

CITY COUNCIL MINUTES
NOVEMBER 13, 2012 REGULAR CITY COUNCIL MEETING

1. CALL TO ORDER

Mayor Pro Tem Daugherty called the meeting to order at 6:02 p.m.

2. INVOCATION & PLEDGE OF ALLEGIANCE

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

3. ROLL CALL & CERTIFICATION OF A QUORUM

City Secretary, Kristi Gilbert, certified a quorum with the following Councilmembers present:

Mayor Pro Tem John Daugherty
Councilmember Dennis Richmond
Councilmember Scott Bradley
Councilmember Bernard Grant
Councilmember Dave Brandon

Councilmembers absent:
Mayor Brett Baldwin
Deputy Mayor Pro Tem Colleen Halbert

4. PUBLIC COMMENTS

Jim Tuskan, 536 Chalk Hill Lane - Mr. Tuskan inquired as to why there is not a tax exemption for Over 65 Residents. Mayor Pro Tem Daugherty clarified that the City does provide an Over 65 exemption.

Keith Patton, 451 Poindexter Lane - Mr. Patton requested that the agenda be numbered and lettered in a fashion that does not duplicate letters and numbers.

5. 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 upon the approval of meeting minutes:
 - 1. October 16, 2012 Regular City Council meeting;
 - 2. October 25, 2012 Special City Council Meeting; and,
 - 3. October 30, 2012 City Council Work Session.

- B. Consider and/or act on the application of **Forestar (USA) Real Estate Group, Inc.** requesting approval of a construction plat for Maxwell Creek North Phase 11A on property zoned PD (Planned Development) District No. **00 06 486** and No. **00 06 487** for Single Family Uses. This property is generally located southwest of the intersection of McMillen Road and McCreary.

- C. Consider and/or act on the application of **Forestar (USA) Real Estate Group, Inc.** requesting approval of a construction plat for Maxwell Creek North Phase 11B on property zoned PD (Planned Development) District No. **00 06 486** and No. **00 06 487** for Single Family Uses. This property is generally located southwest of the intersection of McMillen Road and McCreary.

- D. Consider and/or act upon Resolution approving the 2012 tax roll with a total levy of \$8,699,950.81 as certified by Kenneth L. Maun, Tax Assessor Collector for Collin County.
- E. Consider and/ or act upon a resolution authorizing the Mayor to sign the Interlocal Agreement between Collin County and the City of Murphy for the Collin County Funding Assistance Program grant of \$500,000 for the Murphy Regional Hike and Bike Trail Connector Project.

COUNCIL ACTION:

APPROVED

Councilmember Grant moved to approve the consent agenda as presented. Councilmember Bradley seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 5 to 0.

Mayor Pro Tem Daugherty opened the floor to public comments once again to President Saiyad Ahmad and Vice President Mohamed Rafi Meetheen from the East Plano Islamic Society. Mr. Ahmad stated that their community has a history of helping several cities with humanitarian and civic projects. Mr. Saiyad extended an invitation to the Council to attend an event this coming weekend.

6. INDIVIDUAL CONSIDERATION

- A. Hold a public hearing and consider and/or act on the application of **Mike Horn**, property owner, requesting approval of an ordinance for a SUP (Specific Use Permit) to allow a **drive thru** window for a **Braum's** Ice Cream Store on property zoned PD (Planned Development) District No. **09 12 823** for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road. **ZF 2012 07**.

Kristen Roberts presented staff comments and stated that approval was recommend. Ms. Roberts stated that

Gordon Pulis, applicant, stated that the planned building is similar to the one at Coit and Campbell in Richardson. He stated that there would be a market as well as a restaurant with drive thru service.

The Mayor Pro Tem opened the public hearing to public comment at 6:17 p.m. There were no public comments regarding the submittal. The hearing was closed at 6:17 p.m.

Councilmembers discussed the necessity of a double drive-thru lane. The applicant stated that they were not certain if they would install a double drive-thru lane.

COUNCIL ACTION:

APPROVED

Mayor Pro Tem Daugherty moved to approve the application of **Mike Horn**, property owner, requesting approval of an ordinance for a SUP (Specific Use Permit) to allow a **drive thru** window for a **Braum's** Ice Cream Store on property zoned PD (Planned Development) District No. **09 12 823** for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road with the exclusion of the double drive-thru. Councilmember Bradley seconded the motion. For: Daugherty, Bradley and Grant. Against: Richmond and Brandon. The motion carried by a vote of 3 to 2.

- B. Consider and/or act on the application of **Mike Horn** requesting approval of a site plan for **Braum's** Ice Cream Store on property zoned PD (Planned Development) District No. **09 12 823** for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.

Councilmember Brandon stated that he did not like the neon pink light band, to which the applicant responded that it could be removed. Councilmember Brandon asked the applicant to consider using a different color blue on the building. Ms. Roberts stated that the Planning and Zoning Commission discussed the color at length and decided that the color was a branding issue.

COUNCIL ACTION:

APPROVED

Councilmember Brandon moved to approve the application of **Mike Horn** requesting approval of a site plan for **Braum's** Ice Cream Store on property zoned PD (Planned Development) District No. **09 12 823** for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road with the removal of the neon pink light band on the top of the building; the requirement that any signs be brought before the Council for final approval and the removal of the second drive thru. Councilmember Bradley seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 5 to 0.

- C. Consider and/or act on the application of **Mike Horn** requesting approval of a construction plat for **Braum's** Ice Cream Store on property zoned PD (Planned Development) District No. **09 12 823** for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.

COUNCIL ACTION:

APPROVED

Councilmember Bradley moved to approve the application of **Mike Horn** requesting approval of a construction plat for **Braum's** Ice Cream Store on property zoned PD (Planned Development) District No. **09 12 823** for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road. Councilmember Brandon seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 5 to 0.

- D. Consider and/or act upon approval of the NCTCOG Interlocal Agreement for the TCEQ Solid Waste Implementation Grant Project, authorize \$16,800 of the recycle rebate funds as matching funds for the \$67,200 TCEQ Solid Waste Grant Award to purchase BigBelly solar compactor trash and compactor recycle bins for Murphy Park pavilions, and authorize the City Manager to sign all necessary documents.

Mr. Fisher stated that the Council approved submittal of the grant application in June and there was approximately \$35,000 in the recycle rebate program.

COUNCIL ACTION:

APPROVED

Councilmember Bradley moved to approve the NCTCOG Interlocal Agreement for the TCEQ Solid Waste Implementation Grant Project, authorize \$16,800 of the recycle rebate funds as matching funds for the \$67,200 TCEQ Solid Waste Grant Award to purchase BigBelly solar compactor trash and compactor recycle bins for Murphy Park

pavilions, and authorize the City Manager to sign all necessary documents. Councilmember Richmond seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 5 to 0.

- E. Consider and take action, if any, on the renewal notice for Solid Waste Collection and Transportation Agreement with Waste Management of Texas, Inc.

Mr. Fisher stated that there was discussion from Council in the spring regarding solid waste fees and suggested that the Council send out request for proposals when the contract is up.

Joe Jaynes, Waste Management, 520 E Corporate, Lewisville - Mr. Jaynes stated that Waste Management has provided the City with good customer service.

Mayor Pro Tem Daugherty stated that he felt that Waste Management was doing an excellent job, but felt that the City had the duty to go out for bid. Councilmember Bradley stated he would like to see how Murphy compared with other cities regarding services offered.

COUNCIL ACTION:

APPROVED

Councilmember Bradley moved to authorize the City Manager to send a letter of non-renewal to Waste Management and prepare an RFP for City Council consideration on November 27th. Councilmember Grant seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 5 to 0.

- F. Discussion/review of Water Conservation Plan and Enforcement Ordinances.

Mr. Fisher discussed proposed changes with regard to the Water Conservation Plan. Mr. Fisher stated that Code Enforcement has worked with residents extensively on gaining compliance through warnings and door hangers. Mr. Fisher inquired as to what concerns Council had so that staff can be prepared with revisions when the revised plan comes out in 2013.

Keith Patton, 451 Poindexter - Mr. Patton stated that he disagreed with the time schedule for watering and stated that landscapers recommended not watering at night as the weather gets cooler to avoid fungus growing. He continued by stating that the smart systems water when the grass is dry, regardless of what time of day it was.

Councilmember Richmond stated that he felt that a program that features conservation was important and favored consistency. He stated that fungus would only grow in the summer heat if overwatered.

Mayor Pro Tem Daugherty stated he would like to see a policy that allowed for water two days per week and prohibited watering between the hours of 10 am and 6 pm throughout the year. Councilmember Bradley stated that the municipal court is significantly reducing fines for first time offenders. Councilmember Grant stated he had concerns regarding Parks and Public Works employees enforcing the policy. Councilmember Brandon stated that he understands this is a Water Conservation Plan, not a landscape conservation plan and the priority is the water not the landscape.

COUNCIL ACTION:

NON

ACTION ITEM

The Council took no action.

- G. Consider and take action, if any, on adding December 31, 2012 as an additional employee holiday in 2012.

COUNCIL ACTION:

APPROVED

Councilmember Bradley moved to add December 31, 2012 as an employee holiday. Councilmember Richmond seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 5 to 0.

- H. Consider and take action, if any, on the proposed revisions to the Code of Ethics of the City of Murphy and the proposed Rules and Procedures of the Ethics Review Commission.

COUNCIL ACTION:
APPROVED

Councilmember Grant moved to amend the Code of Ethics to exclude municipal employees with the exception of the municipal officers as established in the charter. Councilmember Bradley seconded the motion. For: Daugherty, Richmond, Bradley and Grant. Against: Brandon. The motion carried by a vote of 4 to 0.

The Council held discussions and determined that the City Secretary would retain the role set forth in the regulations. Mayor Pro Tem Daugherty recommended that the Ethics Commission wait to meet until after the first of the year because of new appointments.

- I. Consider and take action, if any, on an Ordinance concerning the position of the City Secretary.

COUNCIL ACTION:

APPROVED

Councilmember Brandon moved to approve the Ordinance regarding the position of the City Secretary. Councilmember Bradley seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 5 to 0.

7. CITY MANAGER/STAFF REPORTS

City Manager, James Fisher provided the Council with a report on the following:

- North Murphy Road Construction Update
- McCreary Road Construction Update
- TML Annual Conference - November 14-16, Gaylord Texan Conference Center
- Leadership North Texas - November 16
- Holiday Hams to be distributed November 19 at 11:00am
- Chamber Luncheon - November 20

8. EXECUTIVE SESSION

At 7:51 p.m. the Mayor convened the City Council into closed Executive Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation involving:

Exhibit "A" to the October 16, 2012 City Council Minutes

CITY OF MURPHY
Ethics Review Commission

Recommendations, Requests and Notifications

A. Pursuant to the City of Murphy Code, Chapter 2 - Administration, Article IX - Code of Ethics, Section 2-513 (a)(4)(f), the Ethics Review Commission requests the City Council to consider the following recommendations that were approved by the Commission at its meeting held on Thursday, July 19, 2012:

1. Amend Article IX Code of Ethics, Section 2-513, to require all employees and City officials to answer any inquiries of the Ethics Review Commission.
2. Amend Article IX Code of Ethics, Section 2-501 Definitions, to include the **Municipal Development District in the definition of "City Official."**
3. Amend Article IX Code of Ethics, Section 2-518, to require all City employees and City officials to receive a copy of the Code of Ethics and to sign for their receipt of their copy. [Not just to make it available.]
4. Approve the Confidentiality and Non-Disclosure Agreement approved by the Ethics Review Commission on July 19, 2012.
5. Approve the Ethics Review Commission Ethics Complaint form.

B. Pursuant to City of Murphy Code, Chapter 2 - Administration, Article IX - Code of Ethics, Section 2-513, the Ethics Review Commission requests the following administrative support from the City:

1. City Secretary or designee to receive requests for agenda items outside of an open meeting and to prepare, post, and deliver the agendas for the meetings of the Ethics Review Commission meeting (in order to avoid potential violations of the Open Meetings Act by members of the Commission).

C. Pursuant to City of Murphy Code, Chapter 2 - Administration, Article IX - Code of Ethics, Section 2-513, the Ethics Review Commission advises the City Council of the resignation of Chairperson Gena Misouria effective at the end of the Commission meeting on July 19, 2012; **Chairperson Misouria's term would have continued through December 31, 2013.**