STATE OF TEXAS §

October 6, 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 6, 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 Willie Steele.

APPROVE MINUTES

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of September 15, 2008 and the Called City Council Meeting (held jointly with the Sherman Economic Development Board of Directors) of September 18, 2008. Council Member Steele moved to approve the Minutes as presented; Second by Council Member Adami. All present voted AYE.
MOTION CARRIED.

SPECIAL RECOGNITION

RECOGNITION OF FREDDIE ORR, SR.'S SERVICE ON THE TEXOMA AREA PARATRANSIT BOARD OF DIRECTORS – OCTOBER 15, 1998 – SEPTEMBER 24, 2008

RECOGNITION OF FREDDIE ORR, SR. (TAPS BOARD)

Sheriff Keith Gary, a Member of the Texoma Area Paratransit (TAPS) Board of Directors, presented a plaque to Freddie Orr, Sr. in appreciation for his 10 years of service on the Board. During his term, Mr. Orr also served as Secretary/ Treasurer and as Chairman

Mr. Orr thanked the Texoma Area Paratransit Board and the City Council for the opportunity to serve on the Board. He added that TAPS does a wonderful job in the community and he urged the Council and citizens to support TAPS.

PROCLAMATION

"DOMESTIC VIOLENCE AWARENESS MONTH" – OCTOBER 2008

DOMESTIC VIOLENCE AWARENESS MONTH (OCT. 2008)

Deputy Mayor Wacker presented a proclamation to Martha Rhynes, Women's Crisis Center Outreach Coordinator, designating October 2008 as "Domestic Violence Awareness Month."

Mrs. Rhynes thanked the Mayor and City Council adding that the Women's Crisis Center is dedicated to providing a safe haven, crisis intervention, and comprehensive support services to victims of family violence.

<u>"NATIONAL NIGHT OUT – TEXAS" -- OCTOBER 7, 2008</u>

NATIONAL NIGHT OUT (OCT. 7, 2008)

Council Member Softly presented a proclamation to Sergeant Bruce Dawsey, Sherman Police Department, designating October 7, 2008 as "National Night Out – Texas."

Sergeant Dawsey thanked the Mayor and City Council on behalf of the neighborhood organizations that participate in the "National Night Out – Texas."

<u>"RED RIVER HISTORICAL MUSEUM DAY" – OCTOBER 11, 2008</u>

RED RIVER MUSEUM DAY (OCT. 11, 2008)

Mayor Magers presented a proclamation to Marcia Rolbiecki, Director of the Red River Historical Museum and Mike Mitchell, President of the Friends of the Red River Historical Museum, designating October 11, 2008 as "Red River Historical Museum Day."

Mr. Mitchell thanked the Mayor and City Council for the proclamation and their continued support of the Red River Historical Museum.

<u>SECOND READING, PUBLIC HEARING AND FINAL VOTE ON ORDINANCE NO. 5562</u>

ORD 5562 ATMOS ENERGY FRANCHISE

Mayor Magers called for the second reading and a public hearing for Ordinance 5562:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, GRANTING TO ATMOS ENERGY CORPORATION, MID-TEX DIVISION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO FURNISH, TRANSPORT AND SUPPLY GAS TO THE GENERAL PUBLIC IN THE CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, FOR THE TRANSPORTING, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND 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; REPEALING ALL PREVIOUS ATMOS ENERGY GAS FRANCHISE ORDINANCES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED; PROVIDING A MOST FAVORED NATIONS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

No citizens appeared before the City Council to discuss Ordinance 5562.

<u>INTRODUCTION AND PUBLIC HEARING OF ORDINANCES</u>

ORD 5563 CAPP ELECTRIC POWER

Mayor Magers introduced Ordinance 5563 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING AN ELECTRIC POWER CONTRACT WITH CITIES AGGREGATION POWER PROJECT, INC. ("CAPP") FOR ELECTRIC CAPACITY AND ENERGY, PROVIDING CAPACITY PAYMENTS AS PUBLIC PROPERTY

FINANCE CONTRACTUAL OBLIGATIONS OF THE CITY, PLEDGING AND LEVYING AN AD VALOREM TAX TO SUCH PAYMENTS, PROVIDING FOR ENERGY PAYMENTS FOR ELECTRIC ENERGY SUBJECT TO ANNUAL APPROPRIATION BY THE CITY, PROVIDING FOR THE ASSIGNMENT OF SUCH CAPACITY PAYMENTS TO SUPPORT DEBT ISSUED BY CAPP INCURRED TO ACQUIRE ELECTRIC CAPACITY RIGHTS FROM LUMINANT GENERATION COMPANY AND RELATED ENTITIES PURSUANT TO A 24-YEAR POWER PURCHASE AGREEMENT ("PPA"); AUTHORIZING THE CITY MANAGER OR OTHER APPROPRIATE CITY OFFICER OR EMPLOYEE TO EXECUTE AND DELIVER THE MEMBER CONTRACT; FURTHER AUTHORIZING THE CITY MANAGER OR OTHER APPROPRIATE CITY OFFICER OR CITY EMPLOYEE TO SIGN ADDITIONAL AGREEMENTS ARRANGED BY CAPP FOR ELECTRIC POWER NEEDED BY THE CITY IN THE PERIOD 2009-2011 IN EXCESS OF THE AMOUNT OBTAINED UNDER THE MEMBER CONTRACT; ACKNOWLEDGING, AUTHORIZING AND DIRECTING THE CITY MANAGER OR APPROPRIATE CITY OFFICER OR CITY EMPLOYEE TO SIGN AND RETURN CAPP'S DISCLOSURE LETTER; FURTHER AUTHORIZING THE CITY MANAGER OR APPROPRIATE CITY OFFICER OR OTHER CITY EMPLOYEE TO ACCEPT CONFORMING CHANGES TO THE MEMBER CONTRACT DEPENDENT ON THE FINAL TERMS OF THE CAPP PPA; PROVIDING FOR VALIDITY AND SUFFICIENCY OF CITY EMPLOYEE'S OR CITY OFFICER'S SIGNATURE IF THE OFFICER OR EMPLOYEE LEAVES OFFICE OR EMPLOYMENT PRIOR TO THE DELIVERY OF THE MEMBER CONTRACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5563.

ORD 5564
SOLID WASTE
RATE INCREASE

Mayor Magers introduced Ordinance 5564 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITILED "UTILITIES", AT ARTICLE 13.06, ENTITLED "SOLID WASTE", AT SECTIONS 13.06.005, 13.06.086, 13.06.087, AND 13.06.088 TO INCREASE CERTAIN SOLID WASTE FEES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5564.

ORD 5565
WATER/SEWER
RATE INCREASE

Mayor Magers introduced Ordinance 5565 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REPEALING ORDINANCE NO. 5408 AND AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED "UTILITIES", AT ARTICLE 13.08, ENTITLED

"UTILITY BILLING", ADDING SECTIONS 13.08.005, "WATER RATES", AND 13.08.006, "SEWER CHARGES"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5565.

Mayor Magers introduced Ordinance 5566 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 DONNA REAST (OWNER), BRYAN LUCKETT (PROSPECTIVE BUYER), AND SARTIN & ASSOCIATES (SURVEYORS) TO ALLOW A CONSTRUCTION, EQUIPMENT SALES, SERVICE, RENTAL AND REPAIR SHOP AND YARD (CRANE SERVICE) IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND THE O-1.2 (SAM RAYBURN) OVERLAY DISTRICT AT 3111 U.S. HIGHWAY 75 SOUTH, BEING 2.7 ACRES IN THE PRESTON KITCHEN SURVEY, ABSTRACT NO. 667; 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 5566
SUP FOR
CRANE SERVICE

No citizens appeared before the City Council to discuss Ordinance 5566.

Mayor Magers introduced Ordinance 5567 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 TX SW 1 LP, C/O LEVCOR (OWNERS) AND JOE OBLAS (TENANT) TO ALLOW A COMMMERCIAL AMUSEMENT CENTER (BASEBALL ACADEMY) IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND THE O-1 (75 & 82) OVERLAY DISTRICT AT 2711 U.S. HIGHWAY 75 NORTH, BEING LOT 5, BLOCK 1 OF TEXOMA CROSSING ADDITION, REPLAT OF LOTS 5 & 5A; 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 5567
SUP FOR
COMMERCIAL
AMUSEMENT
CENTER

No citizens appeared before the City Council to discuss Ordinance 5567.

The Ordinances were introduced and the Public Hearing was closed.

CLOSE PUBLIC
HEARING

<u>ADOPTION OF ORDINANCES</u>
Ordinance 5562
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, GRANTING TO ATMOS ENERGY

ORD 5662
ATMOS ENERGY
FRANCHISE

CORPORATION, MID-TEX DIVISION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO FURNISH, TRANSPORT AND SUPPLY GAS TO THE GENERAL PUBLIC IN THE CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, FOR THE TRANSPORTING, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND 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; REPEALING ALL PREVIOUS ATMOS ENERGY GAS FRANCHISE ORDINANCES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED; PROVIDING A MOST FAVORED NATIONS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5562, as presented. Second by Council Member Steele.

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

Ordinance 5563

ORD 5563
CAPP ELECTRIC POWER

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING AN ELECTRIC POWER CONTRACT WITH CITIES AGGREGATION POWER PROJECT, INC. ("CAPP") FOR ELECTRIC CAPACITY AND ENERGY, PROVIDING CAPACITY PAYMENTS AS PUBLIC PROPERTY FINANCE CONTRACTUAL OBLIGATIONS OF THE CITY, PLEDGING AND LEVYING AN AD VALOREM TAX TO SUCH PAYMENTS, PROVIDING FOR ENERGY PAYMENTS FOR ELECTRIC ENERGY SUBJECT TO ANNUAL APPROPRIATION BY THE CITY, PROVIDING FOR THE ASSIGNMENT OF SUCH CAPACITY PAYMENTS TO SUPPORT DEBT ISSUED BY CAPP INCURRED TO ACQUIRE ELECTRIC CAPACITY RIGHTS FROM LUMINANT GENERATION COMPANY AND RELATED ENTITIES PURSUANT TO A 24-YEAR POWER PURCHASE AGREEMENT ("PPA"); AUTHORIZING THE CITY MANAGER OR OTHER APPROPRIATE CITY OFFICER OR EMPLOYEE TO EXECUTE AND DELIVER THE MEMBER OR OTHER APPROPRIATE CITY OFFICER OR CITY EMPLOYEE TO SIGN ADDITIONAL AGREEMENTS ARRANGED BY CAPP FOR ELECTRIC POWER NEEDED BY THE CITY IN THE PERIOD 2009-2011 IN EXCESS OF THE AMOUNT OBTAINED UNDER THE MEMBER CONTRACT; ACKNOWLEDGING, AUTHORIZING AND DIRECTING THE CITY MANAGER OR APPROPRIATE CITY OFFICER OR CITY EMPLOYEE TO SIGN AND RETURN CAPP'S DISCLOSURE LETTER; FURTHER AUTHORIZING THE CITY MANAGER OR APPROPRIATE CITY OFFICER OR OTHER CITY EMPLOYEE TO ACCEPT CONFORMING CHANGES TO THE MEMBER CONTRACT

DEPENDENT ON THE FINAL TERMS OF THE CAPP PPA; PROVIDING FOR VALIDITY AND SUFFICIENCY OF CITY EMPLOYEE'S OR CITY OFFICER'S SIGNATURE IF THE OFFICER OR EMPLOYEE LEAVES OFFICE OR EMPLOYMENT PRIOR TO THE DELIVERY OF THE MEMBER CONTRACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

Mayor Magers explained that the CAPP contract locks the City's utility rates in at very competitive prices for a long-term agreement, which will allow the City to better plan for expenses.

Council Member Adami asked if the CAPP contract would prohibit the City from creating their own power in some capacity over the 24 year period.

Robby Hefton, Assistant City Manager/CFO, explained that the City's commitment with the contract is to purchase 60% of the amount allocated. The allocated amount will be "fixed" at the time the contract is finalized.

The City can go to other sources for power above that allocated amount. He added that the City will be negotiating other agreements through CAPP for the remaining power needs.

ACTION TAKEN.
Motion by Council Member Smith to approve Ordinance No. 5563, as presented. Second by Deputy Mayor Wacker.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

ORD 5564
SOLID WASTE
RATE INCREASE

Ordinance 5564
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITILED "UTILITIES", AT ARTICLE 13.06, ENTITLED "SOLID WASTE", AT SECTIONS 13.06.005, 13.06.086, 13.06.087, AND 13.06.088 TO INCREASE CERTAIN SOLID WASTE FEES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

Mayor Magers said the City is increasing solid waste rates 11% even though the City's tipping fees and Texoma Area Solid Waste Authority costs have increased 17%. This is the first solid waste rate increase in four years, since TASWA was opened.

Council Member Adami advised taxpayers that tipping fees and costs to the City are expected to increase again and the

City will probably see an additional cost increase next year. Mayor Magers said he also expected the rates to increase again next year because of TASWA increases.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5564, as presented. Second by Council Member Softly.

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

Ordinance 5565

ORD 5565
WATER/SEWER
RATE INCREASE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REPEALING ORDINANCE NO. 5408 AND AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED "UTILITIES", AT ARTICLE 13.08, ENTITLED "UTILITY BILLING", ADDING SECTIONS 13.08.005, "WATER RATES", AND 13.08.006, "SEWER CHARGES"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

Mayor Magers said the City is increasing water rates 4% which is well below the inflation rate. He said the City is trying to keep the rates low, but costs have increased over the last 12 months and some of the additional costs must be passed along to the users.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5565, as presented. Second by Council Member Howeth.

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

Ordinance 5566

ORD 5566
SUP FOR
CRANE SERVICE

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 DONNA REAST (OWNER), BRYAN LUCKETT (PROSPECTIVE BUYER), AND SARTIN & ASSOCIATES (SURVEYORS) TO ALLOW A CONSTRUCTION, EQUIPMENT SALES, SERVICE, RENTAL AND REPAIR SHOP AND YARD (CRANE SERVICE) IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND THE O-1.2 (SAM RAYBURN) OVERLAY DISTRICT AT 3111 U.S. HIGHWAY 75 SOUTH, BEING 2.7 ACRES IN THE PRESTON KITCHEN SURVEY, ABSTRACT NO. 667; 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 Adami verified that the building is the Air Liquide building. He asked if the Planning and Zoning Commission felt there was adequate screening for cranes.

Scott Shadden, Director of Developmental Services, said the area for cranes will be paved and the owner must meet the standards for the Overlay District. A condition of the SUP was that the owner would bring the current building up to the new standards.

ACTION TAKEN.
Motion by Council Member Adami to approve Ordinance No. 5566, as presented. Second by Council Member Steele.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

Ordinance 5567
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 TX SW 1 LP, C/O LEVCOR (OWNERS) AND JOE OBLAS (TENANT) TO ALLOW A COMMMERCIAL AMUSEMENT CENTER (BASEBALL ACADEMY) IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND THE O-1 (75 & 82) OVERLAY DISTRICT AT 2711 U.S. HIGHWAY 75 NORTH, BEING LOT 5, BLOCK 1 OF TEXOMA CROSSING ADDITION, REPLAT OF LOTS 5 & 5A; 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 5567 SUP FOR COMMERCIAL AMUSEMENT CENTER

ACTION TAKEN.
Motion by Council Member Adami to approve Ordinance No. 5567, as presented. Second by Deputy Mayor Wacker.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

<u>CONSENT AGENDA</u>

CONSENT AGENDA

The Council reviewed the Consent Agenda. Mayor Magers said Item C-7 entitled “Resolution 5275 – Authorizing execution of an agreement with John Robert Hooker, individually and d/b/a J&S Aviation, for the operation of an Aircraft Maintenance Shop and the provision of customer service assistance at the Sherman Municipal Airport” and Item C-10 entitled “Resolution 5278 – Authorizing the purchase of a 2009 Ford F-450 Frazer Ambulance for the Sherman Fire Department through the Houston-Galveston Area Council of Governments (H-GAC), have been removed from the Consent Agenda for consideration in their regular order of business.

Deputy Mayor Wacker moved to approve the Consent Agenda, with the exception of Item C-7 and Item C-10, which will be considered in their regular order of business. Second by Council Member Adami. All present voted AYE.

RESOLUTIONS

RESOLUTION NO. 5269 – AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SHERMAN AND GRAYSON COUNTY FOR EMERGENCY MANAGEMENT AND RELATED HOMELAND SECURITY SERVICES

RES 5269 INTERLOCAL AGREEMENT FOR EMERGENCY MGMT.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SHERMAN AND GRAYSON COUNTY FOR EMERGENCY MANAGEMENT AND RELATED HOMELAND SECURITY SERVICES.

Drue Bynum, Grayson County Judge, said about a year ago, the City of Sherman approved, in concept, the idea of a multi-jurisdictional emergency management coordinator position. Grayson County has moved forward and is presenting an interlocal agreement between the City of Sherman and Grayson County. The agreement requires Sherman to pay $20,000 annually to Grayson County.

Judge Bynum said in the last several months, the County has already begun to implement a multi-jurisdictional operations center. He introduced Sarah Sommers, Grayson County Emergency Management Coordinator, saying that they are working well with the City's Emergency Management Coordinator.

He reiterated that bringing Sherman, Denison, and Grayson County together will save the taxpayers money and will help deliver the emergency services that the citizens deserve.

Mayor Magers verified that operational control of an emergency situation will still be handled in the field, but the multi-jurisdictional agreement will be a way to pool resources for the administrative duties. Judge Bynum agreed that the County's role is to offer logistical support to the effected City.

ACTION TAKEN.

Motion by Council Member Smith to approve Resolution No. 5269, as presented. Second by Council Member Steele.

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

RESOLUTION NO. 5270 – AUTHORIZING EXECUTION OF A DEED WITHOUT WARRANTY TO HARRY REYNOLDS AND ALERA REYNOLDS FOR THE CONVEYANCE OF A PORTION OF A 15-FOOT ALLEY IN BLOCK 22 OF THE COLLEGE PARK

RES 5270 CONVEY ALLEY COLLEGE PARK ADDITION

ADDITION, WITH UTILITY EASEMENT, BOUNDED BY THE 400 BLOCKS OF NORTH GRAND AVENUE AND NORTH LEE STREET AND THE RAILROAD RIGHT-OF-WAY
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEED WITHOUT WARRANTY TO HARRY REYNOLDS AND ALERA REYNOLDS FOR THE CONVEYANCE OF A PORTION OF A 15-FOOT ALLEY IN BLOCK 22 OF THE COLLEGE PARK ADDITION, WITH UTILITY EASEMENT, BOUNDED BY THE 400 BLOCKS OF NORTH GRAND AVENUE AND NORTH LEE STREET AND THE RAILROAD RIGHT-OF-WAY.
CONSENT AGENDA.

RES 5271
LEASE OF SHERMAN DAY CARE CENTER

RESOLUTION NO. 5271 – AUTHORIZING THE LEASE OF CERTAIN CITY-OWNED PROPERTY LOCATED AT 1003 NORTH EAST STREET, TO RECREATIONAL COUNCIL – JACK AND JILL DAY CARE CENTER, INC.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE LEASE OF CERTAIN CITY-OWNED PROPERTY LOCATED AT 1003 NORTH EAST STREET, TO RECREATIONAL COUNCIL – JACK AND JILL DAY CARE CENTER, INC.

Council Member Smith expressed his appreciation to City staff for working to find a winning solution for the Day Care situation.

ACTION TAKEN.
> **Motion by Deputy Mayor Wacker to approve Resolution No. 5271, as presented. Second by Council Member Adami.**

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

RES 5272
CHILD CARE LOCAL MATCH

RESOLUTION NO. 5272 – AUTHORIZING EXECUTION OF A CHILD CARE LOCAL MATCH CONTRIBUTION AGREEMENT WITH WORKFORCE SOLUTIONS TEXOMA FOR THE PERIOD OF OCTOBER 1, 2008 THROUGH DECEMBER 31, 2008
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A CHILD CARE LOCAL MATCH CONTRIBUTION AGREEMENT WITH WORKFORCE SOLUTIONS TEXOMA FOR THE PERIOD OF OCTOBER 1, 2008 THROUGH DECEMBER 31, 2008.
CONSENT AGENDA.

RES 5273
SCAH & MUSEUM ANNUAL CONTRACTS

RESOLUTION NO. 5273 – AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS WITH THE SHERMAN COUNCIL FOR THE ARTS & HUMANITIES, INC. AND THE FRIENDS OF THE RED RIVER HISTORICAL MUSEUM (AKA RED RIVER HISTORICAL MUSEUM)
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS WITH THE SHERMAN COUNCIL FOR THE ARTS & HUMANITIES, INC. AND THE FRIENDS OF THE

RED RIVER HISTORICAL MUSEUM (AKA RED RIVER HISTORICAL MUSEUM).
CONSENT AGENDA.

RES 5274
ANNUAL AUDIT

<u>RESOLUTION NO. 5274 – APPOINTING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH PATTILLO, BROWN & HILL, L.L.P. TO PERFORM THE FISCAL YEAR 2008 AUDIT</u>
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPOINTING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH PATTILLO, BROWN & HILL, L.L.P. TO PERFORM THE FISCAL YEAR 2008 AUDIT.
CONSENT AGENDA.

RES 5276
RESIDENTIAL TAX ABATEMENT
(616 E. SYCAMORE)

<u>RESOLUTION NO. 5276 – 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 616 EAST SYCAMORE STREET</u>
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 616 EAST SYCAMORE STREET.
CONSENT AGENDA.

RES 5277
RESIDENTIAL TAX ABATEMENT
(1302 S. ELM)

<u>RESOLUTION NO. 5277 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH TERRY PETERSON FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1302 SOUTH ELM STREET</u>
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH TERRY PETERSON FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1302 SOUTH ELM STREET.
CONSENT AGENDA.

RES 5275
AIRPORT OPERATIONS

<u>RESOLUTION NO. 5275 – AUTHORIZING EXECUTION OF A CONTRACT WITH J&S AVIATION FOR THE OPERATION OF AN AIRCRAFT MAINTENANCE SHOP AND THE PROVISION OF CUSTOMER SERVICE ASSISTANCE AT THE SHERMAN MUNICIPAL AIRPORT</u>
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH JOHN ROBERT HOOKER, INDIVIDUALLY AND D/B/A J&S AVIATION, FOR THE OPERATION OF AN AIRCRAFT MAINTENANCE SHOP AND THE PROVISION OF CUSTOMER SERVICE ASSISTANCE AT THE SHERMAN MUNICIPAL AIRPORT.

Mayor Magers removed Item C-7 from the Consent Agenda for consideration in its regular order of business.

Council Member Adami verified that the operating agreement was to provide day-to-day operations at the Municipal Airport and that the City also received rent on their hangar.

George Olson, City Manager, explained that J&S Aviation operates a maintenance shop at the Airport and helps the City with customer service, since the City has no staff at the location. The company also handles operation and maintenance of the gas sales. J&S Aviation pays approximately $575 per month for use of a hangar.

RES 5278 PURCHASE OF AMBULANCE

RESOLUTION NO. 5278 – AUTHORIZING THE PURCHASE OF A 2009 FORD F-450 FRAZER AMBULANCE FOR THE SHERMAN FIRE DEPARTMENT THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC)
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF A 2009 FORD F-450 FRAZER AMBULANCE FOR THE SHERMAN FIRE DEPARTMENT THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC).

Mayor Magers removed Item C-7 from the Consent Agenda for consideration in its regular order of business.

Council Member Adami said several years ago the City decided to replace boxes and chassis separately on the ambulances. He asked if this program was still in effect.

Jeff Jones, Fire Chief, said that is the plan, but this is the last ambulance of the old style and when this one is replaced, the entire ambulance fleet will be the type that the box and chassis can be replaced separately.

ACTION TAKEN.
> **Motion by Council Member Adami to approve Resolution Nos. 5275 and 5278, as presented. Second by Council Member Steele.**

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

RES 5279 PURCHASE OF FIRE ENGINE

RESOLUTION NO. 5279 – AUTHORIZING THE PURCHASE OF A 2009 PIERCE FIRE ENGINE FOR THE SHERMAN FIRE DEPARTMENT THROUGH THE TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE (BUYBOARD)
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF A 2009 PIERCE FIRE ENGINE FOR THE SHERMAN FIRE DEPARTMENT THROUGH THE TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE (BUYBOARD).
CONSENT AGENDA.

OTHER BUSINESS

CLOSE STREETS FOR AUSTIN COLLEGE

CONSIDER REQUEST OF THE AUSTIN COLLEGE KAPPA GAMMA CHI TO TEMPORARILY CLOSE CERTAIN STREETS FOR THE HOMECOMING 2008 'ROO RUN AND JOEY WALK

HOMECOMING

ON SATURDAY, OCTOBER 25, 2008
Mayor Magers introduced the request of Kappa Gamma Chi from Austin College to temporarily close certain streets for the Homecoming 2008 'Roo Run and Joey Walk on Saturday, October 25, 2008.

ACTION TAKEN.

> **Motion by Council Member Smith to approve the request of Austin College Kappa Gamma Chi to temporarily close certain streets for the Homecoming 2008 'Roo Run and Joey Walk on Saturday, October 24, 2008, as presented. Second by Council Member Adami.**

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

APPROVE FINAL PLAT BRYAN LUCKETT ADDITION

FINAL PLAT APPROVAL OF THE BRYAN LUCKETT ADDITION; DONNA REAST, OWNER; BRYAN LUCKETT, PROSPECTIVE BUYER (3111 U.S. HIGHWAY 75 SOUTH)
The City Council approved the Final Plat of the Bryan Luckett Addition, located at 3111 U.S. Highway 75 South. The building on the tract was previously occupied by Air Liquide. The applicant would like to operate a crane service to store and lease cranes. The Planning and Zoning Commission recommended approval of the Final Plat.
CONSENT AGENDA.

CITIZENS REQUESTS

BEEKEEPING IN CITY LIMITS

BEEKEEPING IN CITY LIMITS
Madelyn Bryant, 613 N. Grand, addressed the City Council about beekeeping for hobbyists. She expressed concern about Colony Collapse Disorder for honey bees, where the adult population of a bee hive abruptly disappears from their home leaving behind their young to fend for themselves.

There has been up to a 90% loss for honey bees. About $15 billion in crop value is dependent on bee pollination, therefore honey bees are a mainstay of the agricultural system.

Ms. Bryant added that there is reason to believe that hobby backyard beekeeping is immune to this disease. Sherman has outlawed beekeeping inside the City limits. Honey bee hives are declared to be a nuisance, however they only sting when provoked and are generally not aggressive.

She felt the City's ordinance declaring beekeeping by hobbyists as unlawful, needs to be changed and she urged the City Council to consider her request. She said responsible beekeepers never allow their bees to be a nuisance to their neighbors. Their top priority is to create a mutually beneficial relationship between humans and honey bees.

Mayor Magers confirmed that Ms. Bryant was asking the City Council to consider a change in their ordinance to allow hobby backyard beekeeping.

Ms. Bryant presented information to Scott Shadden, Director of Developmental Services.

MEDIA QUESTIONS

MEDIA QUESTIONS AFTER EXECUTIVE SESSION

MEDIA QUESTIONS AFTER EXECUTIVE SESSION

Kathy Williams, Herald Democrat Reporter, asked to hold her remarks until after the Executive Session.

COUNCIL COMMENTS

VIETNAMESE BUS CRASH RECEPTION

VIETNAMESE BUS CRASH RECEPTION

Mayor Magers displayed a plaque that was presented to Sherman City officials by survivors, family and friends of the recent Vietnamese Bus Crash in Sherman. Members of the Vietnamese community in Houston came to Sherman to erect a roadside memorial at the crash site and to thank the emergency responders, health care professionals, and various groups that assisted during the tragedy that killed 17 people.

Mayor Magers said on behalf of the City Council, he was very touched by the outpouring of gratitude.

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: SHERMAN HIGHER EDUCATION FINANCE CORPORATION BOARD (7)

TEXOMA AREA PARATRANSIT SYSTEMS (TAPS) BOARD OF DIRECTORS (1)

TRI-COUNTY SENIOR NUTRITION BOARD OF DIRECTORS (1)

CONSIDER THE QUALIFICATIONS, APPOINTMENT, EMPLOYMENT

AND DUTIES OF A PUBLIC OFFICER OR EMPLOYEE: INTERIM CITY ATTORNEY

SECTION 551.087 -- DELIBERATIONS REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS: DELIBERATE REGARDING COMMERCIAL OR FINANCIAL INFORMATION THAT THE CITY HAS RECEIVED FROM BUSINESS PROSPECTS AND DELIBERATE ANY OFFERS OR INCENTIVES TO THE BUSINESS PROSPECTS, INCLUDING THE FOLLOWING: PANDA ENERGY

On Motion duly made and carried, the Open Meeting recessed and reconvened in Executive Session at 5:40 p.m.

On Motion duly made and carried, the Executive Session recessed at 6:00 p.m. and reconvened in Open Meeting.

OPEN MEETING

OPEN MEETING
Reconvene into Open Meeting and take action, if any, on items discussed in Executive Session.

SHERMAN HIGHER EDUCATION FINANCE CORP.

CONSIDER THE QUALIFICATIONS, APPOINTMENT AND REMOVAL OF MEMBERS TO BOARDS AND COMMISSIONS: SHERMAN HIGHER EDUCATION FINANCE CORPORATION BOARD (7)
ACTION TAKEN.

> **Motion by Deputy Mayor Wacker to reappoint Wiliam Richardson, Danna Bennett, Rad Richardson, Jerry Chapman, Delinda Lough, and Dr. Al Hambrick to the Sherman Higher Education Finance Corporation Board for a term from April 18, 2008 to April 18, 2010 and to appoint George Rowland for a term from October 7, 2008 to April 18, 2010. Second by Council Member Adami.**

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

TAPS BOARD

TEXOMA AREA PARATRANSIT SYSTEMS (TAPS) BOARD OF DIRECTORS (1)
ACTION TAKEN.

> **Motion by Council Member Adami to appoint Deputy Mayor Cary Wacker to the Texoma Area Paratransit Systems (TAPS) Board of Directors for a term from October 7, 2008 to October 7, 2010. Second by Council Member Smith.**

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

TRI-COUNTY SENIOR NUTRITION BOARD

<u>TRI-COUNTY SENIOR NUTRITION BOARD OF DIRECTORS (1)</u>
Mayor Magers clarified that during the past year, the Tri-County Senior Nutrition Board of Directors has consisted of the Mayors of Sherman, Denison, Bonham, and Gainesville, and the County Judges of Grayson, Cooke, and Fannin Counties.

The Members feel like representation should be returned to interested citizens that volunteer to serve on the Board. Council Members will consider applications from citizens interested in serving on the Board at a future meeting.

RES 5280 WATER SERVICES FOR PANDA ENERGY

<u>RESOLUTION NO. 5280 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH PANDA SHERMAN POWER, LLC FOR WATER SERVICES</u>
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH PANDA SHERMAN POWER, LLC FOR WATER SERVICES.

Mayor Magers said former Mayor David Sprowl and past City Councils set forth to accumulate surface water for Sherman, Texas. They understood that industrial companies located in the Blalock Industrial District needed water. Today's Council is proud to carry on with this tradition.

The execution of an agreement with Panda Energy allows Sherman to provide water for new businesses, provide for growth for our citizens, and provide growth for neighboring municipalities.

The City has been in negotiations with Panda Energy to locate a power plant in Sherman. Mayor Magers said both parties want to make this a win-win venture.

He thanked Council Member Adami for serving with the Mayor on the negotiating team, saying he was instrumental on the team. He also thanked Jerry Chapman, Greater Texoma Utility Authority Executive Director, for providing valuable information on water and how the deal could be structured for the long-term benefit of Sherman and the surrounding areas.

Mayor Magers thanked Members of the Sherman Economic Development Corporation Board of Directors for taking the lead on the project and for providing incentives to the company. He also thanked City Manager George Olson, Assistant City Manager/CFO Robby Hefton, and former City Attorney Doreen McGookey for the many hours they spent working on the proposed terms of the contract. Without them, the deal would not have been possible.

Mayor Magers thanked members of the City Council, both past and present. This is not a typical economic

development deal and it takes a lot of courage to "step outside the box."

Mayor Magers explained that the Panda Energy Power Plant will be phase one of a 500 megawatt power plant with a possible phase two at some point. They will be purchasing raw water from Sherman with a "take or pay" contract. Gross water revenues are expected to be between $30 million and $50 million, tax revenues of approximately $10 million, and net to the City after all costs and incentives will be between $27 million and $42 million in revenues, over the 30 year span of the contract.

This doesn't include the higher paying jobs the company will bring and all the other intangible economic benefits that will be realized. The project will also mean about $39 million in ad valorem property taxes to our partners in Grayson County and the Sherman Independent School District. Total community value is estimated to be between $65 and $80 million.

The plant also means power and growth for the State of Texas with clean energy from a natural gas powered plant. It means growth, jobs, and prosperity. Long-term for the citizens of Sherman it means water for growth and for future expansion.

Mayor Magers explained that the project is for a maximum of 4,500 acre feet per year and will allow the City to purchase an additional 15,000 acre feet of storage in Lake Texoma, plus any additional amount that might be available. The purchase of additional water will be from these funds and not from taxpayers.

Council Member Adami said he appreciated working with and getting to know the officials at Panda Energy and he looks forward to a bright future. He also thanked Mr. Olson, Mr. Hefton, and all the members of SEDCO.

ACTION TAKEN.

> **Motion by Council Member Adami to approve Resolution No. 5280, as presented. Second by Deputy Mayor Wacker.**

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

Wayne Morton, Senior Director, Asset Management, at Panda Energy, said they have been working long and hard with the City as a partner, as two partners aligning their needs. He said he appreciated the professionalism and knowledge that was shared during the negotiations. Panda Energy looks forward to a long relationship with the City of Sherman.

MEDIA QUESTIONS

PANDA ENERGY

PANDA ENERGY

Kathy Williams, Herald Democrat Reporter, wanted to verify the numbers given and ask if that included incentives. Mayor Magers said it was net numbers and offered her written information on the amounts.

ADJOURNMENT

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 6:12 p.m.

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MAYOR

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CITY CLERK