of an event or meeting content.

Cosmos enables detailed direct camera positioning (pan, tilt, zoom, focus, and more), preset-positions, and video settings (white balance, backlight, brightness) for the robotic cameras. Additionally, Cosmos communicates with the switcher to allow direct operation of the 'wipe' function from the camera control GUI. With this powerful package you or Swagit can control all your cameras individually and switch video sources on a video switcher locally or remotely. Cosmos is an invaluable integration of camera-control with switcher operations for use with live production setups like city chambers, churches, meeting rooms, and more.

Cosmos includes 2-4+ robotic (computer-controllable pan/tilt/zoom) cameras and you can choose from two main types: either single-chip (Sony EVI-D80) or 3-chip (Sony BRC-300) depending on your needs and budget. These popular Sony robotic cameras have excellent

video quality and performance. The EVI-D80 and BRC-300 has the ability for panning through wide angles of motion, tilting through large ranges with superb optical zoom, and dual video output of Y/C and composite. They also support both RS232 and RS422 (long distance over 1000 meters) control signals. In addition the EVI-D80 cameras can be mounted either 'up' or 'hanging upside down' for your convenience (they have built-in reversal of the picture and left/right/up/down motion controls).



Investment – Cosmos Broadcast System

QTY	Item Description	Price
3	Sony- EVI-D90 - high quality CCD cameras	
3	Sony- WM-30B - Wall Mount for Sony EVI-D90	
4	Sony- EVI DS-Cable- to daisy chain cameras	
1	Dell Optiplex 7010 with Windows 7, Intel Core i3 CPU (3.30GHz 3MB Cache), 4GB Ram	
1	Video + Audio extender via CAT5 up to 600 feet Model	
1	Datavideo SE-600 NTSC Video Switcher with Monitor and Firewire card	
2	Osprey 260e Without Simulstream	
1	APC Battery Backup	
1	Cosmos 5.4 software	
1	APC UPS Remote Power Switch and Management	
1	Touch Control Monitor	
1	All Cable, Connectors and Hardware necessary for installation	
1	Labor required to install, hook-up and provisioning	
Total Cost for Camera System & Installation*		\$24,657.00

*There may be additional installation costs incurred based on the building/fire code for the jurisdiction, any unknown cabling requirements or impediments to the installation such as fire walls, lack of a drop ceiling, conduit requirements, etc., along with other accessibility issues. For final installation costs we would need to engage in further discussions, receive a detailed site plan of rooms involved along with pictures or possibly conduct a physical site visit.

Cameras can be controlled locally by the client or remotely by Swagit's staff.



MURPHY CITY COUNCIL MINUTES
May 6, 2014

City Manager James Fisher stated that the City was still on water restrictions and North Texas Municipal Water District (NTMWD) is still set at Stage 3 which allows watering once every two weeks.

Councilmember Bradley stated there are cities within the NTMWD that are on a weekly watering schedule and inquired as to whether the City should allow weekly watering.

Mr. Fisher stated there was not an easy answer as water needs to be conserved.

Mayor Barna indicated he did not have a problem with keeping the watering schedule at twice per month for the month of May.

Councilmember Thomas inquired as to how other NTMWD member cities were allowing more frequent watering. Mr. Fisher stated that he has not seen anything from NTMWD that indicates how they handle cities that do not follow NTMWD recommendations.

COUNCIL ACTION (7.A.):

APPROVED

Mayor Pro Tem Siddiqui moved to continue with the current drought management plan. Deputy Mayor Pro Tem St. Clair seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- B. Consider and/or act on the study request by the City of Murphy to the North Texas Municipal Water District to address the future wastewater needs for the Cities of Murphy and Wylie and authorize the City Manager to participate in the study and proceed with the request.

Mr. Fisher stated the wastewater plant was nearing 70% capacity and the state requires a study on future needs once the 70% mark is met.

Councilmember Grant inquired as to where the money to fund the study would come from. Mr. Fisher and Finance Director Linda Truitt explained that the study was a cost share with the City of Wylie through the Muddy Creek Wastewater Treatment Plant operating budget, ultimately coming from the city's utility fund budget. Mr. Fisher stated the total study amount is \$141,483 to be shared with the City of Wylie.

COUNCIL ACTION (7.B.):

APPROVED

Deputy Mayor Pro Tem St. Clair moved to authorize the City Manager to proceed with the request and to participate in the study to address the future wastewater needs for the Cities of Murphy and Wylie. Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

- C. Consider and/or act upon authorizing the City Manager to execute an Agreement for Video Streaming Services with Swagit Productions, LLC, to provide video recordings and streaming of City Council Meetings.

Mr. Fisher stated that this was a project in the works for a while and he had recently been approached by the Murphy Chamber of Commerce as they had plans to begin video recording the Council meetings on their own.

Mr. Fisher stated the Council discussed this item approximately one year ago and had made the decision that it was appropriate to allow former Councilmembers and former employees to purchase the iPad at current market value. Mr. Fisher stated that decision was never incorporated into the policy.

COUNCIL ACTION (ITEM 7.B.):

APPROVED

Mayor Pro Tem Siddiqui moved amend the City Council and Employee iPad Purchase and Use Agreement to allow for the purchase of iPads as presented. Deputy Mayor Pro Tem St. Clair seconded the motion. For: Unanimous. The motion carried by a vote of 6 to 0.

C. Discussion regarding the adoption of a video streaming policy for City meetings.

Mr. Fisher stated that this item was being brought forth to help plan for the FY 15 budget. Mr. Fisher stated that Staff was seeking direction as to what boards the Council was anticipating video streaming.

Councilmember Bradley stated, since this was a new task, he thought it was appropriate to focus on Council for the first year. Councilmember Bradley stated that camera placement could address the issue of the tall dais.

Councilmember Nichols-Spraggins inquired as to what the cost of the video streaming would be and what the benefit to the residents would be.

Mayor Barna stated that, in his opinion, the benefit is to be able to watch specific agenda items rather than having to listen to the entire meeting. Mayor Barna stated it also allowed people to place a name with the speaking voice.

Councilmember Grant stated that he would like to see other decision making boards video streamed in the future. Councilmember Grant stated the benefit was transparency to the residents.

Councilmember Bradley stated that he agreed with Councilmember Grant in that decision making boards should be streamed in the future. Councilmember Bradley stated he would go back on his previous statement and believed the Planning and Zoning Commission should be video streamed as well. Councilmember Bradley stated he would like to see regular meetings streamed only.

Mayor Pro Tem Siddiqui stated he would like to see all of the boards streamed in the future. Mayor Pro Tem Siddiqui suggested a phased approach with Council and Planning and Zoning the first year and other boards beginning in year two.

COUNCIL ACTION (ITEM 7.C.):

NON ACTION ITEM

No action was taken.

D. Discussion regarding the City of Murphy abbreviated records retention schedule.

City Secretary Kristi Gilbert explained the abbreviated records retention schedule was identical to the Texas State Library's requirements, the only difference was retaining audio recordings

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.

City Council Meeting January 19, 2016

Issue

Consider and/or act upon the Board and Commission Orientation/Work Session on Saturday, February 6th from 9:00 am until noon at the Murphy Community Center.

Staff Resource/Department

James Fisher, City Manager
Susie Quinn, City Secretary

Summary

The Orientation is scheduled for Saturday, February 6th from 9 am until 12 noon at Murphy Activity Center. We will be discussing Open Meetings regulations, ethics ordinance, general questions and the purposes of the Boards/Commissions. This is also the opportunity for the City Council to provide their feedback regarding the Boards/Commissions and how they can help the City Council accomplish the goals and objectives of the City Council.

Vision Statement:

Murphy values a safe, vibrant, family-oriented distinctive city that fosters a strong sense of community.

Guiding Principles:

- *We will seek innovative solutions for local issues;*
- *We will have engaging community activities and programs for all ages;*
- *We will have attractive and inviting parks and trails;*
- *We will encourage civic and community involvement;*
- *We will have a bold sense of economic vitality;*
- *We will maintain professional and highly trained staff with a servant leadership focus;*
- *We will respectfully enforce all laws and regulations;*
- *We will have well maintained infrastructure;*
- *We will uphold quality building standards*
- *We will have strong relationships with neighboring communities;*
- *We will be compassionate, caring citizens, neighbors and city staff*

City Council
January 19, 2016

Issue

Consider and/or act upon the recommendations from the Council Interview Panel regarding appointing board members to the Murphy Municipal Development District.

Staff Resource/Department

Susie Quinn, City Secretary

Background/History

Mayor Pro Tem Scott Bradley, Deputy Mayor Pro Tem Owais Siddiqui, and Councilmember Betty Spraggins volunteered to serve as the Council Interview Panel. Interviews were conducted on November 5th, November 10th, November 11th, November 16th, and November 19th, 2015.

Pursuant to City Charter, Article VIII, Section 8.01 Authority, Composition and Procedures:

(1) The City Council shall create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.

(2) Individuals who are qualified voters in the City may be appointed by the City Council to serve on one (1) or more boards, commissions or committees. Such appointees shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council, except for the members of the Board of Adjustment, who may be removed only for cause. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation, but may be reimbursed for actual expenses as approved by the City Council.

(3) All boards, commissions or committees of the City shall, at the discretion of the City Council, keep and maintain minutes of any proceedings held.

(4) No officer or employee of the City nor any person who holds a compensated appointive position with the City shall be a member of any board, commission or committee created or established by state law or this Charter other than in an advisory and/or ex officio capacity except as allowed by state law.

(5) Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings, or twenty-five percent (25%) of regularly scheduled meetings during the twelve (12)-month period immediately preceding and including the absence in question, without explanation acceptable to a majority of the other members, shall be deemed to have forfeited his or her position on the board, commission or committee.

Attachments

Board and Commission Listing

P L A C E	MURPHY MUNICIPAL DEVELOPMENT DISTRICT BOARD - BOARD MEMBER NAME	ORIGINAL APPOINTMENT DATE	CURRENT APPOINTMENT DATE	CURRENT TERM	APPOINT
	John Daugherty	9/17/2013	1/1/2014		
2	Jamie Nicholson	12/11/2012	1/1/2015	2015-2016	Completing term
3	Alex Acuña	12/10/2013	1/1/2014		
4	Alain Dermarker	12/11/2012	1/1/2015	2015-2016	Completing term
	Eric Lopez	12/10/2013	1/1/2014		
1				2016-2017	
5				2016-2017	
Reapplied for current or different board - Interviewed with Council panel					
Seat is open for new appointment					

**City Council Meeting
January 19, 2016**

Issue

Consider and/or act upon advertising for board members to the Charter Review Commission.

Staff Resource/Department

James Fisher, City Manager
Susie Quinn, City Secretary

Summary

The City Council shall appoint a Charter Review Commission per Section 11.07 of the City Charter at least once every six (6) years. The Charter Review Commission shall consist of at least eleven (11) citizens of the City who shall:

- (A) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records;
 - (B) Propose any recommendations it deems desirable to ensure compliance with the Charter; and
 - (C) Report its findings and present its recommendations to the City Council.
- (2) The City Council shall receive and have published in the official newspaper and website of the City a comprehensive summary of the report presented by the Commission, shall consider any recommendations made, and may order any amendments suggested to be submitted to the voters of the City in the manner provided by state law.
- (3) The term of office of the Commission shall be for not more than six (6) months, at the end of which time a report shall be presented to the City Council and all records of proceedings of the Commission shall be filed with the City Secretary and become a public record.

(Ordinance 10-11-861, ex. B, adopted 11/15/10)

The last Charter Review Commission met in 2009 -2010.

Staff Recommendation

Authorize City Staff to advertise for the 11 positions with appointments to be considered by the City Council at its March 1st Regular Meeting.