

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

August 16, 2011
6:00 P.M.

CALL TO ORDER

Mayor Baldwin called the meeting to order at 6:00 p.m.

INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Baldwin gave the invocation and led the Pledge of Allegiance.

ROLL CALL & CERTIFICATION OF A QUORUM

Secretary Nemer certified a quorum with the following:

Council Present

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

PUBLIC COMMENTS

No public comments were submitted.

CONSENT AGENDA

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

- A. Approval of the Minutes from the Special Meetings of July 26 and July 28, 2011, and the Regular Meeting of August 2, 2011.**
- B. Consider and/or act upon approval of an ordinance approving a negotiated resolution between the Atmos cities steering committee (“ACSC” or “Steering Committee”) and Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”) regarding the company’s fourth annual rate review mechanism (“RRM”) filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; requiring the company to reimburse cities’ reasonable ratemaking expenses; and repealing conflicting resolutions or ordinances.**
- C. Consider and/or act upon a Resolution authorizing the City Manager to execute a two year Interlocal Agreement between North Central Texas Council of Governments (NCTCOG) and City of Murphy for 911 Services.**

Council Action

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

INDIVIDUAL CONSIDERATION

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

Council Discussion

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

Public Comments

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

Council Action

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

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

Council Discussion

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

Council Action

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

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

Council Action

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

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

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

Council Action

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

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

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

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

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

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

Public Comments

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

Council Action

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

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

Public Comments

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

Council Action

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

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

Council Discussion

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

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

Council Action

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

DISCUSSION

- **Discussion regarding the maintenance of the Timbers subdivision drainage ditches**

Council Discussion

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

- **Discussion regarding Senate Bill 100 and election implications.**

Council Discussion

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

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

CITY MANAGER/STAFF REPORTS

City Manager Fisher reported on the following:

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

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

EXECUTIVE SESSION

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

- §551.071 **Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.**
- §551.072. **Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.**

Council Action

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

RECONVENE INTO REGULAR SESSION

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- §551.071 **Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.**
- §551.072. **Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.**

Council Action

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

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