STATE OF TEXAS §

July 7, 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 July 7, 2008.

MEMBERS PRESENT: MAYOR BILL MAGERS.
COUNCIL MEMBERS ADAMI, HOWETH, SMITH, SOFTLY, STEELE.

MEMBERS ABSENT: DEPUTY MAYOR CARY WACKER.

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.

APPROVE MINUTES

APPROVE MINUTES

The Council reviewed the Minutes of the Called City Council Meeting of June 10, 2008 (Budget Planning Meeting) and the Regular City Council Meeting of June 16, 2008. Council Member Adami moved to approve the Minutes as presented; Second by Council Member Smith. All present voted AYE.
MOTION CARRIED.

PUBLIC HEARING

ORD 5534
ANNEXATION
HWY 82 & HUDGINS ROAD

Mayor Magers called for a public hearing on Ordinance 5534:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, EXTENDING THE CORPORATE LIMITS OF SAID CITY SO AS TO ANNEX APPROXIMATELY 44.97 ACRES OF LAND AT THE INTERSECTION OF U.S. HIGHWAY 82 AND HUDGINS ROAD (STATE HIGHWAY 289) IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION. PROVIDING FOR A MUNICIPAL PLAN. PROVIDING FOR SEVERABILITY. PROVIDING FOR A REPEALER.

George R. Schrader, Avex Group

Mr. Schrader appeared representing Avex Group, the owner of the property. The annexation would allow them to began planning the use of the property.

No other citizens appeared before the City Council to discuss Ordinance 5534.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

ORD 5540
ZONE CHANGE
(5300 BLOCK OF HWY 82 & 2600-2900 BLOCKS OF HUDGINS RD.)

Mayor Magers introduced Ordinance 5540 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 12, ORDINANCE NO. 2280, SO AS TO INCLUDE CERTAIN PROPERTIES WITHIN THE C-1 (RETAIL BUSINESS) DISTRICT IN THE 5300 BLOCK OF U.S. HIGHWAY 82 WEST AND THE 2600-2900 BLOCKS OF HUDGINS ROAD, BEING 22.27 ACRES IN THE JAMES S. COFFEE SURVEY, ABSTRACT NO. 232 (PRESTON

DORCHESTER PARTNERS, LTD, OWNERS; GEORGE R. SCHRADER, REPRESENTATIVE). PROVIDING FOR A REPEALER.

George R. Schrader, Avex Group
Mr. Schrader appeared representing Avex Group, the owner of the property. He offered to answer any questions that the Council might have.

No other citizens appeared before the City Council to discuss Ordinance 5540.

ORD 5542
SUP FOR CONVALESCENT HOME / SKILLED NURSING FACILITY

Mayor Magers introduced Ordinance 5542 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 SHERMAN BIBLE CHURCH (OWNERS), PREFERRED CARE PARTNERS MANAGEMENT GROUP, LP (PROSPECTIVE BUYER), AND THOMAS D. SCOTT (REPRESENTATIVE) TO ALLOW A CONVALESCENT HOME / SKILLED NURSING FACILITY IN AN R-1 (ONE FAMILY RESIDENTIAL) DISTRICT AND O-1.1 (FM 1417) OVERLAY DISTRICT AT 2617 NORTH FM 1417 (HERITAGE PARKWAY), BEING LOTS 1 & 2, BLOCK 3, SECTION 2-1, CANYON CREEK ADDITION AND LOT 5, BLOCK 1 OF THE REPLAT OF BELVEDERE ESTATES ADDITION. 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.

Thomas Scott, P.O. Box 250, Weston, Texas
Mr. Scott appeared representing the request and was available to answer any questions.

No other citizens appeared before the City Council to discuss Ordinance 5542.

ORD 5543
SUP FOR CONVALESCENT HOME / LONG TERM ACUTE CARE HOSPITAL

Mayor Magers introduced Ordinance 5543 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 VIRGINIA ARCHER REECE TRUST, BANK OF TEXAS, NA, TRUSTEE (OWNER), CARRUS SPECIALTY HOSPITAL (PROSPECTIVE BUYER), AND TEAGUE, NALL AND PERKINS (ENGINEERS) TO ALLOW A CONVALESCENT HOME / LONG TERM ACUTE CARE HOSPITAL IN A C-1 (RETAIL BUSINESS) DISTRICT, O-1.1 (FM 1417) OVERLAY DISTRICT, AND O-1 (75 & 82) OVERLAY DISTRICT AT 1810 U.S. HIGHWAY 82 WEST, BEING LOT 2 OF POST OAK CROSSING EAST ADDITION, A REPLAT OF LOTS 1-C, 1-D, 1-E AND 2-C OF POST OAK CROSSING ADDITION. 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 5543.

Mayor Magers introduced Ordinance 5541 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 BOONIE SANDERS (OWNER) AND SHILOH BRADFORD (REPRESENTATIVE) TO ALLOW AUTOMOBILE COLLISION REPAIR IN AN EXISTING STRUCTURE IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND O-1.1 (FM 1417) OVERLAY DISTRICT AT 4915 NORTH FM 1417 (HERITAGE PARKWAY), BEING LOT 1, BLOCK 1 OF THE SANDERS ADDITION. 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 5541
SUP FOR
AUTO COLLISION
REPAIR

Lee Terrell, 2404 San Miguel
Mr. Terrell appeared representing himself and several property owners near the proposed location for the automobile collision repair shop. The site is the intersection of Plainview Road and FM 1417 and near the intersection of Fallon Road and FM 1417, which will go directly into Preston Road. Mr. Terrell said FM 1417 is the "left side" of Sherman, Texas and is a corridor to Lake Texoma, the North Texas Regional Airport, and to Grayson County College.

He felt this was a critical intersection which is not currently "damaged." He questioned locating a body shop in an Overlay District and in such an important corridor.

He felt upgrading the existing building would be positive, but upgrading it to a use that still doesn't work for that corridor. If the Council allows this to happen, there will be other similar uses located along FM 1417. He asked the Council to table the issue for further study and asked if they could schedule a workshop on the issue.

No other citizens appeared before the City Council to discuss Ordinance 5541.

The Ordinances were introduced and the Public Hearing was closed.

CLOSE PUBLIC
HEARING

ADOPTION OF ORDINANCES
Ordinance 5534
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, EXTENDING THE CORPORATE LIMITS OF SAID CITY SO AS TO ANNEX APPROXIMATELY 44.97 ACRES OF LAND AT THE INTERSECTION OF U.S. HIGHWAY

ORD 5534
ANNEXATION
HWY 82 & HUDGINS
ROAD

82 AND HUDGINS ROAD (STATE HIGHWAY 289) IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION. PROVIDING FOR A MUNICIPAL PLAN. PROVIDING FOR SEVERABILITY. PROVIDING FOR A REPEALER.

Ordinance 5540
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 12, ORDINANCE NO. 2280, SO AS TO INCLUDE CERTAIN PROPERTIES WITHIN THE C-1 (RETAIL BUSINESS) DISTRICT IN THE 5300 BLOCK OF U.S. HIGHWAY 82 WEST AND THE 2600-2900 BLOCKS OF HUDGINS ROAD, BEING 22.27 ACRES IN THE JAMES S. COFFEE SURVEY, ABSTRACT NO. 232 (PRESTON DORCHESTER PARTNERS, LTD, OWNERS; GEORGE R. SCHRADER, REPRESENTATIVE). PROVIDING FOR A REPEALER.

ORD 5540
ZONE CHANGE
(5300 BLOCK OF HWY 82 & 2600-2900 BLOCKS OF HUDGINS RD.)

ACTION TAKEN.
Motion by Council Member Steele to approve Ordinance Nos. 5534 and 5540, as presented. Second by Council Member Adami.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele.
VOTING NAY: None.
MOTION CARRIED.

Ordinance 5541
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 BOONIE SANDERS (OWNER) AND SHILOH BRADFORD (REPRESENTATIVE) TO ALLOW AUTOMOBILE COLLISION REPAIR IN AN EXISTING STRUCTURE IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND O-1.1 (FM 1417) OVERLAY DISTRICT AT 4915 NORTH FM 1417 (HERITAGE PARKWAY), BEING LOT 1, BLOCK 1 OF THE SANDERS ADDITION. 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 5541
SUP FOR
AUTO COLLISION REPAIR

Mayor Magers agreed about the importance of maintaining the integrity of Heritage Parkway and said the Council has worked hard to put new standards in place.

He said currently there is a metal building on the proposed site and if the Specific Use Permit is granted, they would be required to comply with the standards of the Overlay District, including the masonry standards. Therefore the metal building will be upgraded with some type of masonry façade on all sides.

Council Member Steele said the new standards also call for a screened fence and he asked what material that would need to be. Scott Shadden, Director of Developmental Services, said the fence could be constructed of any material that complied with the FM 1417 Overlay District.

Mayor Magers said one major concern was about old junked cars sitting in front of the facility and he confirmed that the Overlay District required all junked cars to be stored behind the facility, screened, and not visible from the highway.

Mr. Terrell had addressed a "legal issue" involved and Council Members asked him to clarify this. Mr. Terrell said there is an existing metal building that has a right to have a use, but he asked what could be done to change this. He asked who moves the junked cars. He asked what could legally be done to prevent this.

Council Member Steele verified that if the Council denied the request, the property could remain in its current condition forever, as long as it was used for the same type of use. The Specific Use Permit is required because it is an auto repair facility. Council Member Steele added that the same type of use means the owner would not have to screen anything and the metal building would not have to be upgraded.

Mr. Terrell said the remaining property near the location would still have to meet the Overlay District standards even without this change.

Mayor Magers said his main concern is cars in front of the facility. He felt granting the Specific Use Permit would get a better looking building that can be properly screened. He confirmed that the Overlay District would prohibit the owners from leaving wrecked cars in front of the facility. Council Member Steele said the ordinance is in place to prohibit this, however enforcement is a different issue.

Jason Sofey, Chairman of the Planning and Zoning Commission, said the property is currently zoned C-2 and he asked what types of businesses would be permitted in a C-2 zone without complying with the Overlay District. Mr. Shadden said as an example, Texoma Parkway is zoned C-2 and everything there is a permitted use except the automobile related businesses. It could be a warehouse, motorcycle repair shop, and a boat dealership without changing the exterior and complying with the Overlay District.

Council Member Steele said the Council has an opportunity to improve the appearance of the building. He was not particularly happy to have this use on Heritage Parkway, however it is an opportunity to improve all four sides of the building and screen items behind the building. Otherwise it could sit in its current condition.

Council Member Smith verified that the Planning and Zoning Commission approved the Specific Use Permit unanimously, subject to compliance with the Overlay District.

Council Member Howeth verified that the buildings to the north of the veterinary clinic were used storage facility.

Deputy Mayor Adami said it was a reuse of an existing building.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5541, as presented. Second by Council Member Smith.

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

Ordinance 5542

ORD 5542 SUP FOR CONVALESCENT HOME / SKILLED NURSING FACILITY

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 SHERMAN BIBLE CHURCH (OWNERS), PREFERRED CARE PARTNERS MANAGEMENT GROUP, LP (PROSPECTIVE BUYER), AND THOMAS D. SCOTT (REPRESENTATIVE) TO ALLOW A CONVALESCENT HOME / SKILLED NURSING FACILITY IN AN R-1 (ONE FAMILY RESIDENTIAL) DISTRICT AND O-1.1 (FM 1417) OVERLAY DISTRICT AT 2617 NORTH FM 1417 (HERITAGE PARKWAY), BEING LOTS 1 & 2, BLOCK 3, SECTION 2-1, CANYON CREEK ADDITION AND LOT 5, BLOCK 1 OF THE REPLAT OF BELVEDERE ESTATES ADDITION. 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.

Mayor Magers said the Planning and Zoning Commission allowed them to use a temporary metal building for a year. He asked what enforcement there was to insure the metal buildings would be gone in a year.

Mr. Shadden said they are portable construction type trailers and are permitted for 18 months. After that, they will need to be removed. The company could request another permit if the trailers are still needed. Mayor Magers said metal buildings are not the long-term image the Council wants for Heritage Parkway.

Council Member Smith asked if the Planning and Zoning Commission had any concerns about the increase of traffic in the area. Mr. Shadden said they did not have those concerns at this location.

Council Member Steele said there were conditions attached by the Planning and Zoning Commission and he wanted to be sure those conditions would remain in place if the property is sold. The conditions include photographs of what the facility will look like.

Doreen McGookey, City Attorney, said the zone change with a Specific Use Permit can have conditions attached to assure compliance with the neighborhood. The photographs were attached to make it clear about the conditions required. Since it is a condition to the Specific Use Permit, they can be enforced. Mr. Shadden added that the final site plan will also be reviewed by the Planning and Zoning Commission.

<u>Thomas Scott, P.O. Box 250, Weston, Texas</u>
Mr. Scott appeared representing the project, and presented photographs of a similar facility in another town. He said they cannot use the exact building shown in the photograph because the architect sold the building and the new owners won't allow use of the plans.

He told the Planning and Zoning Commission that he will build a "similar building" that will be in keeping with the architecture of O'Hanlon Ranch, which is located across the road. The facility will be upscale and probably cost about $8 million.

Council Member Smith verified that the facility can be built "in a manner that is consistent with" the photographs. Council Member Steele verified that it would far exceed the requirements of the Overlay District.

ACTION TAKEN.
Motion by Council Member Steele to approve Ordinance No. 5542, as presented. Second by Council Member Softly.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele.
VOTING NAY: None.
MOTION CARRIED.

ORD 5543
SUP FOR CONVALESCENT HOME / LONG TERM ACUTE CARE HOSPITAL

Ordinance 5543
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 VIRGINIA ARCHER REECE TRUST, BANK OF TEXAS, NA, TRUSTEE (OWNER), CARRUS SPECIALTY HOSPITAL (PROSPECTIVE BUYER), AND TEAGUE, NALL AND PERKINS (ENGINEERS) TO ALLOW A CONVALESCENT HOME / LONG TERM ACUTE CARE HOSPITAL IN A C-1 (RETAIL BUSINESS) DISTRICT, O-1.1 (FM 1417) OVERLAY DISTRICT, AND O-1 (75 & 82) OVERLAY DISTRICT AT 1810 U.S. HIGHWAY 82 WEST, BEING LOT 2 OF POST OAK CROSSING EAST ADDITION, A REPLAT OF LOTS 1-C, 1-D, 1-E AND 2-C OF POST OAK CROSSING ADDITION. 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.

<u>Chris Schmitt, Teague, Nall and Perkins</u>
Mr. Schmitt is the engineer for the project and was available for any questions the Council might have.

ACTION TAKEN.
Motion by Council Member Smith to approve Ordinance No. 5543, as presented. Second by Council Member Steele.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele.
VOTING NAY: None.
MOTION CARRIED.

<u>TABLED AT JUNE 2, 2008 COUNCIL MEETING:</u>

Ordinance 5539

ORD 5539
FIRE CODE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES, ENTITLED "FIRE PREVENTION AND PROTECTION," AT SECTION 5.03.002 TO ADOPT THE 2006 EDITION OF THE INTERNATIONAL FIRE CODE AND AT SECTION 5.03.003 TO PROVIDE FOR LOCAL AMENDMENTS TO THE FIRE CODE. PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES. PROVIDING FOR SEVERABILITY. PROVIDING FOR A REPEALER.

ACTION TAKEN.
Motion by Council Member Adami to remove Ordinance 5539 from table for discussion. Second by Council Member Smith.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele.
VOTING NAY: None.
MOTION CARRIED TO REMOVE FROM TABLE.

Jeff Jones, Fire Chief, said as directed by Council, they have removed the amendments lowering the sprinkler requirements, so those sprinkler requirements as proposed in the ordinance will remain at 12,000 square feet, as written in the International Code. The only exception is that the Code requires a 5,000 square foot requirement on night clubs and places permitted to sell alcohol.

Mayor Magers said the City Council had received a "Resolution of Non-Support" from the Grayson-Fannin-Cooke County Home Builders Association. They proposed a 12,000 square foot minimum requirement for sprinklers.

Ron Barton, Member of the Grayson-Fannin-Cooke Home Builders Association, said they were glad the Council decided not to increase the standards. He did not feel that Sherman had reached that point yet. The density is not there for the restrictions.

ACTION TAKEN.
Motion by Council Member Softly to approve Ordinance No. 5539, as presented. Second by Council Member Steele.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele.
VOTING NAY: None.
MOTION CARRIED.

CONSENT AGENDA

CONSENT AGENDA

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

RESOLUTIONS

RES 5228 ONCOR ELECTRIC REQUESTED RATE CHANGE

RESOLUTION NO. 5228 – SUSPENDING THE AUGUST 8, 2008 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES. APPROVING COOPERATION WITH ONCOR CITIES STEERING COMMITTEE TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS. REQUIRING REIMBURSEMENT OF CITY'S RATE CASE EXPENSES. REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, SUSPENDING THE AUGUST 8, 2008 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES. APPROVING COOPERATION WITH ONCOR CITIES STEERING COMMITTEE TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS. REQUIRING REIMBURSEMENT OF CITY'S RATE CASE EXPENSES. REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE.

Mayor Magers clarified that by approving the resolution the Council would be approving the suspension of the rate increases. A positive approval is a vote to keep the electricity rates as low as possible.

ACTION TAKEN.

Motion by Council Member Adami to approve Resolution No. 5528, as presented. Second by Council Member Smith.

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

RES 5229 CONSTRUCTION OF PUBLIC FACILITIES

RESOLUTION NO. 5229 – AUTHORIZING EXECUTION OF AN AGREEMENT REGARDING MUNICIPAL SERVICES WITH PRESTON DORCHESTER PARTNERS, LTD. FOR THE FUTURE CONSTRUCTION OF PUBLIC FACILITIES IN THE 5300 BLOCK OF U.S. HIGHWAY 82 WEST AND THE 2600-2900 BLOCKS OF HUDGINS ROAD, BEING 22.27 ACRES IN THE JAMES S. COFFEE SURVEY, ABSTRACT NO. 232 IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT REGARDING MUNICIPAL SERVICES WITH PRESTON DORCHESTER PARTNERS, LTD. FOR THE FUTURE CONSTRUCTION OF PUBLIC FACILITIES IN THE 5300 BLOCK OF U.S. HIGHWAY 82 WEST AND THE 2600-2900 BLOCKS OF HUDGINS ROAD, BEING 22.27 ACRES IN THE JAMES S. COFFEE SURVEY, ABSTRACT NO. 232 IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION.
CONSENT AGENDA.

RES 5230
RIGHT OF ENTRY
TO REMOVE / INSTALL
STORM DRAIN PIPE

RESOLUTION NO. 5230 – AUTHORIZING EXECUTION OF FOUR ACCESS AGREEMENTS GRANTING RIGHT OF ENTRY TO REMOVE AN OLD STORM DRAIN PIPE AND INSTALL NEW PIPE ON NORTH HARRISON AVENUE
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF FOUR ACCESS AGREEMENTS GRANTING RIGHT OF ENTRY TO REMOVE AN OLD STORM DRAIN PIPE AND INSTALL NEW PIPE ON NORTH HARRISON AVENUE.
CONSENT AGENDA.

RES 5231
WATER WELL REPAIR

RESOLUTION NO. 5231 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER WATER WELL, INCORPORATED FOR REPAIRS TO THE LUELLA 4 WOODBINE WELL
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER WATER WELL, INCORPORATED FOR REPAIRS TO THE LUELLA 4 WOODBINE WELL.
CONSENT AGENDA.

RES 5232
PURCHASE OF
SEWER EQUIPMENT

RESOLUTION NO. 5232 – AUTHORIZING THE PURCHASE OF ONE TRUCK CHASSIS AND SEWER JETTING EQUIPMENT THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC) FOR THE DISTRIBUTION SERVICES DEPARTMENT
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF ONE TRUCK CHASSIS AND SEWER JETTING EQUIPMENT THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC) FOR THE DISTRIBUTION SERVICES DEPARTMENT.
CONSENT AGENDA.

RES 5233
RESIDENTIAL TAX
ABATEMENT
(1618 S.
MONTGOMERY)

RESOLUTION NO. 5233 – 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 1618 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 1618 SOUTH MONTGOMERY STREET.
CONSENT AGENDA.

RES 5234 RESIDENTIAL TAX ABATEMENT (1622 S. MONTGOMERY)

<u>RESOLUTION NO. 5234 – 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 1622 SOUTH MONTGOMERY 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 1622 SOUTH MONTOMGERY STREET.
CONSENT AGENDA.

REQUEST TO ADV PECAN GROVE PARK DEVELOPMENT

<u>REQUEST TO ADVERTISE</u>
<u>PECAN GROVE PARK DEVELOPMENT – PHASE 1</u>
The City Council approved the request to advertise for Phase I of the Pecan Grove Park Development Project. The City Council approved $400,000 for the project in the FY 2007-2008 Capital Improvement Budget.

The project includes perimeter fencing, surveying, a picnic pavilion with a small playground area, and an east parking lot. Any other improvements associated with respect to the Master Plan Update will be performed in conjunction with future phases.
CONSENT AGENDA.

WATER & SEWER PARTS

<u>ANNUAL CONTRACT FOR WATER AND SEWER PARTS AND SUPPLIES</u>
The City Council approved the request to advertise for the annual contract for water and sewer parts and supplies. These parts and supplies are used in the maintenance of the City's water and sewer systems.
CONSENT AGENDA.

<u>OTHER BUSINESS</u>

CABLEONE FRANCHISE FEE

<u>RECEIVE BRIEFING FROM CABLEONE GENERAL MANAGER CLAUDE EDWARDS AND CONSIDER INCREASING FRANCHISE FEE UNDER NEW STATE-ISSUED FRANCHISE</u>
Claude Edwards, CableOne General Manager, briefed the Council on the new State-issued franchise fee for cable service. Sherman's current cable franchise expires on August 31, 2008.

In 2006, the State of Texas instigated a State franchise to allow for competitive entry of multiple video providers in various communities. This franchise would be effective when current franchise agreements expire.

The decision for the City of Sherman is what they will be doing with their franchise fee. The current franchise fee is

5% however under the State franchise agreement a cable provider could pay the municipality an additional 1% of their gross revenues or the per-subscriber fee that is paid. Sherman did not have a per-subscriber fee in the existing franchise so they would be eligible for the additional 1%.

Council Member Smith verified that the last increase in the franchise fee was around 1987. Five percent is the maximum allowed by the Federal Communications Commission. The additional 1% is for in-kind services that are currently received from the cable company at no charge.

Mayor Magers asked about the in-kind services. Mr. Edwards said the first is institutional services, which deals with the connection of high-speed data services through CableOne's fiber network connecting City services. Currently the City has three of these type services, based at the Water Treatment Plant, a water pump station, and a well service.

Currently these services are included in the franchise agreement at no charge to the City. Under the State franchise agreement, the City would be billed on a monthly basis. Cost will probably be several hundred dollars per connection.

The second in-kind service is cable service that is provided to community buildings or locations such as fire stations, schools, civic organizations, or City buildings. Those costs would not be deducted from the franchise fee. Currently the City has 27 of these sites. The bulk of these connections are fire stations and schools and the number is not an excessive amount.

The third in-kind service deals with the public, education and government (PEG) access channels. When the current franchise ends the operation and programming of the PEG channels will become the responsibility of the City. Currently there are six PEG channels required by the franchise. Since programming cannot be filled on all six channels, CableOne is asking that the number be reduced to two or less.

CableOne will maintain a program director to be a liaison with the public. They will also provide a limited amount of programming and will work with people to do programming. They will not staff a studio, continue to train people, or spend $150,000 that they no longer receive.

Mayor Magers confirmed that the additional 1% will add up to about $70,000 for the City of Sherman. The $150,000 includes money going to the City of Denison too.

Mayor Magers said his key concern is that CableOne is a big part of Sherman. Citizens watch the public access channels.

The City can't provide the production that CableOne currently does.

He asked if CableOne would continue to help with production. Mr. Edwards said currently three-fourth of the programming is produced by others. CableOne will continue to help work with people, but they will not continue to purchase and loan out the equipment. People will also have to put an extra effort into it.

Mr. Edwards said the decision that must be made is whether or not the City wants to receive 5% or 6% in the franchise fee. If the change will be effective September 1, 2008, he must know within the next week.

Mayor Magers asked about the cost for the 27 City connections.

Council Member Adami verified that the only option is now a State-issued franchise agreement for cable service. Mr. Edwards said the current franchise with both Sherman and Denison is very elaborate and there will be items that are now included in the agreement that will not be required in the State agreement. The State franchise was put into effect to allow for competitive entry of additional cable services in various communities. This levels the playing field for all cable companies.

Council Member Adami asked if the agreement must be accepted or if the City could negotiate the terms. Mr. Edwards urged Council Members to read the Utility Code pertaining to cable franchises.

He added that he needs to know which percentage the City wants to accept if it is supposed to be effective September 1, 2008. If the City wants to delay the decision to be effective at a later date, Mr. Edwards does not want to be in arrears for the additional amount because the Council didn't want to take action.

Ms. McGookey said the Legislature has taken the City's franchise agreement and moved it into State control and the cities are no longer allowed to enact franchise agreements with cable companies.

Council Member Smith asked when the franchise fee could be increased. Ms. McGookey said the City would have to request an increase through the State Legislature. George Olson, City Manger, clarified that the City could increase from 5% to the allowed 6% at any time.

Mayor Magers said the most critical thing is that CableOne will still help out with production for public access channels. Council Member Adami expressed concern that Mr. Edwards agreed to help but what might happen if another General Manager comes in.

Ms. McGookey said maybe Sherman and Denison could work on a written agreement to provide these continued services. Mr. Edwards said Sherman and Denison can combine and start their own production facilities. He added that local access will not go away and they will probably spend about half as much as is being spent now. Mr. Edwards said they would not continue to staff a studio or purchase capital every year to be loaned. That's what the additional 1% is going to the cities for.

Mayor Magers verified that whether or not Sherman agrees to a franchise fee of 5% or 6%, CableOne will still be enacting these cost cutting measures and will be under the State-issued franchise.

Council Member Adami expressed concern about the "spirit of cooperation" in the future, as personnel at CableOne changes. He verified that the City must transition to the State-issued agreement after the current franchise agreement expires.

Council Member Adami asked that the City Attorney look into whether or not the City must accept the State-issued franchise when the current franchise agreement ends.

Mayor Magers verified that the franchise fee is a fixed rate and the increase would be a straight "pass through" to the customer.

ACTION TAKEN.

> **Motion by Council Member Adami to change the franchise rate from 5% to 6% effective September 1, 2008. Second by Council Member Smith.**

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

JACO OIL BOND REDUCTION

<u>CONSIDER REQUEST OF JACO OIL COMPANY FOR A REDUCTION IN THEIR OIL WELL PERFORMANCE BOND</u>
The City Council approved the request of Troy Jaco, President of Jaco Oil Company, for a reduction of their $100,000 performance bond to a $7,500 oil well operating bond for the Alma Colling #1 Well located at 2040 E. Tuck Street.

One year after drilling has been completed, the City's code allows that the $100,000 performance bond be replaced with the $7,500 operating bond for a producing well. The completion date of the well was June 7, 2006.
CONSENT AGENDA.

APPROVE REPLAT (1302 S. ELM)

<u>REPLAT APPROVAL OF LOT 4, BLOCK 11 OF THE B.H. MOORE'S HEIRS ADDITION; TERRY PETERSON, OWNER (1302 SOUTH ELM STREET)</u>
The City Council approved the Replat of Lot 4, Block 11 of the B.H. Moore's Heirs Addition, located at the southwest

corner of Dulin and Elm Streets. Terry Peterson, owner of the property, would like to replat this property into two lots for residential development. The Planning and Zoning Commission recommended approval of the Replat.
CONSENT AGENDA.

FINAL PLAT APPROVAL OF THE MEDICINE SHOPPE, A REPLAT OF LOTS 1 AND 2, BLOCK 1 OF W.M. SHANNON'S SUPPLEMENT; RANDY AND JOANNA BENNETT, OWNERS (1622 AND 1624 NORTH TRAVIS STREET)

APPROVE FINAL PLAT (1622 & 1624 N. TRAVIS)

The City Council approved the Final Plat of The Medicine Shoppe, a replat of Lots 1 and 2, Block 1 of W.M. Shannon's Supplement, located at the southwest corner of Texas and Travis Streets. Randy and Joanna Bennett, owners of the property, would like to replat this property into one lot to construct a Medicine Shoppe Pharmacy. The Planning and Zoning Commission recommended approval of the Final Plat.
CONSENT AGENDA.

CITIZENS REQUESTS

FM 1417 OVERLAY DISTRICT

F.M. 1417 OVERLAY DISTRICT

Lee Terrell, 2404 San Miguel, expressed concern about the Overlay District on FM 1417 (Heritage Parkway). The Council is allowing a Specific Use Permit for an auto repair facility in order to get enhancements to a metal building that is currently located in the Overlay District. He asked if the situation can be stopped there.

Mayor Magers said there is currently an Overlay District in place for FM 1417 and he offered to send a copy of the documentation to Mr. Terrell. He added that it was more stringent that the previous Overlay District.

MEDIA QUESTIONS

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

STATE MANDATES

STATE MANDATES

Council Member Adami said he did not like additional State mandates as to what the City Council can accept.

GREAT DAYS OF SERVICE

GREAT DAYS OF SERVICE

Mayor Magers recognized the Great Days of Service project and praised the work of the volunteer groups. Many citizens were mobilized to help others that are less fortunate.

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

Council Member Steele said he would like to make a motion for the Planning and Zoning Commission appointment without retiring to Executive Session.

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

PLANNING & ZONING COMMISSION

ACTION TAKEN.

Motion by Council Member Steele to reappoint John Nix, to the Planning and Zoning Commission for a term from July 6, 2008 to July 6, 2011. Second by Council Member Smith.

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

ADJOURNMENT

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 6:03 p.m.

____
MAYOR

____
CITY CLERK