

MINUTES
REGULAR CITY COUNCIL MEETING
CITY OF MURPHY
206 North Murphy Road
Murphy, Texas
February 7, 2012
6:00 PM

1. CALL TO ORDER

Mayor Baldwin called the meeting to order at 6:03 p.m.

2. INVOCATION & PLEDGE OF ALLEGIANCE

Councilmember Richmond gave the invocation and led the Pledge of Allegiance.

3. ROLL CALL & CERTIFICATION OF A QUORUM

The following Councilmembers were present:

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

4. PUBLIC COMMENTS

Mr. Cruz Salinas, representing Boy Scout Troop 1812, addressed Council with concerns about room rental fees and operating hours of the Murphy Community Center.

5. CONSENT ITEMS

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.

5.1. Consider and/or act upon acceptance of the Annual Traffic Contact Report for 2011 for the Murphy Police Department (also known as the Racial Profiling Report).

5.2. Consider and/or act on the application of Winkelmann and Associates, Inc. representing Forestar (USA) Real Estate Group, Inc, requesting approval of the Final Plat for Maxwell Creek North, Phase 10A on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487) on property located southwest of the intersection of McMillen Road and Rosewood Drive.

5.3. Consider and/or act on the application of Winkelmann and Associates, Inc. representing Forestar (USA) Real Estate Group, Inc, requesting approval of the Final Plat for Maxwell Creek North, Phase 10C1 on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487) on property located southwest of the intersection of McMillen Road and Rosewood Drive.

5.4. Consider and/or act on the application of Spiars Engineering representing Master-Developers-SNB LLC, requesting approval of the Final Plat for Rolling Ridge Estates, Phase 6 on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 04-09-622).

VOTING

Motion by: John Daugherty to approve the Consent Agenda as presented.
Second by: Scott Bradley

Councilmember	YES	NO	ABSTAIN	RECUSE
Baldwin, Bret	x			
Bradley, Scott	x			
Brandon, Dave	x			
Daugherty, John	x			
Grant, Bernard	x			
Halbert, Colleen	x			
Richmond, Dennis	x			

6. PUBLIC HEARINGS

- 6.1. Hold a public hearing and consider and/or act upon approval of an ordinance amending PD (Planned Development) District Ordinance No. 10-05-841, as amended, for Retail Uses, and revising the approved concept plan with conditions on property comprising approximately 24.09 acres located at the northwest quadrant of FM 544 and North Murphy Road. (Zoning File 2011-02)**

Councilmember Grant recused himself from this discussion and vote due to a conflict of interest which is on file with the City Secretary.

Mayor Baldwin opened the public hearing at 6:13 p.m. Myron Dornic, representing Wal-Mart, addressed Council stating he was present to answer any questions. Mayor Baldwin closed the public hearing at 6:14 p.m.

Councilmember Daugherty clarified that a drive-thru is permitted on Lot 4, along FM 544, by right; and that no other drive-thru would be allowed on the site, even by Specific Use Permit. Councilmember Brandon stated that it would be helpful to know the tenant of Lot 4 so that traffic patterns could be considered in the decision-making.

VOTING

Motion by: Dave Brandon to approve the ordinance to amend the Planned Development District Ordinance No. 10-05-841, as amended, for Retail uses, and revised concept plan; creating one ordinance, including all amendments, governing this property.
Second by: John Daugherty

Councilmember	YES	NO	ABSTAIN	RECUSE
Baldwin, Bret	x			
Bradley, Scott	x			
Brandon, Dave		x		
Daugherty, John	x			
Grant, Bernard				x
Halbert, Colleen	x			
Richmond, Dennis	x			

7. OTHER CONSIDERATION ITEMS

- 7.1. Consider and/or act upon approval of a site plan on property zoned PD (Planned Development) District Ordinance No. 10-05-841, as amended, for Retail Uses, and comprised of approximately 20.7 acres located at the northwest quadrant of FM 544 and North Murphy Road.**

Councilmember Grant recused himself from this discussion and vote due to a conflict of interest which is on file with the City Secretary.

VOTING

Motion by: John Daugherty to approve a site plan on property zoned PD (Planned Development) District Ordinance No. 10-05-841, as amended, for Retail Uses, and comprised of approximately 20.7 acres located at the northwest quadrant of FM 544 and North Murphy Road.

Second by: Scott Bradley

Councilmember	YES	NO	ABSTAIN	RECUSE
Baldwin, Bret	x			
Bradley, Scott	x			
Brandon, Dave	x			
Daugherty, John	x			
Grant, Bernard				x
Halbert, Colleen	x			
Richmond, Dennis	x			

7.2. Consider and/or act upon submitting bylaws to the Murphy Municipal Development District (MDD) board for their approval.

There was Council discussion regarding who has the authority to appoint and terminate the MDD Executive Director and whether or not the position would be filled with a current staff member. Mr. Fisher recommended appointing the City Manager or his designee. Mr. Messer, City Attorney, explained that Council can have as much or as little oversight as they want. He stated that the initial bylaws have more oversight by Council and can be amended later if Council chooses to do so. Council requested the City Attorney to clarify Section 2.8 regarding Council authority to appoint the Executive Director.

Councilmember Halbert moved to submit the bylaws as presented to the Murphy Municipal Development District with special notice that Section 2.8 is under review by the City Attorney. Councilmember Grant seconded the motion.

Councilmember Daugherty moved to amend the motion to modify Section 2.38 to change the meeting requirement from *monthly* to *as necessary as determined by the board*; and Section 7.7 to change the budget adoption section from *90 days* to *30 days*. Councilmember Halbert seconded the motion. A vote was taken and passed unanimously. A vote on the amended main motion was taken and passed unanimously.

7.3. Consider and/or act upon the allowance of alcohol use at the Murphy Community Center and Murphy Activity Center.

There was Council discussion as to the type and use of both facilities –the Murphy Activity Center and the Murphy Community Center. Councilmember Halbert recommended voting on each facility separately because she sees one to be used for various activities and one to be used for banquet type activities.

Councilmember Brandon listed several facilities in other cities and their size and capacity.

Councilmember Bradley explained that the Murphy facility is the only type of center that the City will have and it should be multi-purpose for the community. He went on to say that this argument was about a minority of individuals who want to apply their moral standards on the majority.

Councilmember Brandon addressed the Mayor and stated that he takes great exception to the comment about the minority applying their moral standards to the majority. He stated that Council has all received a number of emails and not one has been for the use of alcohol at the facilities.

Councilmember Halbert stated that she had received three emails, one in favor, and one that was berating Council. She said that she did not think that was representative of the community. She explained that Council has been discussing this topic for months and that no one is changing their mind. Ms. Halbert requested that Council take a vote so that staff can implement whatever is decided.

Councilmember Bradley mentioned history of the local option elections that have occurred in Murphy regarding serving and purchasing alcohol and stated that those referendums were approved by a majority vote.

Mayor Baldwin stated that a good point was raised about the Community Center being used for dual purposes; for recreational activities and for private rental use for banquet activities. He stated that he understood that alcohol use would not be allowed during recreational type activities, but he did not have an issue with alcohol use for private rentals as long as the appropriate safeguards were in place.

Councilmember Richmond stated that there is nothing wrong with voting with your moral compass and explained that decisions are made all the time based on morals.

Councilmember Halbert moved to approve the use of alcohol at the Murphy Community Center. Councilmember Bradley seconded the motion. Prior to the vote, Mayor Baldwin asked her to clarify why she was separating the two facilities. Councilmember Halbert explained that she did not see the Murphy Activity Center functioning as a banquet facility. A vote was taken and passed 5-2, with Councilmembers Richmond and Brandon opposed.

Councilmember Halbert moved to approve the use of alcohol at the Murphy Activity Center. Councilmember Bradley seconded the motion. A vote was taken and passed 4-3, with Councilmembers Halbert, Richmond, and Brandon opposed.

Councilmember Halbert moved that a policy on the use of alcohol be approved by Council before the use of alcohol is allowed at the Murphy Community Center and the Murphy Activity Center. Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

Councilmember Brandon addressed Mayor Baldwin stating that a public comment form on this issue was submitted and overlooked. Mayor Baldwin apologized for overlooking the form and asked the speaker to address Council.

Ms. Emma Brandon addressed Council in opposition to alcohol being allowed at the Murphy Community Center and the Murphy Activity Center.

7.4. Consider and/or act upon approval of additional funding for furniture, fixtures and equipment for the Murphy Community Center.

VOTING

Motion by: John Daugherty to approve additional funding by the Murphy Community Development Corporation not to exceed \$60,000 for furniture, fixtures, and equipment for the Murphy Community Center.

Second by: Scott Bradley

Councilmember	YES	NO	ABSTAIN	RECUSE
Baldwin, Bret	x			
Bradley, Scott	x			
Brandon, Dave	x			
Daugherty, John	x			
Grant, Bernard	x			
Halbert, Colleen	x			
Richmond, Dennis	x			

8. ORDINANCE APPROVAL

8.1. Consider and/or act upon the approval of an ordinance amending the FY 2011-2012 budgets for the General Fund and the Community Development Corporation (4B).

There was Council discussion regarding the specifics of the historical display cabinets and other items for the City Hall lobby. Council requested that staff bring back additional information on the historical cabinets, including additional quotes.

VOTING

Motion by: Colleen Halbert to approve an ordinance amending the FY 2011-2012 budget for the General Fund and the Community Development Corporation with the exception of \$12,000 for the display units in the lobby.

Second by: Dennis Richmond

Councilmember	YES	NO	ABSTAIN	RECUSE
Baldwin, Bret	x			
Bradley, Scott	x			
Brandon, Dave	x			
Daugherty, John	x			
Grant, Bernard	x			
Halbert, Colleen	x			
Richmond, Dennis	x			

8.2. Consider and/or act upon the approval of an ordinance authorizing the issuance of "City Of Murphy, Texas, General Obligation Refunding Bonds, Series 2012"; levying a continuing direct annual ad valorem tax for the payment of such Bonds; and resolving other matters related to the issuance of such Bonds, including the delegation of certain matters to an authorized City official.

Jason Hughes, financial consultant from First Southwest, addressed Council and explained the considerations for issuing refunding bonds.

Councilmember Brandon stated the reason for this change is for flexibility and asked if there is a problem in the way we are doing it now. Mr. Hughes explained that he recommends this so that the City has the utmost flexibility to get the best transaction possible.

VOTING

Motion by: John Daugherty to approve an ordinance authorizing the issuance of "City of Murphy, Texas, General Obligation Refunding Bonds, Series 2012"; levying a continuing direct annual ad valorem tax for the payment of such Bonds; and resolving other matters related to the issuance of such Bonds, including the delegation of certain matters to an authorized City official.

Second by: Colleen Halbert

Councilmember	YES	NO	ABSTAIN	RECUSE
Baldwin, Bret	x			
Bradley, Scott	x			
Brandon, Dave		x		
Daugherty, John	x			
Grant, Bernard	x			
Halbert, Colleen	x			
Richmond, Dennis	x			

Councilmember Brandon stated his opposition was to the parameters, not savings.

9. RESOLUTION APPROVAL

9.1. Consider and/or act upon the approval of a resolution amending the 2010 Budgetary Financial Policies.

There was some discussion regarding the Budgetary Financial Committee. Councilmember Brandon stated he was never in favor of removing community involvement.

VOTING

Motion by: John Daugherty to approve a resolution amending the 2010 Budgetary Financial Policy with removing the individual percentages from the 5% and amending the minimum unassigned fund balance of 15% to exclude the 5% for vehicle replacement.

Second by: Colleen Halbert

City Manager Fisher explained that the goal was to have 20% in reserves with 5% being for capital expenses rather than having percentages tied to specific departmental expenses or vehicles.

Councilmember	YES	NO	ABSTAIN	RECUSE
Baldwin, Bret	x			
Bradley, Scott	x			
Brandon, Dave	x			
Daugherty, John	x			
Grant, Bernard	x			
Halbert, Colleen	x			
Richmond, Dennis	x			

- 10. CITY MANAGERS REPORT**
Financial Reports
PD Annual Report
Feb 11 - CPR Day for Heart Health Month
Feb 16 - Murphy Historical Society Meeting
Feb 21 - Chamber Lunch
Feb 23-24 - Council Planning Session
Feb 25 - Erecycling

City Manager Fisher reported on the above listed items as well as the following:

- February 21 –Ribbon Cutting for Avon store
- February 22 –considering adding time for Council/Facilitator prior to Planning Session on February 23-24
- HOA meeting in Rolling Ridge to discuss sidewalk issues around park
- Quote received in the amount of \$26, 000 for extension of sidewalk at Liberty Ridge Park
- Liberty Ridge Park –relocating fish during construction
- Heritage Parkway –considering signage defining that it is not a truck route

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

Mayor Baldwin convened into Executive Session at 7:28 p.m.

- 11.1. 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Michael Cantrell v. City of Murphy, et. al, Cause No. 6:09-cv-225.**
- 11.2. 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682.**
- 11.3. 551.087 Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).**

- 12. RECONVENE INTO REGULAR SESSION**
The City Council will reconvene into Regular Session, pursuant to the provision of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

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

- 12.1. 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Michael Cantrell v. City of Murphy, et. al, Cause No. 6:09-cv-225.
- 12.2. 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682.
- 12.3. 551.087 Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

13. ADJOURNMENT

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

APPROVED BY:



Bret M. Baldwin, Mayor

ATTEST:



Aimee Nemer, City Secretary

