

CITY COUNCIL MINUTES
FEBRUARY 19, 2013 REGULAR CITY COUNCIL MEETING

1. CALL TO ORDER

Mayor Pro Tem Daugherty called the meeting to order at 6:04 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 Bret Baldwin (arrived at 8:34 p.m.)

Mayor Pro Tem John Daugherty

Deputy Mayor Pro Tem Colleen Halbert

Councilmember Dennis Richmond

Councilmember Scott Bradley

Councilmember Bernard Grant

Councilmember Dave Brandon

Councilmembers absent: None

4. PUBLIC COMMENTS – No one was signed in to speak.

5. PRESENTATION ITEMS –

Mayor Pro Tem Daugherty presented a proclamation declaring February 21-24, 2013, Delta Sigma Theta Sorority, Inc. Days in the City of Murphy commemorating 100 years of public service to members of the Collin County Chapter of Delta Sigma Theta Sorority, Inc.

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 take action, if any, on the approval of meeting minutes:

1. January 31, 2013 Special Called Joint Meeting; and,
2. February 5, 2013 Regular Meeting.

B. Consider and take action, if any, on the application of Winkelmann and Associates, Inc. representing D.R. Horton, requesting approval of the Final Plat for **the Gables at North Hill, Phase 2B** on property zoned PD (Planned Development) District for Single Family Uses. This property is located southwest of McCreary Road and McWhirter Road.

C. Consider and take action, if any, on the application of Winkelmann and Associates, Inc. representing D.R. Horton, requesting approval of the Final Plat for **The Gables at North Hill (Park Lots)** on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 03-10-590). This property is located at the intersection of North Hill Lane and Gene Autry Lane. It extends to the Amenity Center at North Hill and all lots abut to North Hill Park, City of Murphy.

- D. Consider and take action, if any, on a utility capital improvement project for the South Maxwell Creek Trunk Sewer Line.
- E. Consider and take action, if any, on awarding the contract for wrecker and impound services for the City of Murphy to Wylie Towing, or other responsible bidder, in accordance with Chapter 78.133, of the Murphy City Code and authorize the City Manager to execute the contract agreement for the delivery of wrecker and impound services.

Councilmember Brandon asked to remove item 6.E. from the consent agenda.

COUNCIL ACTION:

APPROVE A-D

Deputy Mayor Pro Tem Halbert moved to approve consent agenda items 6.A. through 6.D. as presented. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 6 to 0.

COUNCIL ACTION:

APPROVE E

Councilmember Brandon moved to approve awarding the contract for wrecker and impound services for the City of Murphy to Wylie Towing in accordance with Chapter 78.133, of the Murphy City Code and authorize the City Manager to execute the contract agreement for the delivery of wrecker and impound services with the addition of Article XII, 12.2 to add the ability for the customer to pay a drop fee of \$75 which is equal to the base tow fee. The customer is able to pay a drop fee assuming the towable vehicle has not been fully hooked up to the wrecker. Any other requirements around the drop fee are regulated and spelled out by the Texas Department of Licensing and Regulation. Deputy Mayor Pro Tem Halbert seconded the motion. For: Unanimous. The motion carried by a vote of 6 to 0.

7. INDIVIDUAL CONSIDERATION

Mayor Pro Tem Daugherty moved discussion on items 7.A. through 7.E. to the end of the agenda.

- F. Consider and take action, if any, on the review of the Traffic Study conducted on Moonlight Drive.

City Manager, James Fisher, provided the Council with a report on the traffic study performed at the request of the residents on Moonlight Drive. Mr. Fisher stated that one area of concern was the volume of cars utilizing Moonlight Drive. Police Chief GM Cox provided the Council with details of the study including the use of unmarked cars and COPs for the initial study. Discussion was held with regard to utilizing a speed trailer in conjunction with a selective traffic enforcement program (STEP) and the installation of pole-mounted speed indicators, as well as the costs associated with each. Discussion included taking additional steps to further investigate a more permanent solution.

Citizen Comments:

The following citizens expressed concerns regarding the increased traffic volume on Moonlight Drive, as well as a desire for the Council to take steps to mitigate the volume:

Linda Martin, 142 Moonlight Drive
Greg Matocha, 151 Moonlight Drive

Susie Blackstock, 150 Moonlight Drive
Robert Abbie, 171 Moonlight Drive
Jake Glenn, 182 Moonlight Drive
Melanie Griesmer, 179 Moonlight Drive

Gail Tobleman, 1004 Mason Way – Ms. Tobleman stated that she was very concerned that the Council would consider closing Moonlight Drive. Ms. Tobleman stated that, if the road was closed, it would appear to remove Mason Way from the City of Murphy.

COUNCIL ACTION (ITEM 7.F.):

CONTINUE STUDY/SEEK GUIDANCE

Deputy Mayor Pro Tem Halbert moved to proceed with utilizing a speed trailer and conducting a STEP program in conjunction with the speed trailer and have the Police Department provide Council with a report and guidance for next steps at the March 19, 2013 meeting. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 6 to 0.

- G. Hold a public hearing and consider and/or act on the application of McBirney-544 Joint Venture, on behalf of the property owner, Mike Horn, to re-plat **Lot 2R - Block A – Murphy Village Addition Lots 6, 7 & 8** on property zoned PD (Planned Development) District No. 09-12-823 and No. 09-12-824 for Retail and Office Uses. This property is located at the southeast quadrant of West FM 544 and Brand Road.

Kristen Roberts stated that the replat was to split a single lot into three lots. Ms. Roberts stated that public hearing notices had been published in the newspaper and property owners had been notified as required. Ms. Roberts stated that staff had not received any comments on the proposed replat and the Planning and Zoning Commission had unanimously recommended approval.

Mayor Pro Tem Daugherty opened the public hearing at 6:55 p.m. No individuals were signed in to speak in favor of or in opposition to the proposed replat. Mayor Pro Tem Daugherty closed the public hearing at 6:55 p.m.

COUNCIL ACTION (ITEM 7.G.):

APPROVED

Councilmember Brandon moved to approve the replat as submitted. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 6 to 0.

- H. Consider and take action, if any, on the application of Wal-Mart Real Estate Business trust requesting approval of a site plan and related items for **Wendy's** on property zoned PD (Planned Development) District No. 12-02-905 located at 117 West FM 544.

Ms. Roberts stated that a restaurant with a drive-thru/drive-in was an allowed use on the lot as specified in the PD ordinance. Ms. Roberts stated that Staff had asked the applicant to relocate the drive-thru to the rear of the building so that it did not front on FM 544, however, that would have resulted in the dumpster being located in the front of the building. Ms. Roberts stated that the Planning and Zoning Commission had recommended approval with changes to include the extension of the curb slightly at the southeast corner of the parking lot, covering the exposed cooler doors with brick and the installation of stone or brick in lieu of the proposed tile locations on the façade.

The Council held discussion with regard to allowing only a single drive-thru lane, the usage of LED lights to match the proposed Wal-Mart parking lights, the monument sign, and the stub through from the Kwik Kar parking lot and reducing a portion of the red, aluminum construction material.

Derrick Langford with PM Design Group, representing the applicant, stated that Wendy's would be amenable to the reduction in drive-thru lanes. Mr. Langford stated that Wendy's would change the façade of the drive-thru area to stone or masonry, with red only on the blade that is facing the Wal-Mart parking lot.

COUNCIL ACTION (ITEM 7.H.):

APPROVED

Deputy Mayor Pro Tem Halbert moved to approve the site plan as presented with the following changes: to remove the second drive-thru; to extend the drive-thru island to prevent access from the northwest entrance; to change the drive-thru tower to include masonry; to cap the signage to make sure that it fits the style of the Wal-Mart sign; and, to direct Staff to review the lighting to be consistent with the Wal-Mart lighting. Councilmember Brandon seconded the motion. For: Unanimous. The motion carried by a vote of 6 to 0.

- I. Continue a public hearing and consider and/or act upon approval of an ordinance amending Chapter 28, Development Standards, of the Code of Ordinances.

Ms. Roberts stated the Council reviewed a draft at the September 6, 2012 meeting. Since that meeting, Staff made changes based on recommendations to draft the ordinance as provided. Ms. Roberts stated there were minimal changes; however, Staff felt it was necessary to review additional items in the code in the near future.

Mayor Pro Tem Daugherty continued the public hearing. No individuals were signed in to speak in favor of or in opposition to the proposed replat. Mayor Pro Tem Daugherty closed the public hearing at 7:12 p.m.

COUNCIL ACTION (ITEM 7.I.):

APPROVED

Deputy Mayor Pro Tem Halbert moved to approve an ordinance amending Chapter 28, Development Standards, of the Code of Ordinances as presented and direct Staff to move forward with research on Hookah lounges, solar panels, enhanced overnight parking restrictions, human signs and accessory Buildings/Structures (all sections). Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 6 to 0. (*Assigned Ordinance No. 13-02-947*)

- J. Consider and take action, if any on authorizing the City Manager to negotiate a contract to provide Solid Waste Collection & Disposal and Recyclable Material Collection & Processing services for the City of Murphy.

Mr. Fisher stated that, per Council's direction at the last meeting, Staff asked for proposed route maps from the bidders. Mr. Fisher stated that the City received four great proposals from four great representatives, which made the decision difficult. Mr. Fisher thanked Waste Management for the thirty day extension to allow Staff adequate time to make the best

decision for the community. Mr. Fisher stated that, based on the community's needs, Staff recommended awarding the bid to Community Waste Disposal.

Council held discussion with regard to services provided by Community Waste Disposal and Progressive. Mayor Pro Tem Daugherty allowed a representative from both Progressive and Community Waste Disposal to give a brief presentation of their services to Council. Shawn Eiras spoke on behalf of Progressive Waste Solutions. Greg Roemer spoke on behalf of Community Waste Disposal.

Council continued discussion of the preference to have the City's Customer Service Department be heavily involved in handling inquiries related to solid waste services. Council held discussions with regard to Progressive Waste's Option #1.

COUNCIL ACTION (ITEM 7.J.):

APPROVED

Deputy Mayor Pro Tem Halbert moved to authorize the City Manager to negotiate a contract for services with Progressive (IESI) and bring it back on the March 5, 2013 agenda and to include in the contract that the rebate will be raised with the CPI with any rate increases that may occur and to clarify the customer service and transition plans. Councilmember Brandon seconded the motion. For: Daugherty, Halbert, Bradley and Brandon. Against: Richmond and Grant. The motion carried by a vote of 4 to 2.

K. Consider and take action, if any on capital expenditures:

1. Consider and take action, if any, on the capital projects list, and authorize the City Manager to prepare the appropriate financial documents for funding.

Mr. Fisher presented the Council with the list of Capital Projects that needed funding. The project list included \$214,069 shortage from Central Park, the additional irrigation of \$50,000, \$500,000 of funds from the Murphy Municipal Development District (MDD) for Central Park for a total needed of \$764,069 for Central Park, plus an additional \$19,570 for parking for the Decatur Maxwell Cemetery. Mr. Fisher stated an additional \$75,000 was needed for signage along North Murphy Road for the City Hall Complex, the Community Center and Central Park. Mr. Fisher stated that funding for the Community Center project was still not complete and required an additional \$103,800, less an estimated \$57,576 in revenue expected from a SECO Grant for a total estimated amount of \$46,224 outstanding for the Community Center. Mr. Fisher cautioned that this was not a final amount. Mr. Fisher stated that an additional \$150,000 was needed for the animal shelter project. All items totaled \$1,054,863.

Mr. Fisher continued by stating potential funding sources that included \$52,000 in interest from 2008 Bonds and \$371,000 from Bunny Run Park funds, not including the \$600,000 in trail funds. Mr. Fisher stated that \$1,000,000 in tax notes could be issued, \$500,000 currently approved by the MDD, on top of the \$600,000 cash already provided by the MDD.

Discussion was held with regard to the parking lot for the Plano Sports Authority (PSA), parking lot. Council discussed that the lease agreement with the Plano Sports Authority (PSA) required the construction of the parking lot, the location of which was moved to the east of the police department and funds have yet to be allocated for \$100,000 of the

parking lot construction costs. Mr. Fisher stated that the parking lot would have cost a lot more if it had been constructed at some point in the future.

Discussion was held with regard to additional funding sources, the priority of projects, irrigation, signage and cemetery parking. Council also held discussion with regard to animal shelter options that could save money and the use of trail funds for Central Park. Mr. Fisher stated that the City received \$500,000 in matching grants for the Oncor Trail. Discussion was held with regard to having the MDD provide the needed matching funds in the future and use the \$600,000 in Trail funds to cover the current projects.

Deputy Mayor Pro Tem Halbert moved to authorize the City Manager to proceed with the capital projects list and prepare the appropriate documents for funding using \$500,000 in tax notes from the Murphy Development District and \$600,000 from the 2008 Parks Bond. Councilmember Richmond seconded the motion. For: Bradley, Halbert and Richmond. Against: Daugherty, Brandon and Grant. The motion failed with a vote of 3 to 3.

Mayor Baldwin arrived at 8:34 p.m.

Councilmember Brandon moved to authorize the City Manager to prepare the documents for funding to issue \$1,000,000 in tax notes with \$500,000 being funded by the MDD. Mayor Pro Tem Daugherty seconded the motion. Councilmember Brandon withdrew his motion.

COUNCIL ACTION (ITEM 7.K.1.):

APPROVED

Councilmember Brandon moved to authorize the City Manager to approach the MDD Board to negotiate the increase of \$500,000 in tax notes up to \$1,000,000 in tax notes. Mayor Pro Tem Daugherty seconded the motion. For: Daugherty, Bradley, Brandon, Grant, Halbert and Richmond. Against: None. Abstained: Baldwin. The motion carried 6-0-1.

RECESS AND RECONVENE

Mayor Baldwin recessed the meeting at 8:37 p.m. and reconvened at 8:49 p.m.

2. Consider and take action, if any, on Alternate #7, Construct 4 Space Parking Lot and Connector Trail, east of PISD Maintenance Facility for Murphy Central Park, and authorize the City Manager to enter into an Interlocal Agreement with PISD for said parking lot and connector trail

Steve Richards, 244 Briar Oaks Drive President of the Cemetery Association – Mr. Richards stated that he felt that it was better that the cemetery be part of the park and he is in favor of the new parking lot being built.

COUNCIL ACTION (ITEM 7.K.2.):

APPROVED

Councilmember Brandon moved to authorize the City Manager to execute Alternative #7 and enter into an Interlocal agreement with PISD to allow for the fence to be moved and the construction of the new parking lot at a not to exceed cost of \$20,000 to be funded from the interest of the 2008 Bonds. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

3. Consider and take action, if any, on the request by Plano Sports Authority to waive the permit fees for PSA Murphy.

Mr. Fisher stated the projected cost of plan review and health fees was \$27,523 not including City Engineer fees or Customer Service fees. Mr. Fisher stated that PSA had generated approximately \$20,000 to help with landscape costs.

Discussion was held with regard to the unknown, future hard costs of the project.

Don Blackwood, PSA General Manager – Mr. Blackwood stated that the cement that was currently onsite represented one third of the foundation. He stated that March 15th was the target date to tilt walls. Mr. Blackwood stated that PSA owed the City, contractually, \$100,000 on May 1st so anything delayed beyond that date would help the project.

Don Kiertscher, 416 Skyline Dr – Mr. Kiertscher stated that he saw three options with regard to the fees: 1) charge PSA all the permit and inspection fees; 2) charge the actual cost of the inspections and review from the past and present, through the final inspection; or, 3) waive all of the fees. Mr. Kiertscher stated that he believed that the Council should go with option 2. Mr. Kiertscher stated that he had no problem with raising his taxes for Tier 1 costs that he defined as a fire truck and ambulance, however, he did not agree with raising his taxes for Tier 2 projects that he defined as parks and recreation projects.

COUNCIL ACTION (ITEM 7.K.3.):

WAIVE & DELAY

Councilmember Brandon moved to waive the impact fees for PSA of \$43,452.52 and delay collection of the remainder of the permit fees until June 1, 2013. Mayor Pro Tem Daugherty seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

4. Consider and take action, if any, on funding provisions provided by the Murphy Municipal Development District to improve the infrastructure at Central Park to accommodate the Plano Sports Authority Murphy Building.

COUNCIL ACTION (ITEM 7.K.4.):

NO ACTION

No action was taken.

Mayor Baldwin continued the meeting by revisiting items 7.A. through 7.E. that were delayed by Mayor Pro Tem Daugherty.

- A. Consider and take action, if any, on accepting the resignation of Mayor Bret Baldwin effective after his successor qualifies as a result of the May 11, 2013 election.

The Council relayed their regret for having to take action on the Mayor's resignation.

COUNCIL ACTION (ITEM 7.A.):

APPROVED

Councilmember Bradley moved to accept the resignation of Mayor Bret Baldwin effective after his successor qualifies as a result of the May 11, 2013 election. Deputy Mayor Pro Tem Halbert seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

Mayor Baldwin stated that it had been a privilege to serve in the community and to serve with great people that really care about the community. The Mayor stated that Murphy was a great

place to live and it was an honor to serve for eight years, in which he's seen a lot of change and growth. The Mayor stated that he felt that the community was in a good place, that things were going well and it was a good time to step down. He stated that he had every confidence that there were people ready to take over and the City won't miss a beat.

- B. Consider and take action, if any, on approving an Ordinance ordering a Special Election to be held on May 11, 2013, for the purpose of electing the position of Mayor to fill a one-year, unexpired term of office.

COUNCIL ACTION (ITEM 7.B.):

APPROVED

Deputy Mayor Pro Tem Halbert moved to approve an Ordinance ordering a Special Election to be held on May 11, 2013, for the purpose of electing the position of Mayor to fill a one-year, unexpired term of office. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0. (*Assigned Ordinance No. 13-02-945*)

- C. Consider and take action, if any, on accepting the resignation of John Daugherty, Council Member Place 3 effective after his successor qualifies as a result of the May 11, 2013 election.

Andy Messer, City Attorney, explained to the Council that Mr. Daugherty's seat is considered vacant upon the Council's acceptance and, according to the Constitution, he continues to holdover until his successor is elected and sworn in. Mr. Messer stated that the City Charter provides that, upon a vacancy of the Mayor Pro Tem, the Council appoints the Mayor Pro-Tem at the next regular meeting. Mr. Messer stated that, due to a combination of both the Constitution and the Charter, the Mayor Pro Tem should be appointed at the March 5, 2013 meeting. Councilmember Brandon and Councilmember Grant stated that they agreed with Mr. Messer.

COUNCIL ACTION (ITEM 7.C.):

APPROVED

Deputy Mayor Pro Tem Halbert moved to accept the resignation of John Daugherty, Council Member Place 3 effective after his successor qualifies as a result of the May 11, 2013 election. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

Councilmember Bradley requested that the City Manager place the appointment of the Mayor Pro Tem at the March 5, 2013 meeting.

- D. Consider and take action, if any, on approving an Ordinance ordering a Special Election to be held on May 11, 2013, for the purpose of electing the position of Council Member, Place 3 to fill a one-year, unexpired term of office.

COUNCIL ACTION (ITEM 7.D.):

APPROVED

Councilmember Bradley moved to approve an Ordinance ordering a Special Election to be held on May 11, 2013, for the purpose of electing the position of Mayor to fill a one-year, unexpired term of office. Deputy Mayor Pro Tem Halbert seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0. (*Assigned Ordinance No. 13-02-946*)

- E. Consider and take action, if any, on approval of the Joint General and Special Election Contract for Election Services for the May 11, 2013 General and Special Elections between the City of

Murphy, the Plano Independent School District and the Elections Administrator of Collin County, Texas and the included Joint Election Agreement between the City of Murphy, the Plano Independent School District and the Collin College District and authorize the City Manager to execute the same.

COUNCIL ACTION (ITEM 7.D.):

APPROVED

Deputy Mayor Pro Tem Halbert moved to approve of the Joint General and Special Election Contract for Election Services for the May 11, 2013 General and Special Elections between the City of Murphy, the Plano Independent School District and the Elections Administrator of Collin County, Texas and the included Joint Election Agreement between the City of Murphy, the Plano Independent School District and the Collin College District and authorize the City Manager to execute the same. Councilmember Bradley seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

8. CITY MANAGER/STAFF REPORTS

Mr. Fisher provided the Council with an update on the following items:

- North Murphy Road Construction Update
- McCreary Road Construction Update
- Murphy Central Park Construction Update
- CLC Meeting – Thursday, February 21st at 7:30 a.m.

9. EXECUTIVE SESSION

The City Council convened into Executive Session at 9:30 p.m. 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 advice from City Attorney involving:

- a) Susan Kinder-Alessio v. City of Murphy, et al., Civil Action No. 4:12-CV-000493-RC-ALM
- b) Michael Cantrell v. City of Murphy, et al, Cause No. 6:09-cv-225.

§551.087 Deliberation regarding economic development: Deliberation regarding the offer of a financial or other incentive to Murphy 2013 Senior Community, L.P

§551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of City of Murphy Community Development Member.

10. RECONVENE INTO REGULAR SESSION

The City Council reconvened into Open Session at 10:04 p.m. 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 advice from City Attorney involving:

- a) Susan Kinder-Alessio v. City of Murphy, et al., Civil Action No. 4:12-CV-000493-RC-ALM
- b) Michael Cantrell v. City of Murphy, et al, Cause No. 6:09-cv-225.

§551.087 Deliberation regarding economic development: Deliberation regarding the offer of a financial or other incentive to Murphy 2013 Senior Community, L.P

§551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of City of Murphy Community Development Member.

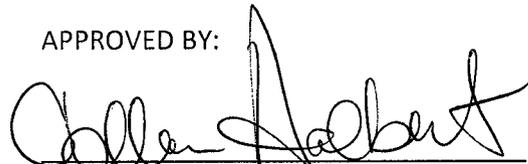
No action was taken as a result of Executive Session items.

Deputy Mayor Pro Tem Halbert stated that she could not support a resolution providing for funding provisions at this time, but she would like to see Murphy 2013 Senior Community move forward with their application and would like to see them work with Staff on their site plan and zoning applications. Councilmember Bradley, Councilmember Grant and Councilmember Brandon stated they agreed with Deputy Mayor Pro Tem Halbert.

11. ADJOURNMENT

With no further business, the meeting was adjourned at 10:06 p.m.

APPROVED BY:


Colleen Halbert, Deputy Mayor Pro Tem

ATTEST:


Kristi Gilbert, City Secretary

