STATE OF TEXAS §

October 20, 2008

COUNTY OF GRAYSON §

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on October 20, 2008.

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

MEMBERS ABSENT: **NONE.**

CALL TO ORDER

CALL TO ORDER

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

Mayor Magers wished Pam Cloer, Assistant to the City Manager, a happy birthday.

APPROVE MINUTES

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of October 6, 2008. Deputy Mayor Wacker moved to approve the Minutes as presented; Second by Council Member Softly. All present voted AYE.
MOTION CARRIED.

PROCLAMATION

“CHAMBER OF COMMERCE WEEK” – OCTOBER 20-24, 2008

CHAMBER OF COMMERCE WEEK (OCT. 20-24, 2008)

Mayor Magers presented a proclamation to representatives of the Sherman Chamber of Commerce, Traci Carlson, President; Ruth Ann Rogers, Executive Administrator; and April Patterson, Membership Services Liaison; designating October 20 through 24, 2008 as “Chamber of Commerce Week” in the City of Sherman.

Ms. Carlson thanked the Mayor and City Council saying they looked forward to working with members of the City Council and the City staff. She also invited everyone to the Chamber Open House on Thursday, October 23, 2008 from 4 p.m. to 7 p.m.

“NATIONAL BUSINESS WOMEN’S WEEK” -- OCTOBER 20-24, 2008

NATIONAL BUSINESS WOMEN’S WEEK (OCT. 20-24, 2008)

Council Member Howeth presented a proclamation to Deana Patterson, B&PW President, and Laqueta Crow, B&PW Public Relations Chair, designating October 20 through 24, 2008 as “National Business Women’s Week.”

Ms. Patterson thanked the Mayor and City Council for recognizing the efforts of the Sherman B&PW.

**ORD 5568
GAS FRANCHISE
TO ENTERPRISE
PIPELINE**

FIRST READING, PUBLIC HEARING AND FIRST VOTE ON ORDINANCE NO. 5568

Mayor Magers called for the first reading, public hearing, and first vote on Ordinance 5568:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, GRANTING TO ENTERPRISE TEXAS PIPELINE L.L.C., A TEXAS LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE PURPOSE OF TRANSPORTING OF GAS THROUGH SAID MUNICIPALITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY; PROVIDING THAT IT SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED; PROVIDING FOR A MOST FAVORED NATIONS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Jim Andrews, agent for Enterprise Texas Pipeline, LLC, appeared to answer any questions from the City Council.

Enterprise Texas Pipeline is requesting permission to cross the City's property at various locations for the construction of a 36-inch natural gas pipeline. The only plans for crossing the City's rights-of-way relate to crossings at Farmington Road and South First Street.

The franchise ordinance provides for an annual regulation fee of $1,000 per crossing and a franchise fee of 5% of the quarterly gross revenues if Enterprise Texas Pipeline becomes a distribution line instead of a transmission line.

Mayor Magers confirmed that this was the pipeline that Panda Energy was considering using. Council Member Steele verified that the 5% fee would only be collected if the line is tapped into and gas is sold to a distribution company.

Mr. Andrews said the City could also benefit from the size of the natural gas pipeline and its availability in the Blalock Industrial Park and from ad valorem taxes.

No other citizens appeared before the City Council to discuss Ordinance 5568.

ACTION TAKEN.

> **Motion by Council Member Smith to approve the first reading of Ordinance No. 5568, as presented. Second by Deputy Mayor Wacker.**

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

Mr. Andrews said the City's Charter requires that the ordinance be read a second time, 30 days from now. Since there is only 28 days between now and the next regular Council Meeting, Mr. Andrews said they would have to wait until the December 1 meeting. He asked if the ordinance could be read on November 17 and made effective after the 30 days.

Peter Munson, Interim City Attorney, said the Charter requires that the second reading must take place 30 days or more after the first reading. Mayor Magers said the Council would consider a Called City Council Meeting since the issue is time sensitive.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

ORD 5569 DENY ONCOR ELECTRIC'S RATE INCREASE

Mayor Magers introduced Ordinance 5569 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, DENYING ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED INCREASES TO ITS ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; REQUIRING NOTICE OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5569.

ORD 5570 SPEED LIMIT ON HWY 82

Mayor Magers introduced Ordinance 5570 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A MAXIMUM RATE OF SPEED ON U.S. HIGHWAY 82 IN THE CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS, DURING THE TEXAS DEPARTMENT OF TRANSPORTATION'S CONSTRUCTION PROJECT PTF 2008 (247); FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5570.

CLOSE PUBLIC HEARING

The Ordinances were introduced and the Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5569

ORD 5569 DENY ONCOR ELECTRIC'S RATE INCREASE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, DENYING ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED INCREASES TO ITS ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; REQUIRING NOTICE OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE; PROVIDING FOR A REPEALER.

Ordinance 5570

ORD 5570 SPEED LIMIT ON HWY 82

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A MAXIMUM RATE OF SPEED ON U.S. HIGHWAY 82 IN THE CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS, DURING THE TEXAS DEPARTMENT OF TRANSPORTATION'S CONSTRUCTION PROJECT PTF 2008 (247); FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

Mayor Magers said the speed limit change is designed to slow traffic down at the Highway 289 construction site and is a temporary measure. After construction is complete, the ordinance will be repealed.

Council Member Adami verified that the speed will be reduced from 70 miles per hour to 60 miles per hour. The completion date is anticipated to be October 2009, for one year of construction.

ACTION TAKEN.

> **Motion by Council Member Steele to approve Ordinance Nos. 5569 and 5570, as presented. Second by Council Member Smith.**

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

CONSENT AGENDA

CONSENT AGENDA

The Council reviewed the Consent Agenda. Deputy Mayor Wacker moved to approve the Consent Agenda, as presented. Second by Council Member Adami. All present voted AYE.

RESOLUTIONS

RES 5281 PURCHASE OF ELECTRIC SERVICE

RESOLUTION NO. 5281 – AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; APPROVING

CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2009; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS BEGINNING JANUARY 1, 2009, THROUGH DECEMBER 31, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; APPROVING CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2009; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS BEGINNING JANUARY 1, 2009, THROUGH DECEMBER 31, 2013.
CONSENT AGENDA.

RES 5282 RESIDENTIAL TAX ABATEMENT (1508 S. MONTGOMERY)

RESOLUTION NO. 5282 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1508 SOUTH MONTGOMERY STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1508 SOUTH MONTGOMERY STREET.
CONSENT AGENDA.

RES 5283 RESIDENTIAL TAX ABATEMENT (1512 S. MONTGOMERY)

RESOLUTION NO. 5283 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1512 SOUTH MONTGOMERY STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1512 SOUTH MONTGOMERY STREET.
CONSENT AGENDA.

REQUEST TO ADVERTISE
LUELLA 3 TRINITY WELL REPAIRS

REQ TO ADVERTISE WATER WELL REPAIRS

The City Council approved the request to advertise for a bid to repair the Luella 3 Trinity water well, which has experienced a loss of production. Funds are available for well repairs in the Water Production budget.
CONSENT AGENDA.

CHANGE ORDER NO. 1
TRAVIS STREET WATER MAIN REPLACEMENT BETWEEN U.S. HIGHWAY 75 AND WASHINGTON STREET; $8,007.59, INCREASE

CHANGE ORDER TRAVIS STREET WATER MAIN REPLACEMENT

The City Council approved a change order for the Travis Street Water Main Replacement. The change order is a final reconciliatory change order to adjust the final project quantities for the Travis Street Water Main Replacement between U.S. Highway 75 and Washington Street. The change order results in an $8,007.59 increase in the contract amount, yielding a final contract price of $148,569.78. Capital Improvement Program funds are available to cover the change order.
CONSENT AGENDA.

PAYMENT APPROVAL
APPROVE PAYMENT TO A-S 71 SHERMAN-PHASE III, L.P., A TEXAS LIMITED PARTNERSHIP (NEWQUEST PROPERTIES), IN RELATION TO THE PURCHASE OF INFRASTRUCTURE AT THE SHERMAN TOWN CENTER

PAYMENT APPROVAL INFRASTRUCTURE PURCHASE AT SHERMAN TOWN CENTER

Robby Hefton, Assistant City Manager/CFO, explained that the payment is under a development agreement for Phase II of the Sherman Town Center, and includes J.C. Penney, Best Buy, and the infrastructure on the north side of the development.

The agreement was that if NewQuest Properties created at least $1.25 million in additional infrastructure and $5 million in taxable value, then the City will reimburse them for their infrastructure. They have actually created $20 million in additional taxable value. Therefore they have significantly exceeded their obligations.

Mr. Hefton said the payment will be made of excess cash that was generated because it has outperformed the projected revenues, and the issuance of debt in the Spring for the remainder of the payment.

ACTION TAKEN.

Motion by Council Member Adami to approve payment to A-S 71 Sherman – Phase III, L.P., in relation to the purchase of infrastructure at the Sherman Town Center, as presented. Second by Council Member Steele.

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

OTHER BUSINESS

SEEKING COUNCIL DIRECTION ON VARIOUS ZONING ISSUES

DIRECTION ON ZONING ISSUES

Mayor Magers asked Jason Sofey, Chairman of the Planning and Zoning Commission, to address the City Council concerning recommendations from Kendig Keast during the City's Comprehensive Plan process.

Several areas have been identified for potential modification of the City's zoning and development ordinances for immediate consideration by the City Council and the Planning and Zoning Commission.

Mayor Magers said one issue for consideration is the way property is considered under new annexations. Currently newly annexed property is brought in as "SF-1", single family residential, and they suggest bringing it in as "RA" or residential agriculture.

Mr. Sofey said another potential change is to expand the overlay district regulations to accommodate new commercial development in other areas, especially major thoroughfares such as Lamberth Road, Loy Lake Road, Travis Street, and Taylor Street. Standards could also be adopted in all commercial areas. These new standards would apply to new construction or a change of use.

Mayor Magers said the recommendation from the City Council would be for the Planning and Zoning Commission to study the suggestions and make a recommendation to the City Council. Mr. Sofey said the Planning and Zoning Commission will form a sub-committee to study the suggestions.

CITIZENS REQUESTS

CITIZENS REQUESTS

There were no citizen's requests.

MEDIA QUESTIONS

ENTERPRISE TEXAS PIPELINE CLARIFICATION

ENTERPRISE TEXAS PIPELINE CLARIFICATION

Kathy Williams, Herald Democrat Reporter, asked for clarification on the 5% fee on the Enterprise Texas Pipeline. If they can't distribute, why is the 5% in the franchise.

Mr. Andrews explained that if the line ever became a distribution line rather than a transmission line, then a franchise fee of 5% would need to be paid. If Panda Energy wants to use the natural gas, the owner of the gas in the lines will sell to a distribution company and they would sell to Panda Energy. The 5% franchise fee would then come from the distribution company not from Enterprise Texas Pipeline.

COUNCIL COMMENTS

HAPPY BIRTHDAY TO COUNCIL MEMBER WILLIE STEELE

HAPPY BIRTHDAY TO COUNCIL MEMBER WILLIE STEELE

Council Member Smith wished Council Member Willie Steele a happy birthday tomorrow. Other Council Members also wished him a happy birthday.

AUSTIN COLLEGE HOMECOMING

AUSTIN COLLEGE HOMECOMING

Mayor Magers reminded everyone that Austin College will be holding their homecoming this weekend.

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

EXECUTIVE SESSION

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

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

Council Member Steele asked if the Council would consider an appointment to the Planning and Zoning Commission without going into Executive Session.

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

PLANNING & ZONING COMMISSION

Mayor Magers said Sherman has been fortunate in the excellent leadership they have had on the Planning and Zoning Commission. He acknowledged past and present Chairmen, Kelly Bickerstaff, Willie Steele, and Jason Sofey. He also recognized the hard work of Scott Shadden, Director of Developmental Services.

ACTION TAKEN.

> **Motion by Council Member Steele to reappoint Jason Sofey, to the Planning and Zoning Commission for a term from November 8, 2008 to November 8, 2011. Second by Deputy Mayor Wacker.**

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

ADJOURNMENT

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:22 p.m.

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MAYOR

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CITY CLERK