

June 1, 2015

**MEMBERS PRESENT: MAYOR CARY WACKER; DEPUTY MAYOR DAVID PLYLER.
COUNCIL MEMBERS DAVIS, JOHNSON, SOFEY, STEELE,
WATT.**

CALL TO ORDER

CALL TO ORDER

APPROVE MINUTES

APPROVE MINUTES

CONSENT AGENDA

RES 5974
JUSTICE ASSISTANCE
GRANT AGREEMENT

RES 5975
JUSTICE ASSISTANCE
JOINT APPLICATION

ASSISTANCE GRANT PROGRAM -- CFDA #16.738

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING SUBMISSION OF A JOINT GRANT APPLICATION WITH THE CITY OF DENISON AND GRAYSON COUNTY FOR, AND THE ACCEPTANCE OF, A GRANT AWARDED UNDER THE 2015 JUSTICE ASSISTANCE GRANT PROGRAM -- CFDA #16.738.

CONSENT AGENDA.

RESOLUTION NO. 5976 -- APPROVING THE GREATER TEXOMA UTILITY AUTHORITY'S INTENTION TO ADVERTISE FOR BIDS FOR THE PROCUREMENT OF HIGH TECHNOLOGY EQUIPMENT FOR THE CITY OF SHERMAN WATER TREATMENT PLANT EXPANSION PROJECT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING THE GREATER TEXOMA UTILITY AUTHORITY'S INTENTION TO ADVERTISE FOR BIDS FOR THE PROCUREMENT OF HIGH TECHNOLOGY EQUIPMENT FOR THE CITY OF SHERMAN WATER TREATMENT PLANT EXPANSION PROJECT.

RES 5976
WATER TREATMENT
PLANT EXPANSION

Mark Gibson, Director of Utilities, explained that the City is currently running pilot tests for the membrane units at the Water Treatment Plant. There are four vendors that are currently testing. The tests will continue through the middle of June and one vendor will probably extend through the end of June.

He said the staff is currently asking the Council for approval to advertise the units for bid. There is a long lead time on the item and the City must select a vendor so the rest of the plant can be designed around the membrane system that they will be using.

ACTION TAKEN.

Motion by Council Member Steele to approve Resolution No. 5976, as presented. Second by Council Member Johnson.

VOTING AYE: Davis, Johnson, Plyler, Sofey, Steele, Watt.

VOTING NAY: None.

MOTION CARRIED.

OTHER BUSINESS

CONSIDER REQUEST OF LAUREN ROTH AND CELEBRATE IN STYLE, A CORPORATE EVENT PLANNER, TO TEMPORARILY CLOSE ELM STREET FOR THE TAYLOR PHELAN CONCERT ON SATURDAY, JULY 11, 2015

Lauren Roth, Tourism Director, said the request is for a privately planned concert that is not being done through the Tourism Department or the Chamber of Commerce. They would like to close Elm Street and also bring in a caterer, such as Fulbelli's, to serve alcohol. If approved, Fulbelli's will handle all the Texas Alcoholic Beverage Commission licensing, and the area will be fenced off as required.

CLOSE STREETS
TAYLOR PHELAN
CONCERT
(JULY 11, 2015)

COUNCIL MINUTES – JUNE 1, 2015

Ms. Roth asked for approval to allow food trucks to park on the street, and to serve alcohol and have music playing outside prior to the concert.

Mayor Wacker said the request is in line with ordinance changes that were made about four years ago to allow the hosting of events and closing of streets with certain requirements. The ordinance requires a perimeter with signage stating that no alcohol is allowed beyond a certain point. Off-duty police officers are also required at the event.

She added that the ordinance was established to allow the City to host entertainment events such as this.

Ms. Roth said they have also rented the Municipal Ballroom and Kidd-Key Auditorium for the event, and have requested four off-duty police officers to work.

ACTION TAKEN.

Motion by Council Member Watt to approve the request of Lauren Roth and Celebrate in Style, to close Elm Street for the Taylor Phelan Concert on July 11, 2015, as presented. Second by Council Member Davis.

VOTING AYE: Davis, Johnson, Plyler, Sofey, Steele, Watt.

VOTING NAY: None.

MOTION CARRIED.

CONSIDER REQUEST OF UNITED WAY OF GRAYSON COUNTY TO TEMPORARILY CLOSE CERTAIN STREETS FOR THE "UNITED WAY HUSTLE FOR HEALTH" ON SATURDAY, AUGUST 15, 2015

The City Council approved the request of United Way of Grayson County to temporarily close certain streets for the "United Way Hustle for Health" on August 15, 2015, as presented.

They are requesting traffic control assistance and cones for the run, and the closure of Rusk Street, in front of the Municipal Building from 8:00 a.m. until 9:00 a.m. They will also need barricades and assistance to place and remove the barricades and cones.

CONSENT AGENDA.

RECEIVE UPDATE ON PROPOSED AMENDMENT TO THE CITY'S ANIMAL CONTROL CODE PROVISIONS

Brandon Shelby, City Attorney, briefed the City Council on the proposed amendment to the City's Animal Control Code. Mr. Shelby said several months ago the City Council was approached by a citizen that was having a dispute with her neighbor over livestock. The Council asked the staff to review the current small livestock ordinance to see if any code revisions could help remedy the issues.

He said the staff has reviewed what other cities around Sherman are doing and there is really no uniformity to the ordinances, and in fact, the real problem seems to be

CLOSE STREETS
UNITED WAY
HUSTLE FOR HEALTH
(AUG. 15, 2015)

ANIMAL CONTROL
CODE

enforcement. If the homeowners were in compliance with the current ordinance at all times, the problem probably wouldn't be as bad as the neighbors perceived it to be. However, it is difficult for the City to enforce the distance and enclosure requirements because Animal Control Officers would have to witness the violation taking place.

The staff tried to make the proposed ordinance as simple as possible and revised the definition of livestock to include livestock of any size and then remove the small livestock exception for properties under an acre.

Essentially, Mr. Shelby said the proposed ordinance says if you live on less than an acre, inside the City limits, you would not be allowed to have any livestock and would limit the number of fowl. If you live on more than an acre, you could have livestock and fowl. He said this follows other ordinance revisions by delineating property rights based on acreage.

Mr. Shelby asked for direction from Council as to whether or not to bring this forward as an ordinance for their consideration.

Robby Hefton, City Manager, said there has also been discussion about implementation of the ordinance. He said there may be some citizens that are currently in violation of the proposed ordinance if it were passed today. He said the Council could implement the ordinance and grandfather those that already have livestock that would be in violation, and when those livestock "go away" there would be no replacement.

Another option would be to delay the effective date to allow the owner a period of time to be in compliance with the ordinance. The staff has no recommendation, but there are several ways to handle the implementation if the Council does choose to adopt the ordinance.

Council Member Johnson asked if a registration process would be used to grandfather the livestock. Mr. Hefton said the City does not have the staff to monitor and register livestock throughout the City. It would really be on a complaint basis. He said it would probably be easier to set an effective date in the future for compliance.

Mayor Wacker said this has been an issue for a long time and the Council agrees that within the City, where neighbors are in close proximity, most farm animals are not compatible. She said there are many variations with other cities' ordinances, but most do not allow livestock on small City lots. The proposed ordinance is very simple and straight forward, and she asked the Council what they wanted to do.

Council Member Watt said there would be challenges, but he asked what effective date the staff was thinking about. Mr. Hefton said probably no longer than 12 months, but he felt six months might be about right. Council Member Johnson felt January 1, 2016 would be a good natural point to start.

Council Member Watt asked if the lady that appeared at a past Council Meeting could have sought relief under the current ordinance. Mr. Shelby said she did. She gathered evidence herself and filed complaints in Municipal Court. The neighbors were found guilty and fined in Municipal Court.

Council Member Davis asked if the staff had any idea how many residences have livestock. Mr. Shelby said the City is "complaint based" and does not know how many have livestock.

Council Member Steele verified that the City would advertise any changes to the ordinance several ways so the citizens would be aware of the new regulations. Mr. Shelby said warnings could also be issued during that period so citizens would become aware of the changes.

Council Member Steele asked if the Animal Shelter was prepared to accept any livestock that citizens wanted to turn over as the new ordinance goes into effect. Mr. Hefton said that would not be encouraged, but the staff would take that on a case-by-case basis. Council Member Davis said most livestock would have some type of commercial value to someone living in the country.

Council Member Sofey felt the first of the year would be a good effective date. He asked if there was a time period after the ordinance is in effect, for citizens to comply when complaints are made against them. Mr. Shelby said a violation of the ordinance would be a Class C Misdemeanor, prosecuted in Municipal Court, so there should be a way to work out something during prosecution of the violation.

Council Member Watt would like to make sure that "liberal approach" is made known to the Municipal Court Judge and ask him to work with the citizens that violate the ordinance.

Mr. Hefton said the ordinance would be brought back at the next meeting for Council consideration.

DISCUSS THE PROPOSED AMENDMENT OF THE CITY'S SMOKING CODE PROVISIONS

Mr. Hefton said on March 16, 2015, the City Council asked the staff to study the issue of a City-wide smoking ban, especially in restaurants and bars. Council Members asked the staff to research the opinions of local restaurant and bar owners and managers, to assess the impact of a smoking

SMOKING CODE PROVISIONS

ban on the existing establishments, to review current proposed State legislation, and to review policies from other cities to determine if and how they regulated smoking.

The City currently has a smoking policy that prohibits smoking at the airport, City buildings and facilities, common area of theaters, concert halls, public elevators, public schools, hospitals or nursing homes, and certain public transportation facilities and on public transportation vehicles. It also requires that the smoking and non-smoking areas be separated and that there is no smoking in entrance areas of restaurants.

Mr. Hefton said the staff contacted owners or managers at all restaurants and bars in Sherman. There are currently 91 restaurants and/or bars, and of those, 73 are dine-in. Nine of the 73 permit smoking. Three of the nine that permit smoking would oppose a smoking ban. One of those three would be okay with a ban in restaurants, but not in bars. The staff could not reach Rendezvous Club. The survey also polled whether or not they thought a smoking ban would hurt their business

Currently there is no State-wide smoking ban in Texas, but there are some regulations that apply. As for SB 87 that was introduced in January 2015, the current status is that it "died in committee." Mr. Hefton also presented information on smoking regulations in our peer cities.

He presented three options to the Council. They could leave the ordinance as it is and let the businesses make the decision; approve a comprehensive ban in restaurants, bars, buildings, government facilities, and parks; or approve a partial ban, considering areas such as restaurants and bars only, restaurants only, indoor vs outdoor patio areas, and outdoor events.

Mr. Hefton said many cities that have regulated smoking in restaurants, have still allowed it in patio areas and outside, as long as it is a specific number of feet away from entrances.

Council Member Davis asked, of the nine restaurants/bars that allow smoking, are there any that are strictly bars. Mr. Hefton said that depends on the TABC definition of a bar. Legally, he did not believe there were any "bars" in Sherman, but there are some private clubs that are located in the community. As for enforcement, Mr. Shelby said it would probably be based on how the facility is defined with TABC. He added that there is a wide array of TABC licenses in the State. Mr. Hefton added that it is a function of the sources of revenue and the licensing from TABC.

Council Member Watt asked about the private clubs in Sherman, but Mr. Shelby said the survey didn't specifically address that issue so he was not aware whether or not there

COUNCIL MINUTES – JUNE 1, 2015

were any operating in Sherman. He said that before the local option election in Sherman, private clubs were a way that facilities could serve alcohol.

Mr. Hefton said additional research could be done to determine the designations if the Council would like. Council Member Davis verified that private clubs would include organizations such as the VFW, Knights of Columbus, and other organizations. Mr. Shelby said it did include those organizations, but there might be others too. Council Member Sofey said some cities characterize these organizations as "fraternal organizations" and allowed smoking.

There were no citizens in the audience that wanted to speak before the City Council about this issue. Mayor Wacker asked for Council direction to the staff.

Council Member Sofey said he was in favor of some form of ordinance, even if it allowed smoking in the outdoor areas and in bars.

Deputy Mayor Plyler said he would like to see additional research as to what constitutes a private club or bar. The City should not mistakenly cause a business owner any hardship. He said he was uncomfortable with City government telling Americans how to run their business, and in doing that the City must be very careful and very deliberate about how that is done.

Council Member Davis said he was surprised at the number of restaurants that don't allow smoking. He did not feel that government should unnecessarily regulate businesses and the private sector is doing the job. He also asked who the City is protecting. There are restaurants and bars where smokers go with their friends and they voluntarily accept any risks by doing so.

He also expressed concern about unintended consequences such as places that depend on customers that smoke and might lose business, and businesses that have made expensive improvements to accommodate smokers.

Mayor Wacker said there is a lot of data for cities that have enacted smoking bans that demonstrate there is no financial harm to the businesses. Many restaurants that have already banned smoking are reacting to what their customers want. Cities frequently regulate what private businesses do for health concerns or public safety. She added that the City is not taking away the rights of smokers, because there are many other places they can smoke.

Mayor Wacker said she would like to see an ordinance for a "moderate smoking ban" that restricts smoking in restaurants. The ordinance should be very specific in what

it excludes and should not exclude smoking in the fraternal halls or private clubs.

Council Member Davis said his opinion did not have anything to do with smokers' or non-smokers' rights, but with unnecessarily regulating businesses and unintended consequences. A possible solution is to require every restaurant and bar to have a smoking policy and to state on a sign on the door, what that policy is.

Council Member Johnson said he wouldn't be opposed to reviewing a proposed ordinance, but he felt that with only nine out of 73 restaurants or bars that allow smoking, there is pretty good self-policing. He also was concerned about government regulating businesses.

Council Member Steele expressed concern about the smoking section of a restaurant being near a door where those entering must walk through to get to the non-smoking area. He didn't want to hurt businesses, but he was in favor of some type of smoking ban for restaurants. He did not feel it would be detrimental to the business.

Mr. Hefton said the staff will bring back a draft ordinance for discussion, excluding things that might relate to private clubs and fraternal organizations. He asked if they wanted to allow smoking in outside areas, but a specific number of feet from the entrance, or on patios.

Council Member Sofey liked allowing it on patios, in fraternal organizations, and nursing homes that have a smoking section, but not at City events, on City property, or in City parks.

Council Member Watt verified that smoking was not allowed on school property. Mayor Wacker said all campuses are smoke free, as well as in Bearcat Stadium.

Deputy Mayor Plyler asked if there was a time factor where a bar or restaurant could allow smoking after 9:00 p.m. or 10:00 p.m. Mr. Hefton said that could be included in an ordinance.

Council Member Davis asked about cigar bars. Mr. Hefton said most cities did not regulate or prohibit smoking in those types of establishments, or private homes or vehicles.

Mayor Wacker said she felt that having a non-smoking ordinance that regulates these types of activities shows that Sherman is a progressive City. She recommended that the staff bring back a proposed ordinance after the budget work session, in early to mid-July.

CONSIDER CALLING AN ELECTION FOR CHARTER
AMENDMENT FOR THE NOVEMBER 3, 2015 REGULAR AND
SPECIAL ELECTION

CHARTER
AMENDMENT
ELECTION

COUNCIL MINUTES – JUNE 1, 2015

Mayor Wacker said periodically the Council and staff reviews the City Charter to make sure everything is up to date.

Mr. Shelby said a City is allowed to amend their Charter every two years, and Sherman's last Charter Election was in 2010. Since that time, some provisions have probably become dated.

In consideration of items that need to be amended, input will be gathered from all City departments and from Council Members. Normally the City Council appoints an ad hoc committee to review the Charter and make recommendations on proposed amendments. He urged the Council to appoint the committee at the next Council Meeting so they can review recommendations and present those to the Council at the August 3, 2015 Council Meeting. The Election must be called no later than August 24, 2015 for inclusion on the November ballot.

Mayor Wacker said the proposed timeline would be as follows:

- Appoint the ad hoc committee by June 15, 2015
- Committee recommendations presented to the full Council on August 3, 2015
- Ordinance ordering the Charter Amendment Election considered on August 17, 2015

ACTION TAKEN.

Motion by Council Member Sofey to adopt the proposed timeline for a Charter Amendment Election on November 3, 2015, as presented. Second by Council Member Steele.

VOTING AYE: Davis, Johnson, Plyler, Sofey, Steele, Watt.

VOTING NAY: None.

MOTION CARRIED.

CITIZENS REQUESTS

TAYLOR PHELAN CONCERT

Kevin Couch, 225 N. Travis, is the owner of CBC Creative, and is involved in the Taylor Phelan concert mentioned earlier in the meeting. He thanked the Council for approving the street closures for the concert.

TAYLOR PHELAN
CONCERT

He said Mr. Phelan's mission on "The Voice" was to show how important the City of Sherman was in his development as an artist. He said that even though this wasn't a tourism event, it would bring a lot of attention to Sherman through several bigger media outlets.

MEDIA QUESTIONS

There were no media questions.

MEDIA QUESTIONS

COUNCIL COMMENTS

THANKS TO STAFF

Council Member Steele thanked the staff for keeping the City

THANKS TO STAFF

COUNCIL MINUTES – JUNE 1, 2015

Council and the citizens informed about the recent tornado that touched down near his home. He was out of town at the time, but appreciated knowing the situation since his family was here.

THANKS TO STAFF

Council Member Watt agreed with Council Member Steele about the recent weather events.

THANKS TO STAFF

THANKS TO STAFF

Council Member Sofey added a thanks to the staff during the recent dam breach and the gas evacuation on Friday, May 29, 2015. He recognized the way the situations were handled by the Engineering Department, the Fire Department, and the Police Department.

THANKS TO STAFF

THANKS TO STAFF

Deputy Mayor Plyler agreed and recognized the City staff that were out in the weather performing these duties.

THANKS TO STAFF

THANKS FOR UPDATES

Council Member Johnson said he was also out of town last week but thanked Mr. Hefton for his updates on the situations. He recognized the hard work of the City staff and the first responders.

THANKS FOR
UPDATES

RECENT WEATHER EVENT

Council Member Davis said he was also thankful that the City didn't have the downpour at one time, that they did in 2007.

RECENT WEATHER
EVENT

SEDCO TOUR OF CARRUS SPECIALTY HOSPITAL

Council Member Davis said he was recently invited by the Sherman Economic Development Corporation, to visit Carrus Specialty Hospital, along with the Mayor. He said they met with the management, owners, and the head nurse, and toured the facility. He said it was very interesting and informative. He added that they were a great corporate citizen and he was glad they were located in Sherman.

SEDCO TOUR OF
CARRUS SPECIALITY
HOSPITAL

ANNOUNCEMENTS

Mayor Wacker announced the following:

- Many people visited Sherman this past weekend to attend the Second Annual Interurban Film Festival.
- Hot Summer Nights begins this Thursday at 7:30 p.m. on the Municipal Grounds, with the Fin City Band.
- "Les Miserables" opens at the Finley Theater on June 5, 2015. The show is a collaboration with many community partners and should draw many people into Sherman.
- Sherman Public Library is hosting Monday Madness from June 8 through June 27, 2015.

ANNOUNCEMENTS

- The Sherman Museum also has Dino Days opening soon. She urged citizens to visit the City's website or the Chamber's tourism website to see the great events in Sherman.

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

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.

EXECUTIVE SESSION

SECTION 551.071 CONSULTATION WITH CITY
ATTORNEY CONCERNING
PENDING OR CONTEMPLATED
LITIGATION:
RECEIVE THE CITY ATTORNEY'S
BRIEFING ON PENDING OR
CONTEMPLATED LITIGATION

SECTION 551.074 PERSONNEL MATTERS:
DELIBERATE THE APPOINTMENT,
EMPLOYMENT, EVALUATION,
REASSIGNMENT, DUTIES,
DISCIPLINE, OR DISMISSAL OF A
PUBLIC OFFICER OR EMPLOYEE

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

On Motion duly made and carried, the Executive Session recessed at 6:18 p.m. and reconvened in Open Meeting.

OPEN MEETING

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

OPEN MEETING

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 6:19 p.m.

ADJOURNMENT

MAYOR

CITY CLERK