

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, NOVEMBER 2, 2009
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY COUNCIL MEMBER CAROLYN S. WACKER](#)
- A.4 [APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF OCTOBER 19, 2009](#)

Public Hearing

- B.1 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5629](#)
Reducing and Releasing to the City of Howe, Texas, all Extraterritorial Jurisdiction located Generally South of a Common Boundary Line Between the Cities; Authorizing Execution of a Boundary Agreement with the City of Howe; Providing an Effective Date

Close Public Hearing and Consider Adoption of Ordinances

- B.2 [ADOPTION OF ORDINANCES](#)
Consider Adoption of Ordinance Number: 5629
- B.3 [CONSENT AGENDA](#)
Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

Resolutions

- C.1 [RESOLUTION NO. 5432](#)
Authorizing Execution of a Boundary Agreement between the City of Sherman and the City of Howe
- C.2 [RESOLUTION NO. 5433](#)
Authorizing Execution of an Agreement with the City of Howe for the Treatment and Processing of Wastewater

C.3 [RESOLUTION NO. 5434](#)

Awarding a Bid to and Authorizing the Purchase of a New 1-Ton Truck and Dump Bed from Bob Utter Ford

C.4 [* RESOLUTION NO. 5435](#)

Awarding a Bid to and Authorizing Execution of a Contract with Jerry Paul Higgins, Ltd. for Construction of the Willow Street Water Main Replacement between Mulberry Street and Pacific Street

Other Business

D.1 [OTHER BUSINESS](#)

Receive Update from Public Works Director Jeff Miller on City Street Projects and Initiatives

D.2 [OTHER BUSINESS](#)

Consider Cancellation of the First Regular Meeting in January, 2010

D.3 [* OTHER BUSINESS](#)

Approve Quarterly Investment Reports for Period ending September 30, 2009

D.4 [CITIZEN REQUESTS](#)

D.5 [MEDIA QUESTIONS](#)

D.6 [COUNCIL COMMENTS](#)

D.7 [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Carolyn S. Wacker, Council Member



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. A.3

INVOCATION BY COUNCIL MEMBER CAROLYN S. WACKER



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. A.4

APPROVE MINUTES
OF THE REGULAR CITY COUNCIL MEETING OF OCTOBER 19, 2009

STATE OF TEXAS

§

October 19, 2009

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 October 19, 2009.

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

MEMBERS ABSENT: COUNCIL MEMBER HOWETH.

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 Deputy Mayor Joe Smith.

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of October 5, 2009. Council Member Steele moved to approve the Minutes as presented; Second by Council Member Wacker. All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

PROCLAMATION

"LIONS WHITE CANE DAY" – OCTOBER 24, 2009

Council Member Wacker presented a proclamation to Charles Holcomb, Noon Lions Club President, designating October 24, 2009 as "Lions White Cane Day."

LIONS WHITE
CANES DAY
(OCT. 24, 2009)

Mr. Holcomb explained the significance of the use of white canes adding that the Sherman Noon Lions Club would be at several locations in Sherman on October 24, 2009 to collect money for White Cane Day. He thanked the City Council for their support of the Lions Club.

"CHAMBER OF COMMERCE WEEK" – October 19-23, 2009

Deputy Mayor Smith presented a proclamation to Traci Carlson, Sherman Chamber of Commerce President, designating October 19 through 23, 2009 as "Chamber of Commerce Week."

CHAMBER OF
COMMERCE WEEK
(OCT. 19-23, 2009)

Ms. Carlton thanked the City Council addressing the cooperative spirit that the Chamber has with the City and the Sherman Economic Development Corporation. She urged all citizens to support their area Chamber of Commerce.

Ms. Carlton introduced Chamber staff members Brittany Fulton, Events Coordinator, and Michelle Heath, Finance Coordinator.

She also updated the Council on the new sign installation at S.H. 75 and F.M. 1417, which should take about three weeks to complete.

SPECIAL PRESENTATION

RECOGNITION OF CITY OF SHERMAN AWARD: "CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING"

Mayor Magers presented the 2009 "Certificate of Achievement for Excellence in Financial Reporting" to Mary Lawrence, Comptroller. Robby Hefton, Assistant City Manager/CFO, recognized the City's financial staff saying they have worked hard annually to prepare the Comprehensive Annual Financial Report (CAFR).

**EXCELLENCE IN
FINANCIAL
REPORTING
AWARD**

The designation means that the City meets some strict criteria for financial reporting and helps with bond rating agencies. Deputy Mayor Smith confirmed that the City of Sherman has received this award for the past 21 years.

Mayor Magers added that one of the critical things a City does in government is financing and financial transparency is very important. He recognized the level of professionalism and the level of recognition that the City of Sherman has.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5627 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO KYLE BOOTHE, BLUESTONE PARTNERS, LLC (OWNERS) TO ALLOW AN ASSISTED LIVING / MEMORY CARE, INDEPENDENT LIVING AND MEDICAL OFFICE FACILITY IN AN R-1 (ONE AND TWO FAMILY RESIDENTIAL) DISTRICT AT 505 F.M. 1417 NORTH (HERITAGE PARKWAY), BEING 2.8 ACRES IN THE G.W. McGLOTHLIN SURVEY, ABSTRACT NO. 828; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.

**ORD 5627
SUP FOR ASSISTED
LIVING/MEMORY
CARE/MEDICAL
OFFICE FACILITY
(505 FM 1417 NORTH)**

No citizens appeared before the City Council to discuss Ordinance 5627.

Mayor Magers introduced Ordinance 5628 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO EARL S. KEESE, SR. (OWNER) AND STUART A. MANNING, AAMCO TRANSMISSIONS (PROSPECTIVE BUYER) TO ALLOW AUTOMOTIVE AND HEAVY VEHICLE REPAIR, TRANSMISSIONS, BRAKES, MUFFLERS, SHOCKS, OIL & LUBE IN A C-2 (GENERAL

**ORD 5628
SUP FOR AUTO &
HEAVY VEHICLE
REPAIR
(4114 TEXOMA PKWY)**

COMMERCIAL) DISTRICT AT 4114 TEXOMA PARKWAY, BEING 0.50 ACRES IN THE W.F. PATTERSON SURVEY, ABSTRACT NO. 969; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.

No citizens appeared before the City Council to discuss Ordinance 5628.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5627

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO KYLE BOOTHE, BLUESTONE PARTNERS, LLC (OWNERS) TO ALLOW AN ASSISTED LIVING / MEMORY CARE, INDEPENDENT LIVING AND MEDICAL OFFICE FACILITY IN AN R-1 (ONE AND TWO FAMILY RESIDENTIAL) DISTRICT AT 505 F.M. 1417 NORTH (HERITAGE PARKWAY), BEING 2.8 ACRES IN THE G.W. McGLOTHLIN SURVEY, ABSTRACT NO. 828; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.

Ordinance 5628

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO EARL S. KEESE, SR. (OWNER) AND STUART A. MANNING, AAMCO TRANSMISSIONS (PROSPECTIVE BUYER) TO ALLOW AUTOMOTIVE AND HEAVY VEHICLE REPAIR, TRANSMISSIONS, BRAKES, MUFFLERS, SHOCKS, OIL & LUBE IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 4114 TEXOMA PARKWAY, BEING 0.50 ACRES IN THE W.F. PATTERSON SURVEY, ABSTRACT NO. 969; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.

Council Member Steele asked about the conditions in the staff review letter. Scott Shadden, Director of Developmental Services, said they would be required to comply with the C-2 regulations and the tree and landscaping ordinance and they must have masonry on the outside of the building. Council Member Adami confirmed that there had been no exceptions to the masonry requirement.

Mr. Shadden said they will also be required to have fire lanes and no outside parking or storage of dismantled vehicles, wrecks or parts. All parking should be on private property

CLOSE PUBLIC HEARING

ORD 5627

**SUP FOR ASSISTED
LIVING/MEMORY
CARE/MEDICAL
OFFICE FACILITY
(505 FM 1417 NORTH)**

ORD 5628

**SUP FOR AUTO &
HEAVY VEHICLE
REPAIR
(4114 TEXOMA PKWY)**

and not on Texoma Parkway right-of-way and must be on paved surfaces.

Council Member Steele asked what means are in place to screen the vehicles that are being repaired.

Stuart Manning, 2439 Flowing Wells Road, Pottsboro

Mr. Manning said there is existing fencing and a lot of growth that must be removed. He plans to re-landscape around the building. Mr. Manning said the back, where the parking will be, cannot be seen from the street at all.

The building will have only one automotive bay door on the front side and the actual repairs of vehicles will not be visible from Texoma Parkway. Mr. Manning said he is completely remodeling the building.

Council Member Steele verified that the requirements are a result of the commercial zoning regulations.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance Nos. 5627 and 5628, as presented. Second by Deputy Mayor Smith.

VOTING AYE: Adami, Smith, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

The Council reviewed the Consent Agenda. Mayor Magers removed Item C-1 entitled "Resolution 5427 – Authorizing the execution of an Encroachment License Agreement with Bluestone Partners, LLC for the construction of a sign with a waterfall in a 20' Drainage and Utility Easement at 505 F.M. 1417 North (Heritage Parkway)" from the Consent Agenda for consideration in its regular order of business.

Council Member Wacker moved to approve the Consent Agenda, with the exception of Item C-1 which will be considered in its regular order of business. Second by Council Member Softly. All present voted AYE.

RESOLUTIONS

RESOLUTION NO. 5427 – AUTHORIZING THE EXECUTION OF AN ENCROACHMENT LICENSE AGREEMENT WITH BLUESTONE PARTNERS, LLC FOR THE CONSTRUCTION OF A SIGN WITH A WATERFALL IN A 20' DRAINAGE AND UTILITY EASEMENT AT 505 F.M. 1417 NORTH (HERITAGE PARKWAY)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE EXECUTION OF AN ENCROACHMENT LICENSE AGREEMENT WITH BLUESTONE PARTNERS, LLC FOR THE CONSTRUCTION OF A SIGN WITH A WATERFALL IN A 20' DRAINAGE AND UTILITY EASEMENT AT 505 F.M. 1417 NORTH (HERITAGE PARKWAY).

CONSENT AGENDA

**RES 5427
ENCROACHMENT
FOR SIGN WITH
WATERFALL
(505 FM 1417 NORTH)**

Mayor Magers removed Item C-1 from the Consent Agenda for consideration in its regular order of business.

Mayor Magers asked what the exception was for this sign. Mr. Shadden said it is just an encroachment into the City easement. They have already appeared before the Planning and Zoning Commission and received the exception for the set-back. The proposed sign is in a utility and drainage easement.

Mayor Magers confirmed that the proposed sign will be located very close to where the current sign is located.

Kyle Boothe, 2414 Westhaven Court

Mr. Boothe said the current sign will be removed but the new sign's footprint will be larger than the old sign.

Mayor Magers felt it was important to keep all signs on Heritage Parkway consistent. Mr. Shadden said they also received an exception on the size, which is a little over the ordinance requirements. Council Member Steele verified that the sign is close to the location of the original sign and that the encroachment is in case the City needs to access the easement, then Mr. Boothe would be responsible for moving and replacing the sign.

Mayor Magers expressed concern that the sign is larger than the requirements allow. Since the Heritage Parkway Overlay District was enacted, he felt there had been too many exceptions for signs. If the City is going to grant an excessive number of exceptions, then maybe the sign standards need to be changed.

Mayor Magers asked Jason Sofey, Planning and Zoning Commission Chairman, if there had been one sign in that area that had not been an exception.

Mr. Sofey said there have been signs that did not require an exception, but those don't come to the City Council for consideration. He felt the primary thing is a reuse of property. He felt the current ordinance was in place for a reason and was a good ordinance.

The proposed sign is in a unique location and the single sign is not larger than allowed. The problem is that the sign needed to be doubled in two different directions. The northbound sign complies and the southbound sign complies, but the two signs together are larger than the requirements. The sign is vee-shaped instead of a single surface sign.

Mr. Sofey agreed saying he didn't like granting any exceptions, especially on Heritage Parkway. Mayor Magers' concern was that they were trying to standardize signs and he felt if the current ordinance requires a lot of exceptions, then they should consider changing the requirements.

Council Member Wacker said she helped develop the initial ordinance and the key was the monument signs and that the size of those size was reasonable. There have been some exceptions because of visibility issues.

ACTION TAKEN.

Motion by Council Member Steele to approve Resolution No. 5427, as presented. Second by Council Member Wacker.

VOTING AYE: Adami, Smith, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 5428 – AUTHORIZING THE ACCEPTANCE OF FISCAL YEAR 2009 HOMELAND SECURITY GRANT PROGRAM FEDERAL GRANT AWARD NUMBER 2009-SS-T9-0064 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE U.S. DEPARTMENT OF HOMELAND SECURITY

RES 5428
HOMELAND
SECURITY GRANT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE ACCEPTANCE OF FISCAL YEAR 2009 HOMELAND SECURITY GRANT PROGRAM FEDERAL GRANT AWARD NUMBER 2009-SS-T9-0064 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE U.S. DEPARTMENT OF HOMELAND SECURITY.

Mayor Magers verified that the grant will be used for training and will not cost the City of Sherman any money.

ACTION TAKEN.

Motion by Council Member Adami to approve Resolution No. 5428, as presented. Second by Deputy Mayor Smith.

VOTING AYE: Adami, Smith, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 5429 – AUTHORIZING THE PURCHASE OF A 2010 FORD F-450 SUPERCAB DIESEL CHASSIS FOR A 2005 FRAZER AMBULANCE THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC)

RES 5429
PURCHASE
AMBULANCE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF A 2010 FORD F-450 SUPERCAB DIESEL CHASSIS FOR A 2005 FRAZER AMBULANCE THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC).
CONSENT AGENDA.

RESOLUTION NO. 5430 – AUTHORIZING THE PURCHASE OF AUTOMATED METER READING EQUIPMENT FOR THE UTILITY BILLING DEPARTMENT FROM MOUNTAIN STATES PIPE AND SUPPLY COMPANY D/B/A U.S. METERING AND TECHNOLOGY, INC.

RES 5430
AUTOMATED METER
READING EQUIPT.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF

AUTOMATED METER READING (AMR) EQUIPMENT FOR THE UTILITY BILLING DEPARTMENT FROM MOUNTAIN STATES PIPE AND SUPPLY COMPANY D/B/A U.S. METERING AND TECHNOLOGY, INC.
CONSENT AGENDA.

RESOLUTION NO. 5431 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH CUPID INVESTMENTS FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 620 EAST SYCAMORE STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH CUPID INVESTMENTS FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 620 EAST SYCAMORE STREET.
CONSENT AGENDA.

RES 5431
RESIDENTIAL TAX
ABATEMENT
(620 E. SYCAMORE)

OTHER BUSINESS

FINAL PLAT APPROVAL OF THE PEBBLEBROOK ADDITION, PHASE 3A, BEING 1.23 ACRES IN THE ELIZABETH JONES SURVEY, ABSTRACT NO. 625 AND BEING A REPLAT OF 830.1 SQUARE FEET OR 0.02 ACRES IN THE PEBBLEBROOK, PHASE III; SHERMAN HILLS COUNTRY CLUB, LTD AND ARTISAN DEVELOPMENT COMPANY, INC., OWNERS; WALT DeRONDE, REPRESENTATIVE; GREG EDWARDS ENGINEERING SERVICES, INC., ENGINEERS; AND COX LAND SURVEYING COMPANY, SURVEYORS (1900 BLOCK OF RIDGECREST LANE)

The City Council approved the Final Plat of the Pebblebrook Addition, Phase 3A, which is 1.23 acres, and being a Replat of 830.1 square feet or 0.02 acres of Pebblebrook, Phase III.

APPROVE FINAL PLAT
PEBBLEBROOK
ADDITION PHASE 3A
(1900 BLOCK OF
RIDGECREST)

The property is located on the east side of Ridgcrest Lane at the intersection with Park Avenue. The owner would like to plat the property into seven lots for residential development. The Planning and Zoning Commission recommended approval of the Final Plat.
CONSENT AGENDA.

CITIZENS REQUESTS

There were no citizens requests.

CITIZENS REQUESTS

MEDIA QUESTIONS

There were no media questions.

MEDIA QUESTIONS

COUNCIL COMMENTS

AUSTIN COLLEGE HOMECOMING

Council Member Wacker said Austin College had a nice Homecoming recently.

AUSTIN COLLEGE
HOMECOMING

FRIGHT FEST

Mayor Magers said the Police Department will be sponsoring the annual Fright Fest on Saturday, October 31, 2009 from 6 p.m. to 8 p.m. on the Municipal Building Grounds.

FRIGHT FEST

BASEBALL FIELDS

Mayor Magers commended the City staff on the nice baseball fields after the recent rains.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:27 p.m.

**BASEBALL
FIELDS**

ADJOURNMENT

MAYOR

CITY CLERK



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. B.1

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5629

Reducing and Releasing to the City of Howe, Texas, all Extraterritorial Jurisdiction located Generally South of a Common Boundary Line Between the Cities; Authorizing Execution of a Boundary Agreement with the City of Howe; Providing an Effective Date

Issue

To establish a permanent boundary agreement with the City of Howe and mutually release all extraterritorial jurisdiction ("ETJ") that falls outside of the proposed boundary

Background

The City of Sherman and the City of Howe have historically recognized FM 902 as the informal boundary between the two cities. Continued development along the Highway 75 corridor has necessitated an agreement for a permanent boundary between the two cities. Establishing a firm boundary will alleviate complications concerning future development along Sherman's southern perimeter. The Howe City Council adopted Ordinance No. 682 that mirrors Sherman's proposed ordinance and approved the proposed boundary agreement at their October 27th meeting.

Origination

Management and Legal

Financial Consideration

None

Staff Recommendation

Approve the proposed ordinance.

Alternatives

Keep the current boundary and ETJ.

Attachments

Ordinance No. 5629 with Exhibits A, B and C

City of Howe's Ordinance No. 682, adopted October 27, 2009

Prepared by:

Brandon Shelby, City Attorney

Approved by:

George Olson, City Manager

ORDINANCE NO. 5629

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REDUCING AND RELEASING TO THE CITY OF HOWE, TEXAS, ALL EXTRATERRITORIAL JURISDICTION LOCATED GENERALLY SOUTH OF A COMMON BOUNDARY LINE BETWEEN THE CITIES; AUTHORIZING EXECUTION OF A BOUNDARY AGREEMENT WITH THE CITY OF HOWE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Sherman, Texas (“Sherman”) is a home rule municipality acting under the laws of the State of Texas; and

WHEREAS, the City of Howe (“Howe”) and the City of Sherman presently are in dispute over corporate and extraterritorial boundaries in the vicinity of FM 902 lying west of U.S. Highway 75; and

WHEREAS, Howe and Sherman have contemplated execution of a Boundary Agreement, in the form of which is attached hereto and incorporated herein by reference as Exhibit “A”, and which establishes a Common Boundary Line demarcating exclusive Howe territory from exclusive Sherman territory, as described by metes and bounds in Exhibit “B”, and as depicted in Exhibit “C”, which exhibits are attached hereto and incorporated herein by reference; and

WHEREAS, the Boundary Agreement contemplates that Howe relinquish any claims it has to Sherman territory and that Sherman relinquish any claims it has to Howe territory, whether now existing or as may arise in the future; and

WHEREAS, in order to implement the Boundary Agreement, Howe and Sherman intend to release to one another extraterritorial jurisdiction (“ETJ”) claimed by each within the other’s exclusive territory under the Agreement; and

WHEREAS, TEX. LOC. GOV’T CODE CHAPTER 43 authorizes a municipality to reduce and release its extraterritorial jurisdiction by ordinance; and

WHEREAS, it is the intention of the City Council of the City of Sherman to release to Howe the ETJ lying within Howe territory in exchange for Howe’s release of Howe’s ETJ in Sherman territory;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. Reduction and Release of ETJ. That the City of Sherman hereby consents to the reduction of its extraterritorial jurisdiction lying on Howe's side of the Common Boundary Line (south of the boundary line for areas west of U.S. Highway 75) appearing on Exhibit "C" and described in Exhibit "B", and as is to be established by the Boundary Agreement appearing as Exhibit "A", and hereby releases such territory to the City of Howe.

SECTION 2. Official Map. That the official map and boundaries of the City of Sherman are amended to exclude the land reduced and released in Section 1 as a part of the City of Sherman's extraterritorial jurisdiction. The City Clerk is directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City to exclude the territory herein described.

SECTION 3. Execution of Boundary Agreement. That the Mayor of the City of Sherman or his designee is authorized to execute the Boundary Agreement in the form appearing in Exhibit "A" in behalf of the City.

SECTION 4. Filing Certified Copy. That the City Clerk is directed to file or cause to be filed a certified copy of this ordinance in the office of the County Clerk of Grayson County, Texas.

SECTION 5. Severability Clause. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 6. Repealer Clause. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. Effective Date. That this ordinance shall take effect upon the effective date of the Boundary Agreement appearing as Exhibit "A".

SECTION 8. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2009.

ADOPTED on this the _____ day of _____, 2009.

EFFECTIVE DATE on this the _____ day of _____, 2009.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

Exhibit "A"

BOUNDARY AGREEMENT

THIS BOUNDARY AGREEMENT (the "Agreement") is by and between the City of Howe, Texas ("Howe") and the City of Sherman, Texas ("Sherman").

I. RECITALS

1. Howe is a general law municipality organized under the laws of the State of Texas. Sherman is a home rule municipality organized under the laws of the State of Texas and corporate charter. Howe and Sherman are sometimes hereinafter each individually referred to as a "Party" and are referred to in this Agreement collectively as the "Parties." Howe and Sherman are located primarily within Grayson County, Texas, and in close proximity to one another.

2. Since 2008, controversies have arisen between the Parties concerning the respective corporate and extraterritorial boundaries of the cities in the vicinity of FM 902 lying generally west of U.S. Highway 75. Sherman and Howe recognize that the disputes have arisen in part from the lack of an agreed boundary line that defines the existing and future boundaries of the cities relative to one another.

3. Sherman now claims an area within Howe Territory (as hereinafter defined) and Howe now claims an area within Sherman Territory (as hereinafter defined).

4. Texas law also provides for reduction in the area of a city's extraterritorial jurisdiction ("ETJ"). Each city thus has authority under Texas law to adjust or reduce areas within each other's territory in order to effectuate the purposes of this Agreement, and the Parties acknowledge the necessity of undertaking such actions.

II. AGREEMENT

For and in consideration of the recitals set forth above and the covenants and undertakings hereinafter contained, the adequacy and sufficiency of which is admitted, it is agreed by Howe and Sherman to establish a Common Boundary Line (as hereinafter defined) upon all of the following terms, subject to the following conditions:

1. Upon the Effective Date of this Agreement (as hereinafter defined), there shall be established by each city a Common Boundary Line, as depicted in **Exhibit A**, attached hereto

and made a part hereof by reference, the legal description for which is contained in **Exhibit B**, attached hereto and made a part hereof by reference. The Common Boundary Line shall demarcate the area within which Howe and Sherman shall each exercise exclusive control over its corporate limits and extraterritorial jurisdiction, existing and future. The area generally located south of the Common Boundary Line, as shown more particularly in **Exhibit A**, shall be the territory of Howe ("Howe Territory"), and the area generally located north of the Common Boundary Line, as shown more particularly in **Exhibit A**, shall be the territory of Sherman ("Sherman Territory").

2. It is the express intent of Howe to relinquish and release any areas to Sherman which it now claims as its own territory within Sherman Territory. It is the express intent of Sherman to relinquish and release any areas to Howe which it now claims as its own territory within Howe Territory. The Parties agree to undertake all actions, including but not limited to those identified in paragraph 5, to achieve the objectives of this Agreement.

3. It is the express intent of Howe to hereafter refrain from claiming any jurisdiction within Sherman Territory. It is the express intent of Sherman to hereafter refrain from claiming any jurisdiction within Howe Territory. Consequently, neither Party shall attempt to annex, expand its ETJ into or otherwise claim the territory of the other Party affixed by this Boundary Agreement. The Parties may, however, enter into voluntary intergovernmental cooperation agreements pursuant to Tex. Gov't Code ch 791 to perform tasks that mutually benefit one another.

4. This Agreement is not intended to affect the validity of claims by third-party municipalities to Howe Territory or Sherman Territory.

5. The Parties shall undertake the following tasks to implement this Agreement:

a. The governing body of each Party shall approve and execute this Boundary Agreement;

b. Howe shall by ordinance release any land within Sherman Territory to Sherman and thereby reduce and discontinue its ETJ within Sherman Territory;

c. Sherman shall by ordinance release any land within Howe Territory to Howe and thereby reduce and discontinue its ETJ within Howe Territory;

d. The relinquishment and release of any areas within the ETJ of one Party to the other Party shall be deemed an exchange of territory by adjacent municipalities pursuant to Tex. Loc. Gov't Code section 43.031.

6. This Boundary Agreement shall take effect on the date that the last Party executes it.

7. The Parties shall cooperate with one another in the future to work toward common development and service objectives.

8. This Agreement shall be recorded in the deed records of Grayson County, Texas.

9. Each of the undersigned warrants that no inducements have been made to it on behalf of the Parties released hereby, except as expressly stated in this Agreement and the documents attached hereto as **Exhibits A and B**, and that in deciding to execute and implement this Agreement, each Party has relied solely and only upon its own judgment and the advice given by its attorneys.

10. This Agreement shall be deemed to have been jointly prepared by all Parties hereto, and no ambiguity of this Agreement shall be construed against any Party based upon the identity of the author of this Agreement or any portion thereof.

11. This Agreement shall be governed by, construed and interpreted, and the rights of the Parties determined, in accordance with the laws of the State of Texas, and venue of any dispute concerning this Agreement shall be tried in a state court of competent jurisdiction sitting in Grayson County, Texas.

12. Statements and representations contained herein are to be considered contractual in nature and not merely recitations of fact. The Recitals contained in Part I of this Agreement hereby are expressly incorporated into this Agreement by reference.

13. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be deleted from this Agreement, together with any remaining provisions that are an integral part of the invalid, illegal, or unenforceable provision or that depend on the provision to give them effect,

and the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

14. All references herein in the singular shall be construed to include the plural where applicable, and the masculine shall include the feminine gender.

15. This Agreement shall run with the land and shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns with respect to any and all of the claims brought or which could have been brought against any and all Parties herein released arising out of the events herein described.

16. Each of the signatories to this Agreement represents and warrants that such signatory is authorized to execute this Agreement and bind the applicable Party to the terms and provisions hereof. Each Party warrants that any action required to be taken in order for this Agreement to be binding on it has been duly and properly taken prior to the execution of this Agreement.

17. This Agreement and the representations, warranties, and agreements set forth herein shall survive the discovery of different facts and shall continue in full force and affect and be unaffected by the discovery of different or additional facts.

18. This Agreement may be executed in multiple counterparts, all of which taken together shall constitute one and the same instrument.

COUNSEL FOR PARTIES

TERRY MORGAN & ASSOCIATES, P.C.

**NICHOLS, JACKSON, DILLARD,
HAGER & SMITH**

By: _____
Terry D. Morgan
State Bar No. 14454075
1201 Elm Street
4800 Renaissance Tower
Dallas, Texas 75270
Telephone: (214) 740-9944

By: _____
Brandon Shelby
State Bar No. 24046829
P.O. Box 1106
Sherman, Texas 75091-1106

Telephone: (903) 892-7305

**ATTORNEYS FOR THE CITY OF
HOWE, TEXAS**

**ATTORNEYS FOR THE CITY OF
SHERMAN, TEXAS**

PARTIES TO THE AGREEMENT

CITY OF HOWE

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

SWORN AND SUBSCRIBED TO BEFORE ME, by said _____, who in his capacity as _____ for the City of Howe, acknowledges that he was authorized to execute the foregoing document this ____ day of _____, 2009, to certify witness my hand and seal of office.

Notary Public in and for the State of Texas

PARTIES TO THE AGREEMENT

CITY OF SHERMAN

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

SWORN AND SUBSCRIBED TO BEFORE ME, by said _____, who in his capacity as _____ for the City of Sherman, acknowledges that he was authorized to execute the foregoing document this ____ day of _____, 2009, to certify witness my hand and seal of office.

Notary Public in and for the State of Texas

Exhibit "B"
METES AND BOUNDS

JUNE 24, 2009

Exhibit-A
City of Howe and City of Sherman
Mutual Boundary Line Agreement
Field Note Description

BEGINNING at the intersection of the west right of way line of U.S. Hwy 75, said point being in the common City Limit line of City of Howe and the City of Sherman, and said point also being in the east property line of a 5.50 acre tract shown by Grayson Central Appraisal District Property Identification Number 130801 and recorded in Vol. 4436 Pg. 271 of the Grayson County Deeds and Records;

Thence S 89° 29' 9" W, along the said City Limit line of City of Howe, for a distance of 1172.24 feet to a point for corner, said point being in the said City Limit Line;

Thence S 89° 59' 0" W, along the said City Limit line of City of Howe, for a distance of 2132.0 feet to a point for corner, said point being in the said City Limit Line and said point also being in the centerline of Clear Creek;

Thence in a southerly direction following the meanders of the centerline of Clear Creek, said meander line also being Howe City Limit for a distance of approximately 2688 feet to a point for corner, said point being in the centerline of F.M. 902, and said point also being the beginning of a curve to the right, having a radius of 1109.98 feet and bearing a central angle of 28° 22' (Rt.);

Thence along the said curve to the right, an arc length distance of 549.61 feet to a point for corner, said point being in the centerline of F.M. 902;

Thence N 68° 07' W, continuing along the centerline of F.M. 902 for a distance of 674 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point beginning of a tangential curve to the left, having a radius of 1909.88 feet and bearing a central angle of 22° 30' (Lt.);

Thence along the said curve to the left, passing the centerline of Smith Road at 165 feet, said point also referred to as F.M. 902 STA 276+56.7 in the TXDOT Right of Way Map of F.M. 902 from Dorchester to U.S. Hwy. 75 , Beg.S1931 (1) Control 510-4-1, dated 11-11-53 and filed in the Sherman Area Office, Paris District, for a total arc length distance of 750.00 feet to a point for corner in the centerline of the said F.M. road;

Thence S 89° 23' W, continuing along the centerline of F.M. 902 for a distance of 991.40 feet to a point for corner, said point being in the centerline of the said F.M. 902;

Thence S 88° 28' W, continuing along the centerline of F.M. 902 for a distance of 1138.20 feet to a point for corner, said point being in the centerline of the said F.M. 902 in Mary Miller Survey Abstract No. 776 and said point being the beginning of a tangential curve to the right, having a radius of 5730.22 feet and bearing a central angle of 2° 29' (Rt.);

CITY OF HOWE AND SHERMAN
MUTUAL BOUNDARY LINE AGREEMENT
FIELD NOTE DESCRIPTION
JUNE 24, 2009
Page 2 of 4

Thence along the said curve to the right, passing the western boundary line of Mary Miller Survey Abstract No. 776 eastern boundary line of James McKinney Survey Abstract No. 777 line and at 78.90 feet, said point also referred to as F.M. 902 STA 248+63.2 in the said F.M. 902 from Dorchester to U.S. Hwy. 75 R.O.W. map, for a total arc distance of 248.30 feet to a point for corner in the centerline of the said F.M. road;

Thence N 89° 03' W, along the centerline of F.M. 902 for a distance of 376.80 feet to a point for corner, said point being in the centerline of the said F.M. 902, and said point being the beginning of a tangential curve to the left, having a radius of 5729 feet bearing a central angle of 2° 06' (Lt.);

Thence along the said curve to the left, an arc distance of 210.0 feet to a point for corner in the centerline of the said F.M. road;

Thence S 88° 51' , along the centerline of F.M. 902 for a distance of 806.30 feet to a point for corner, said point being in the centerline of the said F.M. 902 ;

Thence S 88° 19' W, continuing along the centerline of F.M. 902 for a distance of 1098.50 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point being the beginning of a tangential curve to the right, having a radius of 1909.60 feet and bearing a central angle of 7° 52' (Rt.);

Thence along the said curve to the right, an arc distance of 262.20 feet to a point for corner in the centerline of the said F.M. road;

Thence N 83° 49' W, continuing along the centerline of F.M. 902, passing the centerline of Farmington Road at 67.70 feet and 107.60 feet referred to as F.M. 902 STA 218+72.10 and 218+32.20 respectively in the said F.M. 902 from Dorchester to U.S. Hwy. 75 R.O.W. map, for a total distance of 349.80 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point being the beginning of a tangential curve to the left, having a radius of 1909.36 and bearing a central angle of 7° 18' (Lt.);

Thence along the said curve to the left, an arc distance of 243.30 feet to a point for corner in the centerline of the said F.M. road;

Thence S 88° 53' W, continuing along the centerline of F.M. 902 for a distance of 914.50 feet to a point for corner, said point being in the centerline of the said F.M. 902 ;

CITY OF HOWE AND SHERMAN
MUTUAL BOUNDARY LINE AGREEMENT
FIELD NOTE DESCRIPTION
JUNE 24, 2009
Page 3 of 4

Thence S 89° 39' W, continuing along the centerline of F.M. 902 for a distance of 593.50 feet to a point for corner, said point being in the centerline of the said F.M. 902;

Thence S 88° 47' W, continuing along the centerline of F.M. 902 for a distance of 3544.40 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point being the beginning of a tangential curve to the left, having a radius of 1149.0 feet and bearing a central angle of 90° 10' (Lt.);

Thence along the said curve to the right, an arc distance of 1803.30 feet to a point for corner in the centerline of the said F.M. road;

Thence S 1° 23' E, continuing along the centerline of F.M. 902 for a distance of 175 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point also being the beginning of a tangential curve to the right, having a radius of 1149.0 feet and bearing a central angle of 90° 08' (Rt.);

Thence along the said curve to the right, an arc distance of 1802.70 feet along the centerline of F.M. 902 to a point for corner, said point being in the centerline of the said F.M. road;

Thence S 88° 45' W, continuing along the centerline of F.M. 902 for a distance of 2296 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point also being the beginning of a tangential curve to the right, having a radius of 3820.28 feet and bearing a central angle of 43° 27' (Rt.);

Thence along the said curve to the right, passing the centerline of a county road, namely Beldon Road at 632.60 feet, for a total arc length distance of 2896.70 feet along the centerline of F.M. 902 to a point for corner, said point being in the centerline of the said F.M. road;

Thence N 47° 48' W, continuing along the centerline of the said F.M. 902, passing the east right of way line of S.L.S.F & T railroad at 1019.90 feet, for a total distance of 1319.90 feet to a point for corner, said point being in the centerline of F.M. 902 and said point also being in the west right of way line of S.L.S.F & T Railroad, and said point also referred to as F.M. 902 STA 60+01 being the beginning station of the said F.M. 902 from Dorchester to U.S. Hwy 75 project and the end station of F.M. 902 according to TX DOT's Right of Way Map of F.M. 902 from 511+27.9 S.H. 289 to Dorchester, Control 510 Section 1 Job, dated 10/29/1952 and filed in the Sherman Area Office, Paris District and said point also being in the Mary Miller Survey Abstract No. 775;

Thence continuing in the same direction along the centerline of F.M. 902, for a distance of 576.10 feet to a point for corner, said point being in the centerline of the said F.M. 902, said

CITY OF HOWE AND SHERMAN
MUTUAL BOUNDARY LINE AGREEMENT
FIELD NOTE DESCRIPTION
JUNE 24, 2009
Page 4 of 4

point also being in the beginning of a tangential curve to the left, having a radius of 524.00 feet and bearing a central angle of $43^{\circ} 50' 00''$ (Lt);

Thence along the said curve to the left, an arc distance of 398.50 feet along the centerline of the said F.M. 902 to a point for corner, said point being in the centerline of the said F.M. 902;

Thence $S 88^{\circ} 22' W$, continuing along the centerline of F.M. 902 for a distance of 1868.60 feet to a point for corner, said point being in the centerline of the said F.M. 902;

Thence $S 89^{\circ} 00' W$, along the centerline of F.M. 902 for a distance of 3157.80 feet to a point for corner, said point being in the point of intersection of the centerline of the said F.M. 902 and S.H. 289, and said point referred to as STA 511+27.90 of S.H. 289 and STA 0+00 of F.M. 902 in the said F.M. 902 from S.H. 289 to Dorchester map, and said point also being the point of terminal of the said Mutual Boundary Line between City of Howe and City of Sherman.

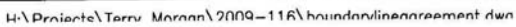
This document was prepared under 22 TAC §663.21, does not reflect the results of an on ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

A plat map of even date herewith accompanies this field note description.



Gary C. Hendricks
6/25/2009

FLUI SCALE: 1.4000



CITY OF HOWE, TEXAS
ORDINANCE NO. 682

ORDINANCE No. 682_____

AN ORDINANCE OF THE CITY OF HOWE, TEXAS, REDUCING AND RELEASING TO THE CITY OF SHERMAN, TEXAS ALL EXTRATERRITORIAL JURISDICTION LOCATED GENERALLY NORTH OF A COMMON BOUNDARY LINE BETWEEN THE CITIES; AUTHORIZING EXECUTION OF A BOUNDARY AGREEMENT WITH THE CITY OF SHERMAN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Howe, Texas ("Howe") is a general law municipality acting under the laws of the State of Texas; and

WHEREAS, the City of Howe and the City of Sherman ("Sherman") presently are in dispute over corporate and extraterritorial boundaries in the vicinity of FM 902 lying west of U.S. Highway 75; and

WHEREAS, Howe and Sherman have contemplated execution of a Boundary Agreement, in the form of which is attached hereto and incorporated herein by reference as Exhibit A, and which establishes a Common Boundary Line demarcating exclusive Howe territory from exclusive Sherman territory, as described by metes and bounds on Exhibit B, and as depicted in Exhibit C, which exhibits are attached hereto and incorporated herein by reference; and

WHEREAS, the Boundary Agreement contemplates that Howe relinquish any claims it has to Sherman territory and that Sherman relinquish any claims it has to Howe territory, whether now existing or as may arise in the future; and

WHEREAS, in order to implement the Boundary Agreement, Howe and Sherman intend to release to one another ETJ claimed by each within the other's exclusive territory under the Agreement; and

WHEREAS, Tex. Loc. Gov't Code Chapter 43 authorizes a municipality to reduce and release its extraterritorial jurisdiction by ordinance; and

WHEREAS, it is the intention of the City Council of Howe to release to Sherman the ETJ lying within Sherman territory in exchange for Sherman's release of the ETJ lying within Howe territory; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOWE, TEXAS:

SECTION 1.

REDUCTION AND RELEASE OF ETJ

The City of Howe hereby consents to the reduction of its extraterritorial jurisdiction lying on Sherman's side of the Common Boundary Line (north of the boundary line for areas west of U.S. Highway 75) appearing on Exhibit C and as described in Exhibit B, and as is to be established by the Boundary Agreement appearing as Exhibit A, and hereby releases such territory to the City of Sherman.

SECTION 2.

OFFICIAL MAP

The official map and boundaries of the City of Howe are amended to exclude the land reduced and released in Section 1 as a part of the City of Howe's extraterritorial jurisdiction. The City Secretary is directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the town to exclude the territory herein described.

SECTION 3.

EXECUTION OF BOUNDARY AGREEMENT

The Mayor of the City of Howe or his designee is authorized to execute the Boundary Agreement in the form appearing as Exhibit A in behalf of the City.

SECTION 4.

FILING CERTIFIED COPY

The City Secretary is directed to file or cause to be filed a certified copy of this ordinance in the office of the county clerk of Grayson County, Texas.

SECTION 5.

CUMULATIVE CLAUSE

This ordinance shall be cumulative of all provisions of ordinances of the City of Howe, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby superseded.

SECTION 6.

SEVERABILITY CLAUSE

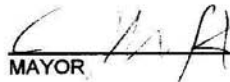
Should any section or part of this ordinance be held unconstitutional, illegal or invalid, or the application thereof, the unconstitutionality, illegality, invalidity or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof, but as to such remaining portions, the same shall be and remain in full force and effect.

SECTION 7.

EFFECTIVE DATE

This ordinance shall take effect upon the effective date of the Boundary Agreement appearing as Exhibit A.

PASSED AND APPROVED ON THIS 17th DAY OF October, 2009.


MAYOR

ATTEST:

CITY SECRETARY

ADOPTED: _____





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. B.2

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Number: 5629

B.1 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5629

Reducing and Releasing to the City of Howe, Texas, all Extraterritorial Jurisdiction located Generally South of a Common Boundary Line Between the Cities; Authorizing Execution of a Boundary Agreement with the City of Howe; Providing an Effective Date



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. B.3

CONSENT AGENDA

Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

C.4 * RESOLUTION NO. 5435

Awarding a Bid to and Authorizing Execution of a Contract with Jerry Paul Higgins, Ltd. for Construction of the Willow Street Water Main Replacement between Mulberry Street and Pacific Street

D.3 * OTHER BUSINESS

Approve Quarterly Investment Reports for Period ending September 30, 2009



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. C.1

RESOLUTION NO. 5432

Authorizing Execution of a Boundary Agreement between the City of Sherman and the City of Howe

Issue

To establish a permanent boundary agreement with the City of Howe and mutually release all extraterritorial jurisdiction ("ETJ") that falls outside of the proposed boundary

Background

The City of Sherman and the City of Howe have historically recognized FM 902 as the informal boundary between the two cities. Continued development along the Highway 75 corridor has necessitated an agreement for a permanent boundary between the two cities. Establishing a firm boundary will alleviate complications concerning future development along Sherman's southern perimeter. The Howe City Council approved the proposed boundary agreement at their October 27th meeting.

Origination

Management and Legal

Financial Consideration

None

Staff Recommendation

Approve the execution of this agreement.

Alternatives

Continue observing the current boundary and ETJ.

Attachments

Resolution No. 5432

Boundary Agreement with Exhibits "A" and "B"

Prepared by:
Brandon S. Shelby, City Attorney

Approved by:
George Olson, City Manager

RESOLUTION NO. 5432

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF BOUNDARY AGREEMENT BETWEEN THE CITY OF SHERMAN AND THE CITY OF HOWE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager be and is hereby authorized, subject to all documents being properly completed and approved as to form and content by the City Attorney, to execute a Boundary Agreement with the City of Howe, in accordance with the terms and provisions of the Agreement and Exhibits "A" and "B" attached hereto and incorporated herein for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the _____ day of _____, 2009.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

BOUNDARY AGREEMENT

THIS BOUNDARY AGREEMENT (the "Agreement") is by and between the City of Howe, Texas ("Howe") and the City of Sherman, Texas ("Sherman").

I. RECITALS

1. Howe is a general law municipality organized under the laws of the State of Texas. Sherman is a home rule municipality organized under the laws of the State of Texas and corporate charter. Howe and Sherman are sometimes hereinafter each individually referred to as a "Party" and are referred to in this Agreement collectively as the "Parties." Howe and Sherman are located primarily within Grayson County, Texas, and in close proximity to one another.

2. Since 2008, controversies have arisen between the Parties concerning the respective corporate and extraterritorial boundaries of the cities in the vicinity of FM 902 lying generally west of U.S. Highway 75. Sherman and Howe recognize that the disputes have arisen in part from the lack of an agreed boundary line that defines the existing and future boundaries of the cities relative to one another.

3. Sherman now claims an area within Howe Territory (as hereinafter defined) and Howe now claims an area within Sherman Territory (as hereinafter defined).

4. Texas law also provides for reduction in the area of a city's extraterritorial jurisdiction ("ETJ"). Each city thus has authority under Texas law to adjust or reduce areas within each other's territory in order to effectuate the purposes of this Agreement, and the Parties acknowledge the necessity of undertaking such actions.

II. AGREEMENT

For and in consideration of the recitals set forth above and the covenants and undertakings hereinafter contained, the adequacy and sufficiency of which is admitted, it is agreed by Howe and Sherman to establish a Common Boundary Line (as hereinafter defined) upon all of the following terms, subject to the following conditions:

1. Upon the Effective Date of this Agreement (as hereinafter defined), there shall be established by each city a Common Boundary Line, as depicted in **Exhibit A**, attached hereto

and made a part hereof by reference, the legal description for which is contained in **Exhibit B**, attached hereto and made a part hereof by reference. The Common Boundary Line shall demarcate the area within which Howe and Sherman shall each exercise exclusive control over its corporate limits and extraterritorial jurisdiction, existing and future. The area generally located south of the Common Boundary Line, as shown more particularly in **Exhibit A**, shall be the territory of Howe ("Howe Territory"), and the area generally located north of the Common Boundary Line, as shown more particularly in **Exhibit A**, shall be the territory of Sherman ("Sherman Territory").

2. It is the express intent of Howe to relinquish and release any areas to Sherman which it now claims as its own territory within Sherman Territory. It is the express intent of Sherman to relinquish and release any areas to Howe which it now claims as its own territory within Howe Territory. The Parties agree to undertake all actions, including but not limited to those identified in paragraph 5, to achieve the objectives of this Agreement.

3. It is the express intent of Howe to hereafter refrain from claiming any jurisdiction within Sherman Territory. It is the express intent of Sherman to hereafter refrain from claiming any jurisdiction within Howe Territory. Consequently, neither Party shall attempt to annex, expand its ETJ into or otherwise claim the territory of the other Party affixed by this Boundary Agreement. The Parties may, however, enter into voluntary intergovernmental cooperation agreements pursuant to Tex. Gov't Code ch 791 to perform tasks that mutually benefit one another.

4. This Agreement is not intended to affect the validity of claims by third-party municipalities to Howe Territory or Sherman Territory.

5. The Parties shall undertake the following tasks to implement this Agreement:

a. The governing body of each Party shall approve and execute this Boundary Agreement;

b. Howe shall by ordinance release any land within Sherman Territory to Sherman and thereby reduce and discontinue its ETJ within Sherman Territory;

c. Sherman shall by ordinance release any land within Howe Territory to Howe and thereby reduce and discontinue its ETJ within Howe Territory;

d. The relinquishment and release of any areas within the ETJ of one Party to the other Party shall be deemed an exchange of territory by adjacent municipalities pursuant to Tex. Loc. Gov't Code section 43.031.

6. This Boundary Agreement shall take effect on the date that the last Party executes it.

7. The Parties shall cooperate with one another in the future to work toward common development and service objectives.

8. This Agreement shall be recorded in the deed records of Grayson County, Texas.

9. Each of the undersigned warrants that no inducements have been made to it on behalf of the Parties released hereby, except as expressly stated in this Agreement and the documents attached hereto as **Exhibits A and B**, and that in deciding to execute and implement this Agreement, each Party has relied solely and only upon its own judgment and the advice given by its attorneys.

10. This Agreement shall be deemed to have been jointly prepared by all Parties hereto, and no ambiguity of this Agreement shall be construed against any Party based upon the identity of the author of this Agreement or any portion thereof.

11. This Agreement shall be governed by, construed and interpreted, and the rights of the Parties determined, in accordance with the laws of the State of Texas, and venue of any dispute concerning this Agreement shall be tried in a state court of competent jurisdiction sitting in Grayson County, Texas.

12. Statements and representations contained herein are to be considered contractual in nature and not merely recitations of fact. The Recitals contained in Part I of this Agreement hereby are expressly incorporated into this Agreement by reference.

13. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be deleted from this Agreement, together with any remaining provisions that are an integral part of the invalid, illegal, or unenforceable provision or that depend on the provision to give them effect,

and the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

14. All references herein in the singular shall be construed to include the plural where applicable, and the masculine shall include the feminine gender.

15. This Agreement shall run with the land and shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns with respect to any and all of the claims brought or which could have been brought against any and all Parties herein released arising out of the events herein described.

16. Each of the signatories to this Agreement represents and warrants that such signatory is authorized to execute this Agreement and bind the applicable Party to the terms and provisions hereof. Each Party warrants that any action required to be taken in order for this Agreement to be binding on it has been duly and properly taken prior to the execution of this Agreement.

17. This Agreement and the representations, warranties, and agreements set forth herein shall survive the discovery of different facts and shall continue in full force and affect and be unaffected by the discovery of different or additional facts.

18. This Agreement may be executed in multiple counterparts, all of which taken together shall constitute one and the same instrument.

COUNSEL FOR PARTIES

TERRY MORGAN & ASSOCIATES, P.C.

**NICHOLS, JACKSON, DILLARD,
HAGER & SMITH**

By: _____
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Dallas, Texas 75270
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By: _____
Brandon Shelby
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Sherman, Texas 75091-1106
Telephone: (903) 892-7305

**ATTORNEYS FOR THE CITY OF
HOWE, TEXAS**

**ATTORNEYS FOR THE CITY OF
SHERMAN, TEXAS**

PARTIES TO THE AGREEMENT

CITY OF HOWE

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

SWORN AND SUBSCRIBED TO BEFORE ME, by said _____, who in his capacity as _____ for the City of Howe, acknowledges that he was authorized to execute the foregoing document this ____ day of _____, 2009, to certify witness my hand and seal of office.

Notary Public in and for the State of Texas

PARTIES TO THE AGREEMENT

CITY OF SHERMAN

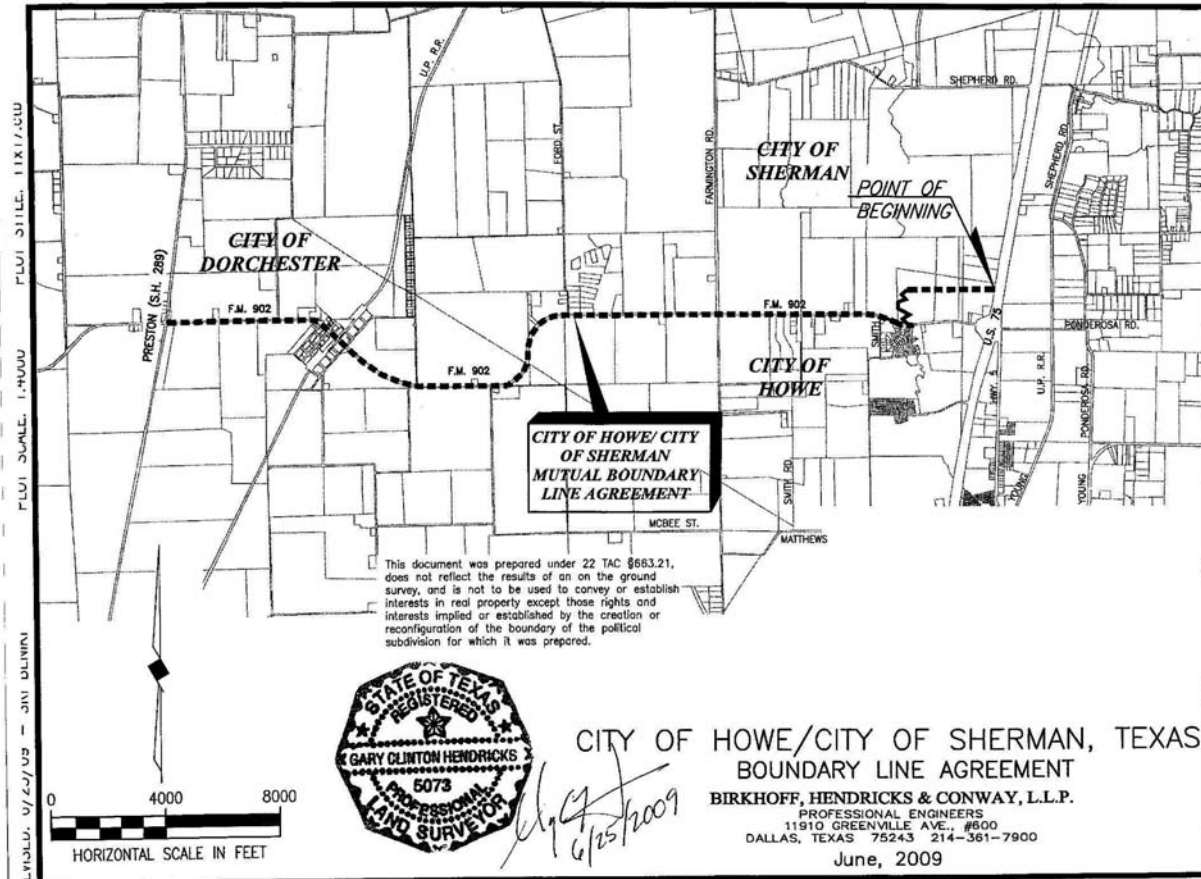
By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

SWORN AND SUBSCRIBED TO BEFORE ME, by said _____, who in his capacity as _____ for the City of Sherman, acknowledges that he was authorized to execute the foregoing document this ____ day of _____, 2009, to certify witness my hand and seal of office.

Notary Public in and for the State of Texas

EXHIBIT "A"



H:\Projects\Terry Morgan\2009-116\boundarylineagreement.dwg

EXHIBIT "B"

JUNE 24, 2009

Exhibit-A City of Howe and City of Sherman Mutual Boundary Line Agreement Field Note Description

BEGINNING at the intersection of the west right of way line of U.S. Hwy 75, said point being in the common City Limit line of City of Howe and the City of Sherman, and said point also being in the east property line of a 5.50 acre tract shown by Grayson Central Appraisal District Property Identification Number 130801 and recorded in Vol. 4436 Pg. 271 of the Grayson County Deeds and Records;

Thence S 89° 29' 9" W, along the said City Limit line of City of Howe, for a distance of 1172.24 feet to a point for corner, said point being in the said City Limit Line;

Thence S 89° 59' 0" W, along the said City Limit line of City of Howe, for a distance of 2132.0 feet to a point for corner, said point being in the said City Limit Line and said point also being in the centerline of Clear Creek;

Thence in a southerly direction following the meanders of the centerline of Clear Creek, said meander line also being Howe City Limit for a distance of approximately 2688 feet to a point for corner, said point being in the centerline of F.M. 902, and said point also being the beginning of a curve to the right, having a radius of 1109.98 feet and bearing a central angle of 28° 22' (Rt.);

Thence along the said curve to the right, an arc length distance of 549.61 feet to a point for corner, said point being in the centerline of F.M. 902;

Thence N 68° 07' W, continuing along the centerline of F.M. 902 for a distance of 674 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point beginning of a tangential curve to the left, having a radius of 1909.88 feet and bearing a central angle of 22° 30' (Lt.);

Thence along the said curve to the left, passing the centerline of Smith Road at 165 feet, said point also referred to as F.M. 902 STA 276+56.7 in the TXDOT Right of Way Map of F.M. 902 from Dorchester to U.S. Hwy. 75 , Beg.S1931 (1) Control 510-4-1, dated 11-11-53 and filed in the Sherman Area Office, Paris District, for a total arc length distance of 750.00 feet to a point for corner in the centerline of the said F.M. road;

Thence S 89° 23' W, continuing along the centerline of F.M. 902 for a distance of 991.40 feet to a point for corner, said point being in the centerline of the said F.M. 902;

Thence S 88° 28' W, continuing along the centerline of F.M. 902 for a distance of 1138.20 feet to a point for corner, said point being in the centerline of the said F.M. 902 in Mary Miller Survey Abstract No. 776 and said point being the beginning of a tangential curve to the right, having a radius of 5730.22 feet and bearing a central angle of 2° 29' (Rt.);

CITY OF HOWE AND SHERMAN
MUTUAL BOUNDARY LINE AGREEMENT
FIELD NOTE DESCRIPTION
JUNE 24, 2009
Page 2 of 4

Thence along the said curve to the right, passing the western boundary line of Mary Miller Survey Abstract No. 776 eastern boundary line of James McKinney Survey Abstract No. 777 line and at 78.90 feet, said point also referred to as F.M. 902 STA 248+63.2 in the said F.M. 902 from Dorchester to U.S. Hwy. 75 R.O.W. map, for a total arc distance of 248.30 feet to a point for corner in the centerline of the said F.M. road;

Thence N 89° 03' W, along the centerline of F.M. 902 for a distance of 376.80 feet to a point for corner, said point being in the centerline of the said F.M. 902, and said point being the beginning of a tangential curve to the left, having a radius of 5729 feet bearing a central angle of 2° 06' (Lt.);

Thence along the said curve to the left, an arc distance of 210.0 feet to a point for corner in the centerline of the said F.M. road;

Thence S 88° 51' , along the centerline of F.M. 902 for a distance of 806.30 feet to a point for corner, said point being in the centerline of the said F.M. 902 ;

Thence S 88° 19' W, continuing along the centerline of F.M. 902 for a distance of 1098.50 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point being the beginning of a tangential curve to the right, having a radius of 1909.60 feet and bearing a central angle of 7° 52' (Rt.);

Thence along the said curve to the right, an arc distance of 262.20 feet to a point for corner in the centerline of the said F.M. road;

Thence N 83° 49' W, continuing along the centerline of F.M. 902, passing the centerline of Farmington Road at 67.70 feet and 107.60 feet referred to as F.M. 902 STA 218+72.10 and 218+32.20 respectively in the said F.M. 902 from Dorchester to U.S. Hwy. 75 R.O.W. map, for a total distance of 349.80 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point being the beginning of a tangential curve to the left, having a radius of 1909.36 and bearing a central angle of 7° 18' (Lt.);

Thence along the said curve to the left, an arc distance of 243.30 feet to a point for corner in the centerline of the said F.M. road;

Thence S 88° 53' W, continuing along the centerline of F.M. 902 for a distance of 914.50 feet to a point for corner, said point being in the centerline of the said F.M. 902 ;

CITY OF HOWE AND SHERMAN
MUTUAL BOUNDARY LINE AGREEMENT
FIELD NOTE DESCRIPTION
JUNE 24, 2009
Page 3 of 4

Thence S 89° 39' W, continuing along the centerline of F.M. 902 for a distance of 593.50 feet to a point for corner, said point being in the centerline of the said F.M. 902;

Thence S 88° 47' W, continuing along the centerline of F.M. 902 for a distance of 3544.40 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point being the beginning of a tangential curve to the left, having a radius of 1149.0 feet and bearing a central angle of 90° 10' (Lt.);

Thence along the said curve to the right, an arc distance of 1803.30 feet to a point for corner in the centerline of the said F.M. road;

Thence S 1° 23' E, continuing along the centerline of F.M. 902 for a distance of 175 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point also being the beginning of a tangential curve to the right, having a radius of 1149.0 feet and bearing a central angle of 90° 08' (Rt.);

Thence along the said curve to the right, an arc distance of 1802.70 feet along the centerline of F.M. 902 to a point for corner, said point being in the centerline of the said F.M. road;

Thence S 88° 45' W, continuing along the centerline of F.M. 902 for a distance of 2296 feet to a point for corner, said point being in the centerline of the said F.M. 902 and said point also being the beginning of a tangential curve to the right, having a radius of 3820.28 feet and bearing a central angle of 43° 27' (Rt.);

Thence along the said curve to the right, passing the centerline of a county road, namely Beldon Road at 632.60 feet, for a total arc length distance of 2896.70 feet along the centerline of F.M. 902 to a point for corner, said point being in the centerline of the said F.M. road;

Thence N 47° 48' W, continuing along the centerline of the said F.M. 902, passing the east right of way line of S.L.S.F & T railroad at 1019.90 feet, for a total distance of 1319.90 feet to a point for corner, said point being in the centerline of F.M. 902 and said point also being in the west right of way line of S.L.S.F & T Railroad, and said point also referred to as F.M. 902 STA 60+01 being the beginning station of the said F.M. 902 from Dorchester to U.S. Hwy 75 project and the end station of F.M. 902 according to TX DOT's Right of Way Map of F.M. 902 from 511+27.9 S.H. 289 to Dorchester, Control 510 Section 1 Job, dated 10/29/1952 and filed in the Sherman Area Office, Paris District and said point also being in the Mary Miller Survey Abstract No. 775;

Thence continuing in the same direction along the centerline of F.M. 902, for a distance of 576.10 feet to a point for corner, said point being in the centerline of the said F.M. 902, said

CITY OF HOWE AND SHERMAN
MUTUAL BOUNDARY LINE AGREEMENT
FIELD NOTE DESCRIPTION
JUNE 24, 2009
Page 4 of 4

point also being in the beginning of a tangential curve to the left, having a radius of 524.00 feet and bearing a central angle of $43^{\circ} 50' 00''$ (Lt);

Thence along the said curve to the left, an arc distance of 398.50 feet along the centerline of the said F.M. 902 to a point for corner, said point being in the centerline of the said F.M. 902;

Thence $S 88^{\circ} 22' W$, continuing along the centerline of F.M. 902 for a distance of 1868.60 feet to a point for corner, said point being in the centerline of the said F.M. 902;

Thence $S 89^{\circ} 00' W$, along the centerline of F.M. 902 for a distance of 3157.80 feet to a point for corner, said point being in the point of intersection of the centerline of the said F.M. 902 and S.H. 289, and said point referred to as STA 511+27.90 of S.H. 289 and STA 0+00 of F.M. 902 in the said F.M. 902 from S.H. 289 to Dorchester map, and said point also being the point of terminal of the said Mutual Boundary Line between City of Howe and City of Sherman.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

A plat map of even date herewith accompanies this field note description.



Gary C. Hendricks
6/25/2009



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. C.2

RESOLUTION NO. 5433

Authorizing Execution of an Agreement with the City of Howe for the Treatment and Processing of Wastewater

Issue

To provide for an agreement with the City of Howe for the treatment and processing of Howe's wastewater

Background

The City of Sherman has been treating wastewater from the City of Howe under a per unit agreement for more than 30 years. In the late 1980s, the agreement was declared invalid as a result of a lawsuit filed by the City of Sherman. The Court ordered the cities to enter into a new agreement that covered Sherman's cost for treating Howe's wastewater. No agreement was ever reached. In the interim, Sherman has continued to treat Howe's wastewater under the old, per unit agreement. This new agreement provides for metered billing and insures that Sherman's costs for the treatment of Howe's wastewater are covered. The Howe City Council approved the proposed Wastewater Treatment Agreement at their October 27th meeting.

Origination

Management and Legal

Financial Consideration

Execution of this agreement will ensure that the City of Howe pays Sherman for the cost to collect and treat Howe's wastewater.

Staff Recommendation

Approve the execution of this agreement.

Alternatives

Continue collecting and treating the City of Howe's wastewater at below cost.

Attachments

Resolution No. 5433

Wastewater Treatment Agreement

Prepared by:
Brandon S. Shelby, City Attorney

Approved by:
George Olson, City Manager

RESOLUTION NO. 5433

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE CITY OF HOWE FOR THE TREATMENT AND PROCESSING OF WASTEWATER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City Manager be and is hereby authorized, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute an agreement with the City of Howe for the treatment and processing of wastewater for the City of Howe, in accordance with the terms and provisions of the contract document attached hereto as Exhibit "A" and incorporated herein for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2009.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

State of Texas

County of Grayson

WASTEWATER TREATMENT AGREEMENT

THIS AGREEMENT, made and entered into and executed in duplicate originals this the _____ day of _____, 2009, by and between the City of Sherman, Texas (hereinafter, "SHERMAN") and the City of Howe, Texas (hereinafter, "HOWE"):

WHEREAS, SHERMAN is a Municipal Corporation of the State of Texas;

WHEREAS, HOWE is a Municipal Corporation of the State of Texas;

WHEREAS, SHERMAN owns and operates wastewater treatment and collection facilities under the authority of the State of Texas;

WHEREAS, SHERMAN presently provides wastewater collection and treatment services to HOWE; and

WHEREAS, SHERMAN freely acknowledges that it intends to continue to operate and maintain said facility for the foreseeable future, and that treatment availability at this facility can accommodate the projected wastewater flow from HOWE;

WHEREAS, SHERMAN and HOWE believe that it is in the best interests of and mutual benefit to both cities to enter into this AGREEMENT for wastewater treatment services.

I.
Term

This Agreement shall be for an initial term of ten (10) years starting from May 1, 2010 ("Commencement Date"), and shall be automatically renewed at the end of the initial term for consecutive five (5) year terms unless written notice of cancellation is provided. As noted below, a minimum two (2) year notice of cancellation is required, even at the end of a term.

II.
Notice of Cancellation

SHERMAN shall provide HOWE a minimum of two (2) years notice of any intent to cancel this Agreement or intent to cease or reduce the amount of wastewater processed under this Agreement. The parties agree that this notice period is required, at a minimum, for HOWE to investigate alternative means for wastewater treatment and processing and engineer, construct and complete alternative treatment facilities. SHERMAN agrees, if HOWE has not completed alternative options, such as construction of a separate treatment facility, to provide temporary wastewater

treatment during any time of transition or engineering or construction at a reasonable temporary rate not less than five percent (5%) more than effective wastewater rate during said period.

HOWE shall provide SHERMAN a minimum of two (2) years notice of any intent to cancel this Agreement or intent to divert its wastewater to an alternative processor or facility. The parties agree this notice period is necessary so SHERMAN can properly plan and budget for its wastewater treatment plant and allocate capacity.

III.

Local, State and Federal Rules/Regulations

Any existing or future regulation or ordinances required of SHERMAN by the State of Texas and/or the government of the United States relating to the sanitary sewer collection system shall be binding upon HOWE as a provision of this Agreement. SHERMAN's Industrial Pretreatment Ordinance and SHERMAN's Fat Oils and Grease Ordinance shall be adopted and enforced by HOWE.

IV.

Wastewater Quantity

SHERMAN agrees to accept an average-flow of 500,000 gallons per day (with a peaking factor of 5.0) as measured at the Master Meter, calculated quarterly. The exceeding of said quantity shall qualify as an Event of Default by HOWE. SHERMAN may waive such default, however, if HOWE agrees to share in the cost of any future expansion of lines north of the Delivery Point to accommodate flows of wastewater in excess of those defined in this Section IV and proportional to such increased flows.

V.

Delivery Point

SHERMAN shall take possession of the wastewater at the first manhole north of F.M. 902 (manhole #39 @ station 189+22 referenced on the original construction plans for the HOWE Outfall Sewer prepared by Fowler & Grafe, Inc. dated 12-70). HOWE maintains ownership and responsibility for the wastewater at all points south of the delivery point.

VI.

Ownership, Maintenance, and Expansion of Wastewater Lines

A. Line Ownership

HOWE agrees and understands that it owns any and all existing and future wastewater lines located at all points south of the Delivery Point as described in Section V of this agreement.

SHERMAN agrees and understands that it owns any and all existing and future wastewater lines located at all points north of the Delivery Point as described in Section V of this agreement.

B. Line Maintenance

1. HOWE shall be responsible for any and all maintenance of wastewater lines at all points south of the delivery point described in Section V of this Agreement. Accordingly, HOWE shall be responsible for ensuring that said lines comply with all Local, State and Federal regulations or ordinances as described in Section III of this Agreement.
2. SHERMAN shall be responsible for any and all maintenance of wastewater lines at all points north of the Delivery Point described in Section V of this Agreement. Accordingly, SHERMAN shall be responsible for ensuring that said lines comply with all Local, State and Federal regulations or ordinances as described in Section III of this Agreement.
3. HOWE shall reimburse to SHERMAN the reasonable costs of maintenance to wastewater lines north of the Delivery Point which result from HOWE's failure to comply with this Section or Section III of this Agreement.

C. Future Line Expansion

SHERMAN agrees that, upon completion of HOWE's study of the drainage basin served by SHERMAN'S facilities, it shall participate in negotiations with HOWE concerning potential expansion of SHERMAN's wastewater system to accommodate future flows within the basin from HOWE; provided, however, that such study shall be completed and delivered to SHERMAN within three (3) years of the effective date of this Agreement. Nothing in this or any other Section of this Agreement shall be construed as obligating the expansion of any SHERMAN owned wastewater line. The negotiation, financing, designing, implementation, or construction of any line expansion project SHALL NOT alter the ownership of existing or future wastewater lines as described in Section VI.A of this Agreement.

VII.

Master Meter

HOWE and SHERMAN agree that HOWE owns a parshall flume ("Master Meter") upstream of the Delivery Point that is sufficient to measure the wastewater flows from HOWE allotted in Section IV. The Master Meter shall meet the specifications of SHERMAN at all times. In the event that the existing Master Meter cannot accurately measure the anticipated wastewater flows from HOWE at the Delivery Point (up to and including 2.5 MGD) or the Master Meter otherwise fails, HOWE agrees that it shall furnish and install a replacement Master Meter. HOWE also agrees that it shall furnish and install a FLO-DAR with Flow-Station Radar Velocity/Area Flow Meter (Supplemental Flow Measuring Device), or another alternative measuring system mutually agreeable to both parties, to measure flow when Master Meter cannot accurately measure flow. The Supplemental Flow Measuring Device will be installed in a manhole downstream of the Master Meter and upstream of the Delivery Point. HOWE shall convey any replacement Master Meter and any Supplemental Flow Measuring Devices furnished and installed by HOWE to SHERMAN; provided, however, should wastewater services to HOWE be terminated under this Agreement, such Master Meter, together with any Supplemental Flow Measuring Devices, shall revert to HOWE'S ownership. SHERMAN shall operate and maintain the Master Meter. The metering facilities shall be modified as

necessary to insure that the Master Meter operates properly over all range of flows. SHERMAN and HOWE shall share equally in any costs associated with such modifications.

A. Regular Testing of the Master Meter

SHERMAN shall test the Master Meter and any Supplemental Flow Measuring Device, if installed, for accuracy once each twelve (12) month period in accordance with Prudent Water Industry Practice and in accordance with the American Water Works Association Standards for such meters. In the event the percentage of accuracy of the Master Meter is found to be within the tolerance of two percent (2%), such meter shall be deemed to have correctly measured the quantity of wastewater under this Agreement. SHERMAN shall provide HOWE with five (5) days notice of its intent to test the Master Meter, and HOWE shall have the right to be present when such testing is conducted. If, however, upon any test of the percentage of accuracy tolerance, such tolerance is found to be in excess of two percent (2%), then the Master Meter shall be adjusted at once to register correctly and accurately, and the amount of wastewater accepted by SHERMAN shall be corrected in accordance with the percentage of inaccuracies found by such test for a period extending back to the time when such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then the correction shall account for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six(6) months.

B. Additional Testing of the Master Meter(s)

HOWE shall have the right to request SHERMAN to test the Master Meter or any Supplemental Flow Measuring Device, if installed, more frequently than once per year, but no more frequently than once per quarter. Upon any such request, SHERMAN agrees to perform the testing and calibration of the Master Meter in the presence of a representative of HOWE and the Parties shall jointly observe any adjustments that are made to the Master Meter in the event any adjustments shall be necessary. For such additional testing request, SHERMAN shall give HOWE notice forty-eight (48) hours in advance of the time when any such testing shall occur. HOWE shall pay the cost of any additional test for the Master Meter if the test shows that the Master Meter is accurate (within two percent (2%) registration). SHERMAN shall pay the costs of the additional test for such if the results indicate that the Master Meter is not accurate (in excess of two percent (2%) registration).

C. Maintenance of the Master Meter(s)

Except as provided above, all maintenance and/or repairs to the Master Meter or to any Supplemental Flow Measuring Device, if installed, shall be made by SHERMAN or a contractor on behalf of SHERMAN. All expenses therefore shall be the usual and customary expenses in accordance with Prudent Water Industry Practices. SHERMAN shall provide repairs to the Master Meter in a prompt and timely manner and in accordance with Prudent Water Industry Practice and in accordance with the American Water Works Association Standards for water meters. All maintenance costs associated with all meters and flow measuring devices shall be shared equally by HOWE and SHERMAN.

VIII.
Wastewater Rate

Beginning on the Commencement Date and continuing throughout the duration of this Agreement, unless otherwise provided for herein, HOWE agrees to pay SHERMAN according to SHERMAN's effective wastewater treatment rate structure.

IX.
Billing and Payment

SHERMAN shall bill HOWE under this agreement based on wastewater flow determined as follows:

- 1) flow measured by the Master Meter when the Master Meter can accurately measure flow as designed; or
- 2) flow measured by the Supplemental Flow Measuring Device, when the Master Meter cannot accurately measure flow as designed.

SHERMAN shall invoice HOWE on a monthly basis in an amount equal to any monies owed under this Agreement according to SHERMAN's effective utility billing practice. Payment is due immediately upon invoicing according to SHERMAN's effective utility billing practice.

In the event HOWE has failed to pay any invoices and such non-payment has lasted for at least sixty (60) Days, such non-payment shall qualify as an Event of Default by HOWE.

X.
Events of Default

In addition to those Events of Default described elsewhere in this Agreement the following shall be considered Events of Default by either Party:

1. Failure to make timely payments of monies owed according to this Agreement.
2. Intentional destruction or obstruction of wastewater lines.
3. Intentional destruction or tampering with the Master Meter or Supplemental Flow Measuring Devices.
4. Failure to observe and abide by Section III of this Agreement.
5. Failure to timely test the Master Meter or Supplemental Flow Measuring Devices.
6. Inability or failure to treat sewage flows from HOWE that are provided for in this Agreement.

XI.
Termination by HOWE for Cause

Except as otherwise provided in this Agreement, HOWE shall have the right (but not the obligation) to terminate this Agreement upon thirty (30) days prior written notice to SHERMAN upon the occurrence of any Event of Default by SHERMAN.

XII.
Termination by SHERMAN for Cause

Except as otherwise provided in this Agreement, SHERMAN shall have the right (but not the obligation) to terminate this Agreement upon thirty (30) days prior written notice to HOWE upon the occurrence of any Event of Default by HOWE.

XIII.
Assignment

Neither party may sell, transfer, assign or convey this Agreement or any portion of this Agreement and shall not see, transfer, assign or convey any rights, powers or interests in the Agreement to anyone or any other entity in whole or in part, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Such sale, transfer, assignment or conveyance or any attempt to do so shall be void. This clause does not prevent the parties from relying upon general capacities and quantities in planning, development and budgeting matters.

XIV.
Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the heirs, successors and permitted assigns of the Parties.

XV.
Severability

In the event that any portion of this Agreement is held to be unenforceable or invalid in any court of competent jurisdiction, the parties agree the remaining provisions shall not be affected and remain in full force and effect. Further, if any provision of this Agreement is held to be in conflict with any applicable Requirement of Law or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent.

XVI.
Friendly Consultation and Mediation

Except in circumstances where equitable relief is sought by a Party, any dispute, controversy or claim between the Parties arising out of or relating to this Agreement, or the breach, termination or invalidity thereof (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such dispute through friendly consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days, then the Parties agree to submit the Dispute to non-binding mediation prior to the initiation of judicial proceedings. If mediation is not conducted within ninety (90) days after the date of written notification of dispute, then either party can initiate judicial proceedings. The Parties agree to provide each other with reasonable access during normal business hours to any and all non-privileged and non-confidential records, information as the Parties may mutually agree. Notwithstanding each Party's right of reasonable access under this subparagraph, this requirement may be satisfied by supplying copies of such materials to the requesting Party.

XVII.
Relationship of Parties

Neither the execution nor delivery of this Agreement nor actions to complete this Agreement shall create or constitute a partnership, joint venture, joint enterprise or any other form of business organization or arrangement between the parties, except for the contractual arrangements specifically set forth herein. Except as set forth herein, no party (or any of its agents, officers or employees) has any power to assume or create any obligation on behalf of the other party.

XVIII.
Entire Agreement

This Agreement embodies the entire agreement of the Parties on the subjects contained herein and therein and shall supersede all previous communications, representations, or agreements either verbal or written between the Parties with respect to the same.

XIX.
Notice

Unless otherwise stated herein, any notice or other communication required or permitted under this Agreement shall be in writing, may be delivered (and shall be deemed to be received) as follows: (i) when delivered personally or by a nationally recognized overnight courier service that provides written proof of delivery, upon the date of delivery; (ii) when delivered by United States mail, registered or certified, with return receipt requested and postage prepaid, on the date of receipt, refusal or non-delivery as indicated on the return receipt; and (iii) when delivered by facsimile, upon confirmation of receipt from the recipient's fax portal; provided that, in each such case, such notice is sent to the address or fax number of the recipient set forth below:

If to SHERMAN:

City Manager
City of Sherman, Texas
220 West Mulberry Street
P.O. Box 1106
Sherman, Texas 75091-1106
Facsimile: (903) 892-7355

If to HOWE:

City Manager
City of Howe, Texas
116 E. Haning St.
Howe, TX, 75459
Facsimile: (903) 532-6320

Any Party may change the address at which it is to receive any notice to be sent under this Agreement by providing notice of such change to the other Party in the manner set forth in this section.

XX.

Amendment

This Agreement may not be amended, modified, supplemented or revoked except by an instrument in writing signed by the Parties.

XXI.

Third Party Beneficiaries

Except as expressly provided in this Agreement, nothing in this Agreement is intended or shall be construed to confer upon, or to give to, any legal Person other than the Parties, any right, remedy, or Claim under or by reason of this Agreement; or any covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. Nothing in this Agreement is intended to interfere with any agreements of any Party with any third Party.

XXII.

Deadlines

To the extent that the date for any payment or notice due hereunder by either Party shall fall on a Day that is not a Business Day, such deadline for payment or notice, as the case may be, shall be automatically extended to the next following Business Day.

XXIII.
No Waivers of Rights

A. No waiver by either Party of any default or defaults by the other Party in the performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults whether of a like or different character or shall be effective unless in writing, duly executed by a duly authorized representative of the Party waiving any such default.

B. Neither the failure by a Party to insist on any occasion upon the strict performance of the terms, conditions and provisions of this Agreement, nor time or other indulgence granted by one Party to the other, shall act as a waiver of such breach.

XXIV.
Governing Law and Venue

This Agreement shall be governed by and construed under the laws of the State of Texas, other than with respect to conflicts of law. Jurisdiction and venue shall be proper and exclusive in the state and federal district courts located in the County of Grayson, State of Texas. If the federal district courts are relocated from Grayson County during the pendency of this Agreement, then venue shall be proper in the federal district court in the Eastern District, Sherman Division. Each of the Parties irrevocably submits to the exclusive jurisdiction of such courts in any such proceeding and waives any objection it may now or hereafter have as to venue or to convenience of forum.

XXV.
Counterparts

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The Parties may execute this Agreement and all other agreements, certificates, instruments and other documents by means of facsimile transmission, and the Parties agree that the receipt of such executed counterparts shall be binding on such Parties and shall be construed as originals. Thereafter, the Parties shall promptly exchange original versions of this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement that were executed and exchanged by facsimile transmission.

XXVI.
Filing with TCEQ

SHERMAN shall file a copy of this Agreement with the Texas Commission on Environmental Quality within thirty (30) Days of the Effective Day.

XXVII.
Effective Date

The Effective Date of this Agreement shall be the date that the last party executes the Agreement, following the effective date of a Boundary Agreement defining the mutual boundaries between Howe and Sherman along FM 902 and to the west of U.S. Highway 75.

The undersigned warrant and represent that they are authorized to sign this Agreement and to bind their respective city.

CITY OF SHERMAN, TEXAS

CITY OF HOWE, TEXAS

By: _____
George Olson
City Manager

By: _____
Michael Jones
City Administrator

Date: _____

Date: _____

Attest:

By: _____
Linda Ashby
City Clerk

By: _____
Barbara Alavarado
City Secretary



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. C.3

RESOLUTION NO. 5434

Awarding a Bid to and Authorizing the Purchase of a New 1-Ton Truck and Dump Bed from Bob Utter Ford

Issue

Award of a bid to purchase a new 1-ton dump truck for Street Maintenance

Background

Unit 435, a ½-ton Street Maintenance pickup truck, is scheduled to be replaced in the fiscal year 2009-2010 budget. The unit has over 108,000 miles on it and is experiencing mechanical problems. It is planned that Unit 435 be replaced by a 1-ton truck with a dump bed to better serve work crews. This unit is smaller than the regular Street Maintenance large dump truck and easier for crews to unload materials. A low bid price for the truck and dump bed was requested from the Houston-Galveston Council of Governments (“H-GAC”), the result of their extensive state-wide bidding process. However, Bob Utter Ford in Sherman bid a price lower than H-GAC for the same unit.

Origination

Department of Public Works

Financial Consideration

Awarding the bid to Bob Utter Ford will save the City over \$900.00. The total purchase price for the unit from Bob Utter is \$30,368.49; and the funds are available in the City equipment replacement fund.

Staff Recommendation

Award a bid to Bob Utter Ford for the purchase of a 1-ton chassis and dump bed.

Alternatives

Those as may be recommended by the City Council

Attachments

Bid Tabulation

Resolution No. 5434

Prepared by:
Jeff Miller, Director of Public Works

Approved by:
George Olson, City Manager

BID TABULATION

VENDOR	CHASSIS	DUMP BED	FEES	TOTAL
H-GAC	\$21,281.38	\$9,310.00	\$680.00	\$31,271.38
Bob Utter Ford	\$22,368.49	\$8,000.00	\$0	\$30,368.49

RESOLUTION NO. 5434

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING THE PURCHASE OF A NEW 1-TON TRUCK AND DUMP BED FROM BOB UTTER FORD; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That Bob Utter Ford of Sherman, Texas, is hereby awarded the bid in the total amount of Thirty Thousand Three Hundred Sixty-Eight Dollars and Forty-Nine Cents (\$30,368.49) for the purchase one (1) new 1-ton truck and dump bed and that the City Manager be and is hereby authorized and directed, subject to all appropriate documents being properly completed and approved as to form and content by the City Attorney, to purchase one (1) new 1-ton truck and dump bed from Bob Utter Ford, in accordance with all documents attached hereto and incorporated herein for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2009.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. C.4

*** RESOLUTION NO. 5435**

**Awarding a Bid to and Authorizing Execution of a Contract with Jerry Paul Higgins, Ltd.
for Construction of the Willow Street Water Main Replacement
between Mulberry Street and Pacific Street**

Issue

Contracting for the replacement of the Willow Street water main between Mulberry Street and Pacific Street

Background

The current Capital Improvement Program contains a project to replace the water main on Willow Street, between Mulberry Street and Pacific Street. Seven (7) bidders responded to the request for bids. A bid tabulation is attached.

Origination

Department of Utilities Administration

Financial Consideration

The project budget in the Capital Improvement Program is \$90,000.00.

Staff Recommendation

It is recommended that the contract for the replacement of the Willow Street water main be awarded to the low bidder, Jerry Paul Higgins, Ltd. in the amount of \$49,528.44 and that the City Manager be authorized to execute the required contract documents.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5435

Engineer's Recommendation with Bid Tabulation

Contract

CIP Project Sheet with Location Map

Prepared by:

Mark Gibson, Utilities and Engineering Director

Approved by:

George Olson, City Manager

RESOLUTION NO. 5435

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH JERRY PAUL HIGGINS, LTD. FOR CONSTRUCTION OF THE WILLOW STREET WATER MAIN REPLACEMENT BETWEEN MULBERRY STREET AND PACIFIC STREET; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That Jerry Paul Higgins, Ltd. is hereby awarded the bid in the total amount of Forty-Nine Thousand Five Hundred Twenty-Eight Dollars and Forty-Four Cents (\$49,528.44) for construction of the Willow Street Water Main Replacement from Mulberry Street to Pacific Street; and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form by the City Attorney, to execute a contract with Jerry Paul Higgins, Ltd. for construction of the Willow Street Water Main Replacement Project, in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the _____ day of _____, 2009.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
BILL MAGERS, MAYOR

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

MORRIS ENGINEERS

October 22, 2009

Mark Gibson, P.E.
Director of Utilities
City of Sherman
P.O. Box 1106
Sherman, TX 75091-1106

**RE: Willow Street Water Replacement
Recommendation of Award**

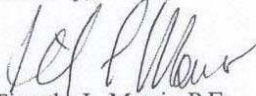
Dear Mark,

Bids were accepted on October 22, 2009 for the construction of the Willow Street Water Replacement project for the City of Sherman. The bids were in response to an Advertisement for Bids dated September 30, 2009, which was published in the Herald-Democrat on October 4 & 11, 2009. Individual bidding notices were mailed to fourteen (14) contractors. During the bidding period, nine (9) prospective bidders and two (2) planrooms picked up plans and specifications. A total of seven (7) bids were received. Enclosed is a tabulation of those bids.

The lowest bid was submitted by Jerry Paul Higgins, Ltd., of Sherman, TX. The total shown on their Bid was \$49,528.44. However, corrections to the totaled bid items on the bid tabulation show that their total bid should be \$48,939.69. This contractor has successfully completed construction projects for the City of Sherman. I recommend that you award this project for the Willow Street Water Replacement to Jerry Paul Higgins, Ltd.

I have enclosed a Notice of Award for your use in so awarding the project. If you will sign, date, and return the notice to me, we will forward it to the contractor along with contracts for execution.

Sincerely,



Timothy L. Morris, P.E.

Enclosures

c: Jerry Paul Higgins, Ltd.
file

BID OPENING: OCTOBER 22, 2009 AT 10:00 AM

I certify that the foregoing is a true and correct tabulation of all bids received in response to Advertisement for Bids dated 9/30/09.

Timothy L. Morris, P.E. / Morris Engineers

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20____, by and between the City of **Sherman** hereinafter called "OWNER" and _____, doing business as _____ (an individual,) or (partnership,) or (a corporation) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of **Willow Street Water Replacement**.

2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the PROJECT described herein.

3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within ten (10) calendar days after a date specified by the NOTICE TO PROCEED and will complete the same within ninety (90) calendar days following the specified date unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.

4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$_____ or as shown in the BID schedule.

5. The term "CONTRACT DOCUMENTS" means and includes the following:

- (A) Advertisement for BIDS
- (B) Information for BIDDERS
- (C) BID
- (D) BID BOND
- (E) Agreement
- (F) General Conditions
- (G) Payment BOND
- (H) Performance BOND
- (I) NOTICE OF AWARD
- (J) NOTICE TO PROCEED
- (K) CHANGE ORDER
- (L) SPECIFICATIONS prepared by Morris Engineers dated May 2009.
- (M) DRAWINGS prepared by Morris Engineers, numbered 1 of 2 through 2 of 2, and

dated May 2009.
(N) Special Conditions
(O) ADDENDA:
No. _____, dated _____, 20____
No. _____, dated _____, 20____

6. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions such amounts as required by the CONTRACT DOCUMENTS.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in three (3) each of which shall be deemed an original on the date first above written.

[SEAL]

ATTEST: _____

Name _____

(Please Type)

Title _____

[SEAL]

ATTEST: _____

Name _____

(Please Type)

Title _____

OWNER: City of Sherman

BY: _____

Name: _____

(Please Type)

Title: _____

CONTRACTOR: _____

BY: _____

Name: _____

(Please Type)

Address: _____

PROJECT YEAR: 2008-2009

PROJECT NAME:

Willow Street Water Replacement

DESCRIPTION:

Replace 800' of 6" water main along Willow Street from Mulberry Street north to Pacific Street.

ESTIMATED COST:

\$95,000

ESTIMATED O&M COST:

Not Applicable

PROPOSED FINANCING:

Utility Improvement Fund

PROJECT NECESSITY:

Main is badly deteriorated causing frequent service interruptions and costly repairs. Current line is capped due to breaks near the railroad tracks restricting flows in the area.

DEPARTMENT/DIRECTOR:

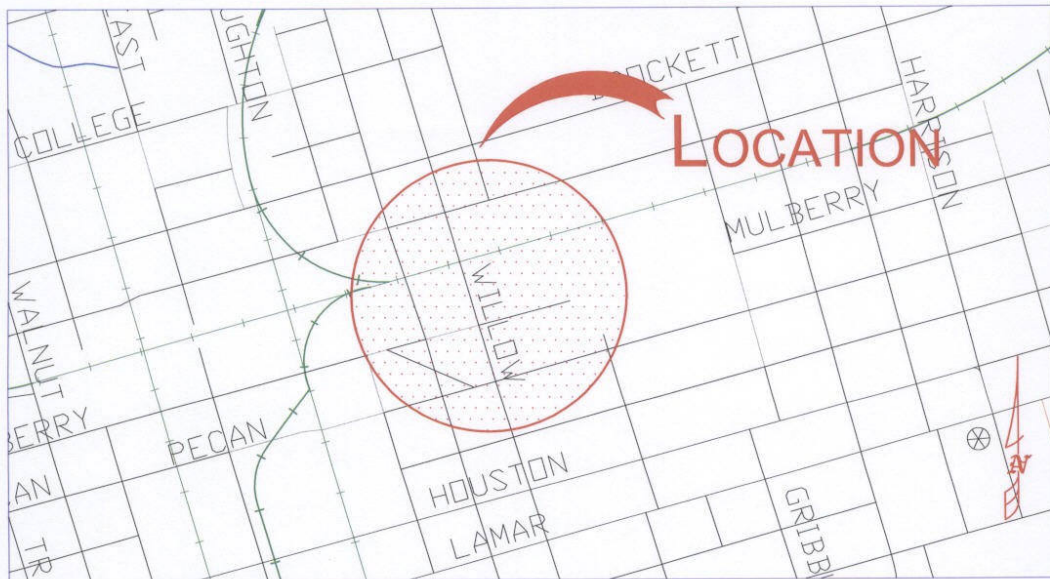
Utility and Engineering Services, Mark Gibson

PROPOSED START DATE:

March, 2009

PROPOSED END DATE:

July, 2009





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.1

OTHER BUSINESS

Receive Update from Public Works Director Jeff Miller on City Street Projects and Initiatives

Issue

Receive report from the Public Works Director, Jeff Miller

Background

Mr. Miller will provide the City Council with an update on street maintenance activities and recent street construction projects. There will also be discussion about a possible change in a street priority designation for the Thoroughfare Enhancement Program, whereby work on Center Street would be eliminated in lieu of rebuilding a section of Loy Lake Road, from Highway 82 to Pecan Grove Road.

Origination

Department of Public Works

Financial Consideration

None

Staff Recommendation

Change a priority street in the Thoroughfare Enhancement Program in favor of completing a section of Loy Lake Road and eliminating work on Center Street.

Alternatives

Those as may be recommended by the City Council

Attachments

None

Prepared by:
Jeff Miller, Public Works Director

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.2

OTHER BUSINESS

Consider Cancellation of the First Regular Meeting in January, 2010

Issue

The first regular meeting of the City Council in 2010 falls on January 4th, the Monday following the New Year's holiday.

Background

The first regular meeting in January, which occurs on Monday, January 4th, falls immediately after the New Year's holiday. The holiday season understandably causes a rather limited staff and, in this case, disrupts the agenda preparation process for the January 4th Council meeting. Canceling the January 4th City Council meeting would not cause an unnecessary obstacle to efficient operations due to the typical slowdown in City business. In addition, by canceling this Council meeting, we will not need to worry about having a quorum to conduct business.

Origination

City Manager

Financial Consideration

No financial impact to be considered.

Staff Recommendation

It is recommended that the City Council cancel the January 4th regular meeting.

Alternatives

The Council could opt to hold the January 4th Council meeting.

Attachments

Council Calendars for 2009 and 2010

Prepared and Approved by:
George Olson, City Manager

2009
CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
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APRIL

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MAY

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JUNE

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JULY

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AUGUST

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SEPTEMBER

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OCTOBER

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NOVEMBER

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DECEMBER

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27	28	29	30	31		

01/19/09 - M.L.K., Jr. Birthday / Regular Council Meeting
01/26/09 - 12 Noon Joint Meeting w/P&Z Commission re: Comprehensive Plan
02/11/09 - 12 Noon Called Meeting to Interview City Attorney Candidates
02/16/09 - Washington's Birthday / Regular Council Meeting
02/18/09 - 1PM Called Meeting to Interview City Attorney Candidates
02/25/09 - 12 Noon Joint Meeting w/P&Z Commission re: Comprehensive Plan
03/06/09 - Proposed 12 Noon Called Meeting with Chamber Board
04/29/09 - 12 Noon Budget Planning Meeting in Council Chambers
05/09/09 - City Council Election
05/12/09 - 12 Noon Called Meeting to Canvass Election Results

06/17-18/09 - Budget Workshop in Council Chambers
06/18/09 - Budget Workshop/Long Range Planning Workshop in Council Chambers
06/19/09 - Long Range Planning Workshop
09/07/09 - Labor Day / Called Council Meeting on 09/08/09
09/17/09 - 12 Noon Joint Meeting with SEDCO Board

2010
CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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JULY

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FEBRUARY

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AUGUST

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22	23	24	25	26	27	28
29	30	31				

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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19	20	21	22	23	24	25
26	27	28	29	30		

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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24	25	26	27	28	29	30
31						

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

01/18/10 - M.L.K., Jr. Birthday / Regular Council Meeting
 02/15/10 - Washington's Birthday / Regular Council Meeting
 07/05/10 - Independence Day - Called Council Meeting on 07/06/10
 09/06/10 - Labor Day / Called Council Meeting on 09/07/10



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.3

*** OTHER BUSINESS**

Approve Quarterly Investment Reports for Period ending September 30, 2009

Issue

To approve the Investment Reports for the quarterly period ending September 30, 2009

Background

These reports are being presented in accordance with the state law that requires at least quarterly presentation to the Council. The report was given to the Investment Committee prior to submittal to the Council. Three portfolios will be addressed: Operating Portfolio, Debt Proceeds Portfolio, and Tax Note Debt Proceeds Portfolio.

As of September 30, 2009, all portfolios were in compliance with applicable state laws and the City's internal Investment Policy. The Operating Portfolio had a book value of about \$19.9 million, down about \$3 million from three months ago, due to seasonally slow property tax collections during the period. This portfolio is appropriately liquid; and its weighted-average maturity decreased to about 70 days, from about 94 days last period, because of maturing securities during the quarter. The portfolio yield of 0.71% for the quarter is higher than the benchmark yield of 0.17%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.

The Debt Proceeds Portfolio balance increased about \$2.3 million due to the net effect of bond issuance proceeds received and construction during the period. The portfolio remains adequately liquid, with all of the funds available within one day. Its yield of 0.3% for the quarter is higher than the benchmark yield of 0.17%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.

The Tax Note Debt Proceeds Portfolio balance as of September 30, 2009 was \$0, because the remaining funds that existed at June 30 were spent during the quarter on street related projects. This portfolio, which was used to invest funds received from issuance of debt related to the 1/8 cent street sales tax, will no longer be used in the future since those funds have been fully spent.

Origination

Finance

Financial Consideration

None

Staff Recommendation

It is recommended that the Council accept the report as presented.

Alternatives

The Council could offer suggestions for improvement or could request more frequent reporting.

Attachments

Memo to Investment Committee; Investment reports and related schedules

Prepared by:

Robby Hefton, Assistant City Manager/CFO

Approved by:

George Olson, City Manager

memorandum

DATE: Wednesday, October 28, 2009

TO: The Investment Committee
Council Members Willie Steele and Robert G. Softly
City Manager George Olson

FROM: Robby Hefton, Assistant City Manager/CFO 

SUBJECT: Investment Reports for Quarter ended September 30, 2009

Enclosed is a copy of the quarterly investment reports for the quarter ended September 30, 2009. Reports are included for three major portfolios: 1) operating portfolio, 2) CO Debt portfolio, and 3) Tax Note Debt Proceeds portfolio. Each of these reports reflects that, as of that date, the City was in compliance with all applicable state laws as well as the City's Investment Policy.

The total operating portfolio balance of about \$19.9 million had a weighted-average maturity of about 70 days, down from 94 days last quarter due to maturing investments during the period. The portfolio yield of 0.71% was higher than our benchmark 180-day T-Bill yield, which was 0.17%; and book value closely approximates market value. New for this report are several graphs which depict the portfolio composition by security type, by length of maturity, and a graph showing income by security type. Also, an additional schedule was added showing interest earnings during the period.

As of September 30, 2009, all of the CO Debt Proceeds was invested in pooled investments, together yielding 0.3%, higher than the benchmark 180-day T-Bill rate of 0.17%. The Debt Proceeds portfolio balance increased by about \$2.3 million during the quarter because of the net effect of debt issuance proceeds received of \$3.5 million and payments related to capital construction and infrastructure acquisition of \$1.2 million.

The Tax Note Debt Proceeds portfolio balance was \$0 as of September 30, 2009. This represented a decrease of \$1.4 million from June 30, 2009 balances. These funds were used to pay street improvements financed through the additional 1/8 cent street sales tax. Since these funds are gone, this will be the final report for this portfolio.

These investment reports will be on the November 2, 2009 City Council Agenda for their review and approval. Please call me if you have any questions about this item.

RH:pc

attachments (as stated above)



CITY OF SHERMAN, TX
Investment Report Summary
September 30, 2009

This report complies with the requirements of the public funds investment law and covers all the funds of the City of Sherman that are subject to that law. At September 30, 2009 investment book value was about \$19.9 million and had decreased by approximately \$3.0 million from three months prior. Decreases in investment balances are customary during this quarter each year due to slowing property tax collections. The City's investment portfolio includes interest-bearing demand deposits, bank time deposits, investment pools that strive to maintain a 100% net asset value, a U.S. Treasury security, and U.S. Agency securities.

The City was in compliance with all provisions of the investment policy and the Public Funds Investment Act as of September 30, 2009. The weighted-average maturity of the portfolio was about 70 days at September 30, 2009 compared to about 91 days at June 30, 2009. This decrease in weighted-average maturity occurred because of investment maturities during the period.

The market value of the portfolio was 100.10% of book value as of September 30, 2009. The portfolio yield of 0.71% at September 30, 2009 was higher than the benchmark yield on the 180-day T-Bill, which was 0.17%.

Three securities and a certificate of deposit matured during the quarter with a par value totaling about \$4.1 million. One certificate of deposit was purchased during the quarter with a par value of \$1.0 million. Accrued interest of about \$14,000 was added to time deposit principal. All other transactions were routine.

The following schedules are also a part of this investment report.



Robby Hefton, Assistant City Manager/CFO
and City of Sherman Investment Officer



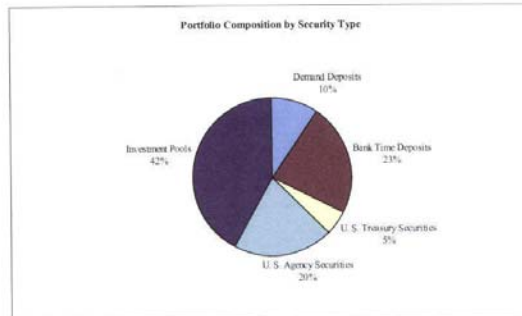
Mary Lawrence, Controller and City of
Sherman Investment Officer

CITY OF SHERMAN, TX
Detailed Investment Report
As of September 30, 2009

Investment	Par	VALUES - June 30, 2009		Book Increase/(Decrease)		Market Increase/(Decrease)		VALUES - September 30, 2009	
		Book	Market	Purchases/ (Withdrawals)	Accruals/ Amortizations	Purchases & (Withdrawals)	Change In Market Price	Book	Market
DEMAND DEPOSITS									
Depository Bank		\$ 1,231,336	\$ 1,231,336	\$ 215,939	\$ -	\$ 215,939	\$ -	\$ 1,447,275	\$ 1,447,275
Depository Bank-TIF Funds		647,416	647,416	(164,636)	-	(164,636)	-	482,780	482,780
		1,878,752	1,878,752	51,303	-	51,303	-	1,930,055	1,930,055
BANK TIME DEPOSITS									
Certificate of Deposit 1.5% 8/19/09		1,003,781	1,003,781	(1,003,781)	-	(1,003,781)	-	-	-
Certificate of Deposit 1.5% 10/29/09		1,003,740	1,003,740	3,781	-	3,781	-	1,007,521	1,007,521
Certificate of Deposit 1.65% 1/29/10		1,004,114	1,004,114	4,176	-	4,176	-	1,008,290	1,008,290
Certificate of Deposit 1.51% 4/29/2010		1,500,000	1,500,000	5,610	-	5,610	-	1,505,610	1,505,610
Certificate of Deposit 1.5% 7/19/2010		-	-	1,000,000	-	1,000,000	-	1,000,000	1,000,000
		4,511,635	4,511,635	9,786	-	9,786	-	4,521,421	4,521,421
INVESTMENT POOLS									
Tex-Pool		3,540,918	3,542,901	-	2,856	-	2,361	3,543,774	3,545,262
TexStar		4,863,831	4,866,385	-	3,663	-	3,149	4,867,494	4,869,533
		8,404,749	8,409,285	-	6,519	-	5,510	8,411,268	8,414,796
SECURITY INVESTMENTS									
FNMA 5.125% 7/13/09	1,000,000	1,000,763	1,001,560	(1,000,000)	(763)	(1,000,000)	(1,560)	-	-
FHLB 5.25% 8/5/09	1,000,000	1,004,772	1,004,690	(1,000,000)	(4,772)	(1,000,000)	(4,690)	-	-
FHLMC 6.625% 9/15/09	1,050,000	1,063,577	1,063,787	(1,050,000)	(13,577)	(1,050,000)	(13,787)	-	-
Treasury Note 4.625% 11/15/09	1,000,000	1,015,836	1,015,940	-	(10,557)	-	(10,470)	1,005,279	1,005,470
FHLB Discount Note 0.7% 12/16/09	1,000,000	993,952	998,700	-	180	-	1,200	994,132	999,900
FHLB Discount Note 0.87% 1/26/10	1,000,000	999,716	1,002,500	-	126	-	(620)	999,842	1,001,880
FHLB 2.75% 3/12/10	1,000,000	1,011,610	1,015,940	-	(4,172)	-	(5,000)	1,007,438	1,010,940
FHLB 2.375% 4/30/10	1,000,000	1,011,062	1,015,630	-	(3,337)	-	(3,750)	1,007,725	1,011,880
		8,101,288	8,118,747	(3,050,000)	(36,872)	(3,050,000)	(38,677)	5,014,416	5,030,070
		\$22,896,424	\$22,918,419	(\$2,988,911)	(\$30,353)	(\$2,988,911)	(\$33,167)	\$19,877,160	\$19,896,342

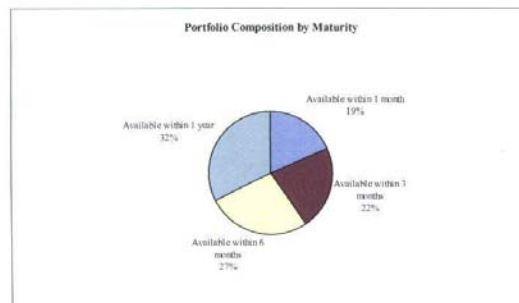
CITY OF SHERMAN, TX
Comparison of Portfolio to Policy Limits
As of September 30, 2009

<u>LIMITS ON TYPES OF SECURITIES</u>	<u>Target Investment Level</u>	<u>Portfolio Cap</u>	<u>Actual Percentage of Portfolio</u>	<u>% Variance Policy Limits</u>
Demand Deposits	100%	100%	9.71%	90.29%
Bank Time Deposits	25%	30%	22.75%	7.25%
U. S. Treasury Securities	80%	85%	5.06%	79.94%
U. S. Agency Securities	45%	50%	20.17%	29.83%
Investment Pools	45%	50%	42.32%	7.68%



<u>LIMITS ON MATURITIES</u>	<u>Minimum Allowable Percentage of Portfolio</u>	<u>Actual Percentage of Portfolio</u>	<u>% Variance Policy Limits</u>
Available within 1 month	25%	57.09%	32.09%
Available within 3 months	33%	67.15%	34.15%
Available within 6 months	45%	82.32%	37.32%
Available within 1 year	60%	100.00%	40.00%
Available within 2 years	70%	100.00%	30.00%
Available within 3 years	80%	100.00%	20.00%
Available within 4 years	90%	100.00%	10.00%
Available within 5 years	100%	100.00%	0.00%

	<u>Maximum Allowable</u>	<u>Actual Average Maturity</u>	<u>Policy Limit Days Available</u>
Weighted Average Days to Maturity	500	69.83	430.17



CITY OF SHERMAN, TX**Calculation of Weighted Average Maturity and Yield****As of September 30, 2009**

	<u>Market Value</u>	<u>Book Value</u>	<u># of Days To Maturity</u>	<u>Original Yield to Maturity</u>	<u>Percent of Portfolio</u>
Demand Deposits					
Depository Bank	\$1,447,275	\$1,447,275	0	0.15%	7.28%
Depository Bank -TIF Funds	<u>482,780</u>	<u>482,780</u>	0	0.15%	<u>2.43%</u>
	1,930,055	1,930,055			9.71%
Bank Time Deposits					
Certificate of Deposit 1.5% 10/29/09	1,007,521	1,007,521	29	1.51%	5.07%
Certificate of Deposit 1.65% 1/29/10	1,008,290	1,008,290	121	1.66%	5.07%
Certificate of Deposit 1.51% 4/29/10	1,505,610	1,505,610	211	1.52%	7.57%
Certificate of Deposit 1.51% 7/19/2010	<u>1,000,000</u>	<u>1,000,000</u>	292	1.51%	<u>5.03%</u>
	4,521,421	4,521,421			22.75%
Investment Pools					
Tex-Pool	3,545,262	3,543,774	1	0.32%	17.83%
TexStar	<u>4,869,533</u>	<u>4,867,494</u>	1	0.30%	<u>24.49%</u>
	8,414,796	8,411,268			42.32%
Federal Securities and Notes					
Treasury Note 4.625% 11/15/09	1,005,470	1,005,279	46	0.42%	5.06%
FHLB Discount Note 0.7% 12/16/09	999,900	994,132	77	0.71%	5.00%
FHLB Discount Note 0.87% 1/26/10	1,001,880	999,842	118	0.92%	5.03%
FHLB 2.75% 3/12/10	1,010,940	1,007,438	163	1.09%	5.07%
FHLB 2.375% 4/30/10	<u>1,011,880</u>	<u>1,007,725</u>	212	1.05%	<u>5.07%</u>
	5,030,070	5,014,416			25.23%
TOTAL	<u>\$19,896,342</u>	<u>\$19,877,160</u>			<u>100.00%</u>
Weighted Average Maturity					
Weighted Average Days to Maturity				69.83	
Weighted Average Days to Maturity-Operating (ex.depository bank-checking)				77.33	
Weighted Average Yield					
Weighted Average Yield				0.71%	
Weighted Average Yield - Operating (excluding depository bank-checking)				0.77%	
Yield to Maturity of 180 day T-Bill at September 30, 2009				0.17%	

CITY OF SHERMAN, TX
Market Value Analysis
As of September 30, 2009

CHANGES IN MARKET VALUE:

BEGINNING VALUE - June 30, 2009		\$22,918,419
<u>INVESTMENT ACTIVITY:</u>		
Purchases	1,013,567	
Maturities	(4,053,781)	
Net Changes in Market Price	<u>(38,677)</u>	
		(3,078,891)
Bank and Pooled Investment Deposits/(Withdrawals) - Net		<u>56,813</u>
ENDING VALUE - September 30, 2009		<u><u>\$19,896,342</u></u>

COMPARISON OF BOOK VALUE TO MARKET VALUE:
--

<u>BEGINNING VALUE - June 30, 2009</u>		
Market Value	\$22,918,419	
Book Value	\$22,896,424	
Ratio of Market Value to Book Value		100.10%
 <u>ENDING VALUE - September 30, 2009</u>		
Market Value	\$19,896,342	
Book Value	\$19,877,160	
Ratio of Market Value to Book Value		100.10%

CITY OF SHERMAN, TX
Quarter to Date Investment Transaction Report
As of September 30, 2009

PURCHASES

<u>Date</u>	<u>Type</u>	<u>Principal Purchase Price</u>	<u>Par Value</u>	<u>Yield/Int. Discount Rate</u>	<u>Maturity Date</u>
08/19/2009	CD 1.50%	\$ 1,000,000	\$ 1,000,000	1.51%	07/19/2010
07/29/2009	CD 1.50%	3,781	3,781	1.51%	10/29/2009
07/29/2009	CD 1.65%	4,176	4,176	1.66%	01/29/2010
07/29/2009	CD 1.51%	5,610	5,610	1.52%	04/29/2010
Total Purchases		\$1,013,567	\$1,013,567		

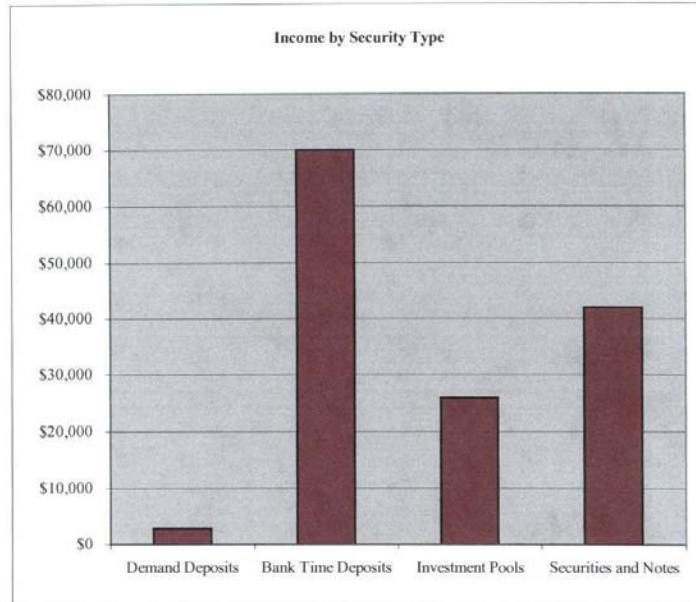
MATURITIES

<u>Date</u>	<u>Type</u>	<u>Par Value</u>	<u>Yield/Int. Discount Rate</u>
08/19/2009	CD 1.5%	\$ 1,003,781	1.51%
07/13/2009	FNMA 5.125%	1,000,000	2.94%
08/05/2009	FHLB 5.25%	1,000,000	0.42%
09/15/2009	FHLMC 6.625%	1,050,000	0.49%
Total Maturities		\$4,053,781	

CITY OF SHERMAN, TX
Interest Receivable and Earned Interest Income
September 30, 2009

Investment	Original Yield	Interest Receivable June 30, 2009	Purchased Interest	Interest Received	Coupon Interest	Interest Receivable September 30, 2009	Amortization/ Accretion	Earned Interest Income
DEMAND DEPOSITS								
Depository Bank	0.15%	\$ -	\$ -	\$ 1,161	1,161	\$ -	\$ -	\$ 1,161
Depository Bank-TIF Funds	0.15%	-	-	235	235	-	-	235
		-	-	1,396	1,396	-	-	1,396
BANK TIME DEPOSITS								
Certificate of Deposit 1.5% 8/19/09	1.51%	454	-	2,516	2,062	-	-	2,062
Certificate of Deposit 1.5% 10/29/09	1.51%	2,507	-	3,781	3,781	2,507	-	3,781
Certificate of Deposit 1.65% 1/29/10	1.66%	2,758	-	4,176	4,158	2,740	-	4,158
Certificate of Deposit 1.51% 5/11/2010	1.52%	3,847	-	5,610	5,709	3,946	-	5,709
Certificate of Deposit 1.5% 7/19/2010	1.51%	-	-	-	1,726	1,726	-	1,726
		9,566	-	16,083	17,436	10,919	-	17,436
INVESTMENT POOLS								
Tex-Pool	0.32%	-	-	2,856	2,856	-	-	2,856
TexStar	0.30%	-	-	3,663	3,663	-	-	3,663
		-	-	6,519	6,519	-	-	6,519
SECURITY INVESTMENTS								
FNMA 5.125% 7/13/09	2.94%	23,895	-	25,625	1,730	-	(763)	967
FHLB 5.25% 8/5/09	0.42%	21,154	-	26,250	5,096	-	(4,772)	324
FHLMC 6.625% 9/15/09	0.49%	20,356	-	34,781	14,425	-	(13,577)	848
Treasury Note 4.625% 11/15/09	0.42%	5,966	-	-	11,563	17,529	(10,557)	1,006
FHLB Discount Note 0.7% 12/16/09	0.71%	3,030	-	-	1,764	4,794	181	1,945
FHLB Discount Note 0.87% 1/26/10	0.92%	3,695	-	4,350	2,193	1,538	126	2,319
FHLB 2.75% 3/12/10	1.09%	8,114	-	13,750	6,932	1,296	(4,172)	2,760
FHLB 2.375% 4/30/10	1.05%	3,841	-	-	5,986	9,827	(3,337)	2,649
		90,051	-	104,756	49,689	34,984	(36,871)	12,818
		\$99,617	\$0	\$128,754	\$75,040	\$45,903	(\$36,871)	\$38,169

CITY OF SHERMAN, TX
Income by Security Type
September 30, 2009



**CITY OF SHERMAN, TX
CO Debt Proceeds
Investment Report Summary
September 30, 2009**

This report complies with the requirements of the public funds investment law and covers the Certificate of Obligation Debt Proceeds of the City of Sherman that is subject to that law. At September 30, 2009, investment book value was about \$8.7 million and had increased by approximately \$2.3 million from the previous quarter due to the net effect of \$5.0 million of debt proceeds and payments made for construction projects. The City's investment portfolio includes interest-bearing demand deposits and investment pools that strive to maintain a 100% net asset value.

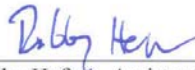
The City was in compliance with all provisions of the investment policy and the Public Funds Investment Act as of September 30, 2009. The weighted-average maturity of the portfolio was 1 day at September 30, 2009.

The market value of the portfolio was 100.04% of book value as of September 30 2009.

The portfolio yield of 0.30% at September 30, 2009 was higher than the benchmark yield on the 180-day T-Bill, which was 0.17%.

All other transactions were routine.

The following schedules are also a part of this investment report.



Robby Hefton, Assistant City Manager/CFO
and City of Sherman Investment Officer



Mary Lawrence, Controller and City of
Sherman Investment Officer

CITY OF SHERMAN, TX
CO Debt Proceeds
Detailed Investment Report - Debt Proceeds
As of September 30, 2009

Investment	VALUES - June 30, 2009		Book Increase/(Decrease)		Market Increase/(Decrease)		VALUES - September 30, 2009	
	Book	Market	Purchases/ (Withdrawals)	Accruals/ Amortizations	Purchases & (Withdrawals)	Change In Market Price	Book	Market
DEMAND DEPOSITS								
Depository Bank-TIF	\$ 446,629	\$ 446,629	\$ (27,209)	\$ -	\$ (27,209)	\$ -	\$ 419,420	\$ 419,420
INVESTMENT POOLS								
Tex-Pool-2009 Bonds	3,624,428	3,626,458	-	2,923	-	2,417	3,627,351	3,628,874
TexStar-2008 Bonds	2,339,090	2,340,318	(1,153,414)	1,554	(1,153,414)	823	1,187,230	1,187,727
TexStar-2009A Bonds	-	-	3,466,252	20	3,466,252	1,472	3,466,272	3,467,724
	5,963,518	5,966,776	2,312,838	4,497	2,312,838	4,713	8,280,853	8,284,326
	\$6,410,147	\$6,413,405	\$2,285,629	\$4,497	\$2,285,629	\$4,713	\$8,700,273	\$8,703,746

CITY OF SHERMAN, TX
CO Debt Proceeds
Comparison of Portfolio to Policy Limits
As of September 30, 2009

<u>LIMITS ON MATURITIES</u>	<u>Minimum Allowable Percentage of Portfolio</u>	<u>Actual Percentage of Portfolio</u>	<u>% Variance Policy Limits</u>
Cash Demands within 1 month	10%	100.00%	90.00%
Cash Demands within 3 months	14%	100.00%	85.96%
Cash Demands within 6 months	40%	100.00%	59.70%
Cash Demands within 1 year	77%	100.00%	23.34%
Cash Demands within 2 years	100%	100.00%	0.00%

	<u>Maximum Allowable</u>	<u>Actual Average Maturity</u>	<u>Policy Limit Days Available</u>
<u>Weighted Average Days to Maturity</u>	500	1.00	499.00

CITY OF SHERMAN, TX
CO Debt Proceeds
Calculation of Weighted Average Maturity and Yield
As of September 30, 2009

Demand Deposits					
	<u>Market Value</u>	<u>Book Value</u>	<u># of Days To Maturity</u>	<u>Original Yield to Maturity</u>	<u>Percent of Portfolio</u>
Depository Bank	419,420	419,420	0	0.15%	4.82%
Investment Pools					
Tex-Pool-2009 Bonds	3,628,874	3,627,351	1	0.32%	41.69%
Tex-Star-2008 Bonds	1,187,727	1,187,230	1	0.30%	13.65%
Tex-Star-2009A Bonds	3,467,724	3,466,272	1	0.30%	39.84%
	8,284,326	8,280,853			95.18%
TOTAL	\$ 8,703,746	\$ 8,700,273			100.00%

Weighted Average Maturity	
Weighted Average Days to Maturity	1
Weighted Average Days to Maturity-Operating (ex.depository bank)	1

Weighted Average Yield	
Weighted Average Yield	0.30%
Weighted Average Yield-Operating (excluding depository bank)	0.31%
Yield to Maturity of 180 day T-Bill at June 30, 2009	0.17%

CITY OF SHERMAN, TX
CO Debt Proceeds
Market Value Analysis
As of September 30, 2009

CHANGES IN MARKET VALUE:

BEGINNING VALUE - June 30, 2009	\$6,413,405
<u>INVESTMENT ACTIVITY:</u>	
Purchases	-
Maturities	-
Net Changes in Market Price	-
Bank and Pooled Investment Deposits/(Withdrawals) - Net	\$2,290,341
ENDING VALUE - September 30, 2009	<u><u>\$8,703,746</u></u>

COMPARISON OF BOOK VALUE TO MARKET VALUE:

<u>BEGINNING VALUE - June 30, 2009</u>		
Market Value	\$6,413,405	
Book Value	\$6,410,147	
Ratio of Market Value to Book Value		100.05%
 <u>ENDING VALUE - September 30, 2009</u>		
Market Value	\$8,703,746	
Book Value	\$8,700,273	
Ratio of Market Value to Book Value		100.04%

CITY OF SHERMAN, TX
CO Debt Proceeds
Quarter To Date Investment Transaction Report
As of September 30, 2009

PURCHASES

There were no purchases during the period.

MATURITIES

There were no maturities during the period.

CITY OF SHERMAN, TX
CO Debt Proceeds
Interest Receivable and Earned Interest Income
As of September 30, 2009

Investment	Original Yield	Interest Receivable June 30, 2009	Purchased Interest	Interest Received	Coupon Interest	Interest Receivable September 30, 2009	Amortization/ Accretion	Earned Interest Income
DEMAND DEPOSITS								
Depository Bank-TIF	0.15%	\$ -	\$ -	\$ 171	\$ 171	\$ -	\$ -	\$ 171
INVESTMENT POOLS								
Tex-Pool - 2009 Bonds		-	-	2,923	2,923	-	-	2,923
TexStar - 2008 Bonds		-	-	1,554	1,554	-	-	1,554
TexStar - 2009A Bonds				20	20	-	-	20
		-	-	4,497	4,497	-	-	4,497
		\$ -	\$ -	\$4,668	\$4,668	\$ -	\$ -	\$4,668

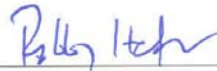
CITY OF SHERMAN, TX
Tax Note Debt Proceeds
Investment Report Summary
September 30, 2009

This report complies with the requirements of the public funds investment law and covers the Tax Note Debt Proceeds of the City of Sherman that is subject to that law. At September 30, 2009, the investment book value was zero due to disbursements for street improvements.

The City was in compliance with all provisions of the investment policy and the Public Funds Investment Act as of September 30, 2009.

All other transactions were routine.

The following schedules are also a part of this investment report.



Robby Hefton, Assistant City Manager/CFO
and City of Sherman Investment Officer



Mary Lawrence, Controller and City of
Sherman Investment Officer

CITY OF SHERMAN, TX
Tax Note Debt Proceeds
Detailed Investment Report - Debt Proceeds
As of September 30, 2009

Investment	VALUES - June 30, 2009		Book Increase/(Decrease)		Market Increase/(Decrease)		VALUES - September 30, 2009	
	Book	Market	Purchases/ (Withdrawals)	Accruals/ Amortizations	Purchases & (Withdrawals)	Change In Market Price	Book	Market
TEX-STAR	\$ 1,365,865	\$ 1,366,582	\$ (1,366,026)	\$ 161	\$ (1,366,026)	\$ 556	\$ -	\$ -

CITY OF SHERMAN, TX
Tax Note Debt Proceeds
Comparison of Portfolio to Policy Limits
As of September 30, 2009

<u>LIMITS ON MATURITIES</u>	<u>Minimum Allowable Percentage of Portfolio</u>	<u>Actual Percentage of Portfolio</u>	<u>% Variance Policy Limits</u>
Cash Demands within 1 month	10%	100.00%	90.00%
Cash Demands within 3 months	14%	100.00%	85.96%
Cash Demands within 6 months	40%	100.00%	59.70%
Cash Demands within 1 year	77%	100.00%	23.34%
Cash Demands within 2 years	100%	100.00%	0.00%

	<u>Maximum Allowable</u>	<u>Actual Average Maturity</u>	<u>Policy Limit Days Available</u>
<u>Weighted Average Days to Maturity</u>	500	0.00	500.00

CITY OF SHERMAN, TX
Tax Note Debt Proceeds
Calculation of Weighted Average Maturity and Yield
As of September 30, 2009

Investment Pool

	<u>Market Value</u>	<u>Book Value</u>	<u># of Days To Maturity</u>	<u>Original Yield to Maturity</u>	<u>Percent of Portfolio</u>
Tex-Star	\$ -	\$ -	1	0.00%	100.00%

Weighted Average Maturity

Weighted Average Days to Maturity	0
-----------------------------------	---

Weighted Average Yield

Weighted Average Yield	0.00%
Yield to Maturity of 180 day T-Bill at September 30, 2009	0.17%

CITY OF SHERMAN, TX
Tax Note Debt Proceeds
Market Value Analysis
As of September 30, 2009

CHANGES IN MARKET VALUE:

BEGINNING VALUE - June 30, 2009	\$1,366,582
<u>INVESTMENT ACTIVITY:</u>	
Purchases	-
Maturities	-
Net Changes in Market Price	-
Pooled Investment Deposits/(Withdrawals) - Net	(1,366,582)
ENDING VALUE - September 30, 2009	<u>\$0</u>

COMPARISON OF BOOK VALUE TO MARKET VALUE:

<u>BEGINNING VALUE - June 30, 2009</u>		
Market Value	\$1,366,582	
Book Value	\$1,365,865	
Ratio of Market Value to Book Value		100.05%
 <u>ENDING VALUE - September 30, 2009</u>		
Market Value	\$0	
Book Value	\$0	
Ratio of Market Value to Book Value		0%

CITY OF SHERMAN, TX
Tax Note Debt Proceeds
Quarter To Date Investment Transaction Report
As of September 30, 2009

PURCHASES

There were no purchases during the period.

MATURITIES

There were no maturities during the period.

CITY OF SHERMAN, TX
Tax Note Debt Proceeds
Interest Receivable and Earned Interest Income
As of September 30, 2009

Investment	Original Yield	Interest Receivable June 30, 2009	Purchased Interest	Interest Received	Coupon Interest	Interest Receivable September 30, 2009	Amortization/ Accretion	Earned Interest Income
TEX-STAR		\$ -	\$ -	\$ 161	\$ 161	\$ -	\$ -	\$ 161



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.4

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.5

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.6

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.7

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-2-2009

Subject: Agenda Item No. D.8

COUNCIL CALENDAR

2009
CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

01/19/09 - M.L.K., Jr. Birthday / Regular Council Meeting
01/26/09 - 12 Noon Joint Meeting w/P&Z Commission re: Comprehensive Plan
02/11/09 - 12 Noon Called Meeting to Interview City Attorney Candidates
02/16/09 - Washington's Birthday / Regular Council Meeting
02/18/09 - 1PM Called Meeting to Interview City Attorney Candidates
02/25/09 - 12 Noon Joint Meeting w/P&Z Commission re: Comprehensive Plan
03/06/09 - Proposed 12 Noon Called Meeting with Chamber Board
04/29/09 - 12 Noon Budget Planning Meeting in Council Chambers
05/09/09 - City Council Election
05/12/09 - 12 Noon Called Meeting to Canvass Election Results

06/17-18/09 - Budget Workshop in Council Chambers
06/18/09 - Budget Workshop/Long Range Planning Workshop in Council Chambers
06/19/09 - Long Range Planning Workshop
09/07/09 - Labor Day / Called Council Meeting on 09/08/09
09/17/09 - 12 Noon Joint Meeting with SEDCO Board