STATE OF TEXTS §

November 3, 2008

COUNTY OF GRAYSON §

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on November 3, 2008.

MEMBERS PRESENT: **MAYOR BILL MAGERS; DEPUTY MAYOR CARY WACKER. COUNCIL MEMBERS ADAMI, HOWETH, SMITH, SOFTLY, STEELE.**

MEMBERS ABSENT: **NONE.**

CALL TO ORDER

CALL TO ORDER

Mayor Bill Magers called the meeting to order at 5:00 p.m. The Pledge of Allegiance and the Invocation were given by Council Member Pam Howeth.

APPROVE MINUTES

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of October 20, 2008. Deputy Mayor Wacker moved to approve the Minutes as presented; Second by Council Member Softly. All present voted AYE.
MOTION CARRIED.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

ORD 5571
STOP SIGNS

Mayor Magers introduced Ordinance 5571 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR PERMANENT "STOP" SIGNS AT THE INTERSECTIONS OF RIVERCREST AND IDLEWOOD, NORTH HAVEN AND CYPRESS GROVE, NORTH HAVEN AND IDLEWOOD, LIBERTY HILL AND TRAVIS STREET, AND NORTH CREEK AND TRAVIS STREET WITHIN THE CITY LIMITS OF THE CITY OF SHERMAN; PROVIDING FOR A PENALTY PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5571.

ORD 5572
POLICE & FIRE
PAY SCHEDULES

Mayor Magers introduced Ordinance 5572 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REPEALING ORDINANCE NO. 5484; ESTABLISHING ASSIGNMENT PAY SCHEDULES FOR FIREFIGHTERS AND POLICE OFFICERS; PROVIDING FOR AN EFFECTIVE DATE.

No citizens appeared before the City Council to discuss Ordinance 5572.

ORD 5573
IDENTITY THEFT
PREVENTION

Mayor Magers introduced Ordinance 5573 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF

SHERMAN, TEXAS, AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, "GENERAL PROVISIONS," AT ARTICLE 1.02, "ADMINISTRATION", TO ADD SECTION 1.02.003 TO ESTABLISH AN IDENTITY THEFT PREVENTION PROGRAM; PROVIDING FOR DEFINITIONS, POLICIES AND PROCEDURES FOR IMPLEMENTATION OF THE IDENTITY THEFT PREVENTION PROGRAM; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

PROGRAM

Mary Lawrence, Controller, explained that the Fair and Accurate Credit Transactions Act of 2003 requires entities that extend credit to develop a program to identify warning signs and suspicious activity indicating possible identity theft.

These "Red Flag Rules" were specifically applied to municipalities who provide utility services. The program must be approved by the City Council and overseen by senior management. The City's third party providers, such as ambulance billing, must also comply. Other than utilities, none of the City's other billings are subject to the Act.

Angela Gurley, Customer Service Manager, said to meet the requirements, the City established a committee from various departments and assessed the areas of risk. Then a program was designed to identify possible red flags and the steps that would be taken if identity theft is suspected.

The program adds to the measures already in place with the confidentiality act to make sure that customer accounts remain confidential.

Mayor Magers verified that the program is basically for when someone opens a new account or wants to change a mailing address or account name.

No citizens appeared before the City Council to discuss Ordinance 5573.

CLOSE PUBLIC HEARING

The Ordinances were introduced and the Public Hearing was closed.

<u>ADOPTION OF ORDINANCES</u>

ORD 5571 STOP SIGNS

Ordinance 5571
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR PERMANENT "STOP" SIGNS AT THE INTERSECTIONS OF RIVERCREST AND IDLEWOOD, NORTH HAVEN AND CYPRESS GROVE, NORTH HAVEN AND IDLEWOOD, LIBERTY HILL AND TRAVIS STREET, AND NORTH CREEK AND TRAVIS STREET WITHIN THE CITY LIMITS OF THE CITY OF SHERMAN; PROVIDING FOR A PENALTY PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

Ordinance 5572
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REPEALING ORDINANCE NO. 5484; ESTABLISHING ASSIGNMENT PAY SCHEDULES FOR FIREFIGHTERS AND POLICE OFFICERS; PROVIDING FOR AN EFFECTIVE DATE.

ORD 5572
POLICE & FIRE PAY SCHEDULES

Council Member Smith verified that the changes to the assignment pay schedules were those that were already discussed by the City Council. George Olson, City Manager, said the money is the same, it was just moved around to be more efficient.

Ordinance 5573
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, "GENERAL PROVISIONS," AT ARTICLE 1.02, "ADMINISTRATION", TO ADD SECTION 1.02.003 TO ESTABLISH AN IDENTITY THEFT PREVENTION PROGRAM; PROVIDING FOR DEFINITIONS, POLICIES AND PROCEDURES FOR IMPLEMENTATION OF THE IDENTITY THEFT PREVENTION PROGRAM; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5573
IDENTITY THEFT PREVENTION PROGRAM

ACTION TAKEN.
Motion by Council Member Smith to approve Ordinance Nos. 5571, 5572, and 5573, as presented. Second by Deputy Mayor Wacker.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

TABLED AT MARCH 17, 2008 COUNCIL MEETING:
Ordinance 5523
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, "UTILITIES", AT ARTICLE 13.07, "WATER, SEWERS AND SEWAGE DISPOSAL", BY AMENDING DIVISION 3, "SEWERS AND SEWAGE DISPOSAL", AND ADDING DIVISION 6, "FATS, OIL, GREASE AND SEDIMENT CONTROL"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE.

ORD 5523
FATS, OILS, & GREASE

ACTION TAKEN.
Motion by Council Member Adami to remove Ordinance 5523 from table for discussion. Second by Council Member Steele.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED TO REMOVE FROM TABLE.

Mr. Olson explained that the ordinance was in response to a State mandate from the Texas Commission on Environmental Quality (TCEQ). It was originally presented to

the City Council in March 2008. The ordinance pertains to the sanitary sewer overflow initiative and controls the disposal of fats, oils, and grease into the sewer. The proposed ordinance would allow the City to meet the minimum requirements of the law. If the ordinance is not passed, the City would be subject to a penalty.

Mayor Magers said he originally felt there was a lot of ambiguity in the ordinance and that it needed to be "tightened up." He felt the City Council would need to trust the City Manager and City staff to enforce the ordinance correctly, because there is latitude in the ordinance.

Council Member Steele wanted to be sure that the City would not be "looking" for citizens in violation of the ordinance. He verified that there would be grandfathering unless there is a violation, a change of ownership, or an upgrade.

Council Member Steele asked what constitutes a violation. Mark Gibson, Director of Utilities, said if a main is choked with grease and it can be traced to a nearby restaurant then action would need to be taken.

Council Member Adami suggested that the City issue a warning for the first violation that includes education as to what should be done with the grease. The second violation could include a fine. Mr. Olson said the ordinance includes an initial consultation, then a formal notice of violation, and a notice of violation.

Mr. Gibson said the staff would initially work with the violator to solve the problem before a grease trap is actually required. Mr. Olson verified that the new laws require a new restaurant to have a grease trap. The staff will not arbitrarily tell restaurants they need a grease trap, it will be referred back to a violation or a known problem. Currently the City does not have an enforcement mechanism in the ordinance.

Council Member Adami felt problems did need to be addressed, however he wanted to be sure the policy was to educate citizens first about the problems and then if they continue to violate the rules, the policy should be enforced.

Council Member Smith expressed concern about the cost of some of the upgrades, however he felt the staff must be trusted to "do what is right." Council Member Steele confirmed that the City should concentrate on education with the restaurant owners and then they will be responsible for education of their employees.

Nathan Whiddon, Laboratory Supervisor, said the City staff will help educate restaurant owners about how to reduce their waste and the proper disposal of problem waste.

Council Member Howeth asked about liability and whether the City would be liable for a sewer back-up on property that is caused by grease from a nearby restaurant. If a warning is given first, would the City be liable because they did not act on the violation.

Mr. Gibson said if a restaurant is confirmed to be responsible for the back-up they would be responsible for the cost of cleaning up. Peter Munson, Interim Attorney, said the City would have minimal liability in this situation. The City would bare the cost of cleaning up the grease once it gets into the sewer system. Generally the City doesn't have a lot of exposure because of their immunity.

Mayor Magers said the cost of adding a grease trap for new construction would increase the cost, but would be minimal. He was concerned about existing restaurants that would need to make the modifications. He said they would need to trust the staff to be proactive and work with businesses.

ACTION TAKEN.

Motion by Council Member Smith to approve Ordinance No. 5523, as presented. Second by Council Member Steele.

VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

CONSENT AGENDA

CONSENT AGENDA

The Council reviewed the Consent Agenda. Deputy Mayor Wacker asked to remove Item C-2 entitled "Resolution No. 5285 – Authorizing Execution of a Development Agreement with Sherman Bible Church for the Construction of Public Facilities in the O'Hanlon Ranch Phase II, Block 3, Lot 10 within the City of Sherman" from the Consent Agenda for discussion in its regular order of business.

Council Member Adami moved to approve the Consent Agenda, with the exception of Item C-2 which will be discussed in its regular order of business. Second by Council Member Smith. All present voted AYE.

RESOLUTIONS

RESOLUTION NO. 5284 – AUTHORIZING EXECUTION OF A LICENSE AGREEMENT WITH ENTERPRISE TEXAS PIPELINE, LLC FOR A UTILITY EASEMENT AT VARIOUS LOCATIONS THROUGHOUT THE CITY OF SHERMAN

RES 5284
LICENSE AGREEMENT FOR ENTERPRISE TEXAS PIPELINE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A LICENSE AGREEMENT WITH ENTERPRISE TEXAS PIPELINE, LLC FOR A UTILITY EASEMENT AT VARIOUS LOCATIONS THROUGHOUT THE CITY OF SHERMAN.

Jim Andrews, Enterprise Pipeline Representative, was available to answer any questions the Council might have.

Council Member Steele verified that the pipeline is under construction. Mr. Andrews said they could not construct

under any streets until the franchise ordinance is passed and the easements can't be used until the resolution is passed and the money is paid to the City.

ACTION TAKEN.
Motion by Council Member Wacker to approve Resolution No. 5284, as presented. Second by Council Member Softly.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

SCHEDULE CALLED COUNCIL MEETING

<u>CONSIDER CALLING A SPECIAL MEETING OF THE CITY COUNCIL FOR 12:00 NOON ON THURSDAY, NOVEMBER 20, 2008, TO HOLD THE SECOND READING AND PUBLIC HEARING AND TO CONSIDER THE ADOPTION OF ORDINANCE NO. 5568 (ENTERPRISE TEXAS PIPELINE, LLC FRANCHISE)</u>
Mayor Magers said the Council was asked to call a Special Meeting to consider the second reading, public hearing, and adoption of Ordinance 5568 for the Enterprise Texas Pipeline franchise.

ACTION TAKEN.
Motion by Council Member Steele to schedule a Called Council Meeting on Thursday, November 20, 2008 at 12:00 noon, to consider the Second Reading, Public Hearing, and Adoption of Ordinance 5568. Second by Deputy Mayor Wacker.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

RES 5285 DEVELOPMENT AGREEMENT WITH SHERMAN BIBLE CHURCH

<u>RESOLUTION NO. 5285 – AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH SHERMAN BIBLE CHURCH FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE O'HANLON RANCH PHASE II, BLOCK 3, LOT 10 WITHIN THE CITY OF SHERMAN</u>
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH SHERMAN BIBLE CHURCH FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE O'HANLON RANCE PHASE II, BLOCK 3, LOT 10 WITHIN THE CITY OF SHERMAN.

Deputy Mayor Wacker asked to remove Item C-2 from the Consent Agenda for consideration in its regular order of business.

ACTION TAKEN.
Motion by Council Member Adami to authorize execution of a Development Agreement with Sherman Bible Church for the construction of public facilities in the O'Hanlon Ranch Phase II, Block 3, Lot 10. Second by Council Member Howeth.

VOTING AYE: Adami, Howeth, Smith, Softly, Steele.
VOTING NAY: None.
ABSTAIN: Wacker.
MOTION CARRIED.

RES 5286 DEVELOPMENT AGREEMENT WITH TIN STAR HOMES

<u>RESOLUTION NO. 5286 – AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH TIN STAR HOMES, LLC FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE COUNTRY RIDGE SUBDIVISION, SECTION 4 WITHIN THE CITY OF SHERMAN</u>
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH TIN STAR HOMES, LLC FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE COUNTRY RIDGE SUBDIVISION, SECTION 4 WITHIN THE CITY OF SHERMAN.
CONSENT AGENDA.

RES 5287 WATER WELL REPAIRS

<u>RESOLUTION NO. 5287 – AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER WATER WELL, INC. FOR EMERGENCY REPAIRS TO LUELLA 3 TRINITY WATER WELL</u>
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER WATER WELLS, INC. FOR EMERGENCY REPAIRS TO LUELLA 3 TRINITY WATER WELL.
CONSENT AGENDA.

REQ TO ADVERTISE ANNUAL SUPPLY OF AVGAS FOR MUNICIPAL AIRPORT

<u>REQUEST TO ADVERTISE</u>
<u>ANNUAL SUPPLY OF AVGAS (AVIATION GAS) FOR THE SHERMAN MUNICIPAL AIRPORT</u>
Mayor Magers said, at the present time, the request was only to advertise for the annual supply of aviation gas for the Municipal Airport.

ACTION TAKEN.
> **Motion by Council Member Steele to approve the request to advertise for the annual supply of aviation gas for the Sherman Municipal Airport. Second by Council Member Howeth.**

VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

WATER UTILITY BACKHOE

<u>PURCHASE OF REPLACEMENT LOADER BACKHOE FOR WATER UTILITIES</u>
The City Council approved the request to advertise for bids to purchase a replacement loader backhoe for the Water Utility Department. Funds are budgeted in the FY 2009 Budget for the replacement of a 1995 loader backhoe for the Utility Distribution and Collection Services Department.
CONSENT AGENDA.

<u>OTHER BUSINESS</u>

CLOSE STREETS FOR VETERAN'S

<u>CONSIDER REQUEST OF THE RED RIVER VALLEY CHAPTER OF THE MVPA AND THE TEXOMA AREA</u>

VETERAN'S COUNCIL TO TEMPORARILY CLOSE CERTAIN STREETS FOR THE VETERAN'S DAY PARADE ON SATURDAY, NOVEMBER 8, 2008

DAY PARADE

Gary Park, 1001 W. College Street, appeared before the City Council to request that certain streets be closed temporarily for the Veteran's Day Parade on Saturday, November 8, 2008.

Mr. Park said this was the third annual Veteran's Day Parade in Sherman. He did not feel it was the veteran's responsibility to organize their own parade and he asked that the City Council or some other organization step forward next year to sponsor the event. The parade honors all veterans, both living and dead.

He also thanked the City for the accommodations that are made for the event.

ACTION TAKEN.

> **Motion by Deputy Mayor Wacker to approve the request of the Red River Valley Chapter of the MVPA and the Texoma Area Veteran's Council to close certain streets for the Veteran's Day Parade on Saturday, November 8, 2008. Second by Council Member Adami.**

VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

APPROVE QUARTERLY INVESTMENT REPORT FOR PERIOD ENDING SEPTEMBER 30, 2008

QUARTERLY INVESTMENT REPORT

The City Council approved the Quarterly Investment Report for the period ending September 30, 2008. As of September 30, 2008, the Operating Portfolio had a book value of nearly $25.6 million, down about $1.8 million from three months ago, which is normal for this period.

The City was in compliance with all applicable State laws and the provisions of the City's internal Investment Policy. The Operating Portfolio remains adequately liquid, with a weighted-average maturity of about 70 days. Its yield of 2.42% for the quarter is higher than the benchmark yield of 1.54%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.
CONSENT AGENDA.

CITIZENS REQUESTS

CITIZENS REQUESTS

There were no citizen's requests.

MEDIA QUESTIONS

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

ELECTION DAY TOMORROW

ELECTION DAY TOMORROW

Council Member Steele urged all citizens to vote tomorrow on Election Day.

ELECTION DAY TOMORROW

ELECTION DAY TOMORROW

Council Member Smith urged all citizens to vote tomorrow on Election Day. He also congratulated the Texas Tech Red Raiders on their recent football win over the University of Texas Longhorns.

FRIGHT FEST

FRIGHT FEST

Council Member Howeth complimented the City staff for organizing the annual Fright Fest on Halloween on the Municipal Building Grounds.

FRIGHT FEST

FRIGHT FEST

Mayor Magers also recognized the Fright Fest saying it was a very well attended event and the City did a great job. He added that the community appreciates the event.

EXECUTIVE SESSION – IN ACCORDANCE WITH CHAPTER 551, GOVT. CODE, V.T.C.S., (OPEN MEETINGS LAW)

EXECUTIVE SESSION

THE CITY COUNCIL WILL NOW HOLD AN EXECUTIVE SESSION PURSUANT TO THE PROVISIONS OF THE OPEN MEETINGS LAW, CHAPTER 551, GOVERNMENT CODE, VERNONS TEXAS CODES ANNOTATED, IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN THE FOLLOWING SECTIONS.

SECTION 551.074 -- PERSONNEL MATTERS: CONSIDER THE QUALIFICATIONS, APPOINTMENT AND REMOVAL OF MEMBERS TO BOARDS AND COMMISSIONS: PLANNING AND ZONING COMMISSION (1)

On Motion duly made and carried, the Open Meeting recessed at 5:25 p.m. but before the Executive Session could be convened Council Members decided they did not need to meet in Executive Session.

OPEN MEETING

OPEN MEETING

Reconvene into Open Meeting.

CONSIDER THE QUALIFICATIONS, APPOINTMENT AND REMOVAL OF MEMBERS TO BOARDS AND COMMISSIONS: PLANNING AND ZONING COMMISSION (1)

PLANNING & ZONING COMMISSION

ACTION TAKEN.

Motion by Council Member Steele to appoint Don Hicks, to the Planning and Zoning Commission to fill an unexpired term from November 4, 2008 to July 6, 2011. Second by Council Member Smith.

VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

ADJOURNMENT

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:26 p.m.

____
MAYOR

____
CITY CLERK