

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

October 4, 2011
6:00 P.M.

CALL TO ORDER

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

INVOCATION & PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS & PRESENTATIONS

• **Proclamation designation October as Breast Cancer Awareness Month**

Mayor Baldwin presented a proclamation to representatives from the Relay for Life team from the Wylie/Sachse/Murphy area. Members shared survivor stories and encouraged participation in the event on October 11th at Murphy Municipal Complex.

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 September 20, 2011 Regular City Council Meeting.**
- B. Consider and/or act upon approval of a resolution authorizing the City Manager to sign an Inter Local Agreement (ILA) with City of Plano for City of Murphy Fire Department employees to participate in Plano EMS Paramedic Training Programs.**
- C. Consider and/ or act upon approval of a resolution authorizing the acceptance of the Safe Route to Schools grant awards and contracts.**

Council Action

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

INDIVIDUAL CONSIDERATION

- 1. Hold a public hearing and consider and/or act upon approval of an ordinance amending an existing PD (Planned Development) District (No. 03-10-590) for Single Family Uses regarding accessory building requirements (75% masonry) located in The Gables at North Hill, Phases 1-3 subdivisions and The Ranch at North Hill, Phases 3-8 subdivisions. (Zoning File 2011-04)**

Council Action

Councilmember Halbert moved to approve an ordinance amending an existing PD (Planned Development) District (No. 03-10-590) for Single Family Uses regarding accessory building requirements (75% masonry) located in The Gables at North Hill, Phases 1-3 subdivisions and The Ranch at North Hill, Phases 3-8 subdivisions. (Zoning File 2011-04) Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

Note

For discussion purposes, Items 2 and 3 were combined. Item 3 was voted on prior to Item 2.

- 2. Consider and/or act on the application of ALLEN AND LOUCKS VENTURE, L.P. requesting approval of a site plan, landscape plan and elevations for a restaurant on property zoned PD (Planned Development) District for Retail Uses on property located on 121 East FM 544, east of North Murphy Road. (ZF2001-03)**

Public Comments (for Item 2 and 3)

Public comments were submitted by Mr. Dwayne Elledge and Mr. Alex Acuña speaking in favor of the site plan and SUP.

Council Action

After consideration of Item 3, Councilmember Brandon moved to approve a site plan, landscape plan and elevations for a restaurant on property zoned PD (Planned Development) District for Retail Uses on property located on 121 East FM 544, east of North Murphy Road (ZF2001-03) with enhanced patio embellishments, enhanced landscaping around the patio, and final approval of the site plan by staff focusing on traffic issues. Councilmember Halbert seconded the motion.

Amendment 1

Councilmember Richmond moved to amend the motion to include that the site plan is approved on the condition that the two center spaces are combined into one space with a use as an evening concept restaurant. Councilmember Daugherty seconded the motion. A vote was taken and failed, 3-4 with Mayor Baldwin, Councilmember Daugherty, and Councilmember Richmond voting in favor; and Councilmember Halbert, Councilmember Bradley, Councilmember Grant, and Councilmember Brandon voting in opposition.

Main Motion

A vote was taken on the main motion and passed, 5-2 with Councilmember Halbert and Mayor Baldwin voting in opposition.

- 3. Continue consideration and/or act upon an ordinance approving the application of ALLEN AND LOUCKS VENTURE, L.P. requesting approval of a SUP (Specific Use Permit) for a Drive-In Window for a restaurant on property zoned PD (Planned Development) District for Retail Uses on property located on 121 East FM 544, east of North Murphy Road. (ZF2001-03)**

Council Action

Item 3, approval of a Specific Use Permit for ZF 2001-03 was considered prior to Item 2. Councilmember Brandon moved to approve a Specific Use Permit for a Drive-In Window for Einstein's restaurant on property zoned PD (Planned Development) District for Retail Uses on property located on 121 East FM 544, east of North Murphy Road. Councilmember Bradley seconded the motion. A vote was taken and passed, 6-1 with Councilmember Halbert voting in opposition.

Note

Item 4 was considered after Items 5 and 6.

- 4. Consider and/or act upon reallocation of the 2008 park and trail bond funds.**

Council Action

After consideration of Items 5 and 6, Council took no action on this item.

- 5. Consider and/ or act upon authorizing the HOK to proceed with bidding Liberty Ridge Park construction project.**

Council Action

Councilmember Brandon moved to authorize HOK to proceed with bidding Liberty Ridge Park construction project with Multi-Rib roofing for the pavilion. Councilmember Halbert seconded the motion. A vote was taken and passed, 7-0.

- 6. Consider and/ or act upon authorizing the HOK to proceed with construction plans for Timbers Nature Preserve Park and trail project.**

Council Action

Councilmember Brandon moved to authorize HOK to proceed with construction plans for Timbers Nature Preserve Park and trail project not to exceed \$250,000.00 and to authorize the City Manager to execute a contract. Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

- 7. Consider and/or act upon approval of a resolution designating Timbers Nature Preserve Park and The Preserve on Maxwell Creek Trails as designated wildlife habitats.**

Council Action

Councilmember Halbert moved to approve a resolution designating Timbers Nature Preserve Park and The Preserve on Maxwell Creek Trails as designated wildlife habitats. Councilmember Richmond seconded the motion. A vote was taken and passed, 7-0.

- 8. Consider and/ or act upon authorizing the City Manager to approve change orders, furniture, fixtures, security, and audiovisual expenses for the Murphy Community Center.**

Council Action

Councilmember Brandon moved to authorize the City Manager to approve change orders, furniture, fixtures, security, and audiovisual expenses for the Murphy Community Center as detailed in Plan B that was presented. Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

- 9. 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, and adding a new section, Section 28, to provide for air circulation and ventilation.**

Council Action

Councilmember Brandon moved to amend the Code of Ordinances Chapter 30, Article II Smoking, Section 21 Definitions, changing the definition 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 and amending Section 30.27 - Where Smoking is not Prohibited – keep line (7) and add line (8) Patios as defined above. Councilmember Halbert seconded the motion.

Amendment 1

Councilmember Daugherty moved amend Section 30-28 (1) to read as follows:

Any food product establishment or retail and service establishment currently existing or that has a building permit pending as of the effective date of this ordinance which has an operable door or window separating a non-smoking area from an outdoor seating or patio smoking area shall be equipped with oscillating fans or an air curtain system that provide for sufficient air circulation to reduce the commingling of smoke-filled air into non-smoking areas. Councilmember Halbert seconded the motion.

Amendment 2

Councilmember Richmond moved to strike oscillating fans from Amendment 1. Mayor Baldwin seconded the motion. A vote was taken and passed 4-3 with Councilmember Halbert, Councilmember Daugherty, and Councilmember Grant voting in opposition.

Amendment 1 Vote

A vote on Amendment 1 was taken and passed with Councilmember Grant and Councilmember Brandon voting in opposition.

Amendment 3

Councilmember Halbert moved to amend the main motion and remove the prohibition of the 15 feet from any door, operable window, or other opening to an indoor enclosed area for all businesses with an air curtain. Councilmember Daugherty seconded the motion. A vote was taken and passed, 6-1 with Councilmember Grant voting in opposition.

Main Motion

A vote was taken on the main motion as amended by Amendment 3 and passed, 6-1 with Councilmember Grant voting in opposition.

CITY MANAGER/STAFF REPORTS

- October 18 – Chamber Luncheon/State of the City
- October 24 – November 4 –Early Voting
- Fire Prevention Week

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.
- §551.071 Consultation with City Attorney regarding pending or contemplated litigation regarding Patrick Greene claim.
- §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 9:18 p.m. on the items listed above as well as the following item.

- §551.071 Consultation with the City 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 regarding the Personnel Manual related to Absences.

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.
- §551.071 Consultation with City Attorney regarding pending or contemplated litigation regarding Patrick Greene claim.
- §551.072 Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.
- §551.071 Consultation with the City 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 regarding the Personnel Manual related to Absences.

Council Action

Mayor Baldwin reconvened into Regular Session at 9:56. No action was taken as a result of the Executive Session.

ADJOURNMENT

With no further business, the meeting was adjourned at 9:56 p.m.

APPROVED BY:

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary