STATE OF TEXAS §

May 16, 2011

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 May 16, 2011.

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

MEMBERS ABSENT: **NONE.**

CALL TO ORDER

CALL TO ORDER

Mayor Magers called the meeting to order at 5:01 p.m. The Pledge of Allegiance and the Invocation were given by Council Member Pam Howeth.

APPROVE MINUTES

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of April 18, 2011 and the Called City Council (Budget Planning) Meeting of April 21, 2011. Council Member Softly moved to approve the Minutes as presented; Second by Council Member Howeth. All present voted AYE. MOTION CARRIED.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

ORD 5694
S.H. 289 SPEED LIMITS

Mayor Magers introduced Ordinance 5694 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING MAXIMUM, REASONABLE AND PRUDENT RATES OF SPEED ON CERTAIN PORTIONS OF S.H. 289 IN THE CITY OF SHERMAN; FIXING PENALTIES FOR VIOLATION THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5694.

ORD 5695
ONCOR RATE INCREASE

Mayor Magers introduced Ordinance 5695 and called for a public hearing:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING A NEGOTIATED RESOLUTION BETWEEN THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR (“STEERING COMMITTEE”) AND ONCOR ELECTRIC DELIVERY COMPANY LLC (“ONCOR” OR “COMPANY”) REGARDING THE COMPANY’S APPLICATION TO INCREASE ELECTRIC RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES’ REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE

NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ONCOR'S PROOF OF REVENUES; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

No citizens appeared before the City Council to discuss Ordinance 5695.

ORD 5696
SUP FOR AUTO REPAIR & TIRE SALES (2012 S. TRAVIS)

Mayor Magers introduced Ordinance 5696 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 ALLOW AUTOMOBILE REPAIR AND TIRE SALES AND SERVICE IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 2012 SOUTH TRAVIS STREET, BEING 1.023 ACRES IN THE PRESTON KITCHENS SURVEY, ABSTRACT NO. 667 (JOHN ABRAMS AND ESTATE OF HELEN ABRAMS, OWNERS; JORGE ONTERVES, APPLICANT; AND MARY ANN KAUFMAN, REPRESENTATIVE); 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 5696.

ORD 5697
ZONE CHANGE FOR 4300 BLOCK OF U.S. HWY 75 NORTH

Mayor Magers introduced Ordinance 5697 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 4300 BLOCK OF U.S. HIGHWAY 75 NORTH, BEING 6.588 ACRES IN THE W. BROWN AND B.A. RICKETTS SURVEY, ABSTRACT NO. 1553 AND THE T.J. SHANNON SURVEY, ABSTRACT NO. 1137, AND BEING LOTS 2, 3 AND PART OF LOT 1 OF THE PROPOSED WESTGATE HILL ADDITION (SAMUEL NECHAMKIN AND GARY HOGE, OWNERS; JASON SOFEY, SOFEY CONSTRUCTION AND DESIGN, LLC, REPRESENTATIVE; CHRIS SCHMITT, TEAGUE, NALL AND PERKINS, ENGINEER; DAVID BACA, ARCHITECT; AND UNDERWOOD DRAFTING AND SURVEYING, SURVEYORS); PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5697.

ORD 5698
SUP FOR BILLBOARD (4300 BLOCK OF U.S. HWY 75 NORTH)

Mayor Magers introduced Ordinance 5698 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-2 (GENERAL COMMERCIAL) DISTRICT AND SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW A BILLBOARD IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND O-1 (75 & 82) OVERLAY DISTRICT IN THE 4300 BLOCK OF U.S. HIGHWAY 75 NORTH, BEING 0.051 ACRES IN THE W. BROWN AND B.A. RICKETTS SURVEY, ABSTRACT NO 1553 AND THE T.J. SHANNON SURVEY, ABSTRACT NO. 1137, AND BEING PART OF LOT 1 OF THE PROPOSED WESTGATE HILL ADDITION (SAMUEL NECHAMKIN AND GARY HOGE, OWNERS; JASON SOFEY, SOFEY CONSTRUCTION AND DESIGN, LLC, REPRESENTATIVE; CHRIS SCHMITT, TEAGUE, NALL AND PERKINS, ENGINEER; DAVID BACA, ARCHITECT; AND UNDERWOOD DRAFTING AND SURVEYING, SURVEYORS); 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>Mike Wynne, 707 W. Washington</u>
Mr. Wynne appeared representing Ron Harmon, owner of property located to the south of the proposed billboard site. Mr. Harmon is opposed to the request for the Specific Use Permit for the billboard. He has no objections to any other part of the project.

Mr. Harmon objects to both the five foot setback as opposed to a 30 foot setback and to the billboard placement at this time. Mr. Wynne explained that Mr. Harmon doesn't necessarily object to the billboard, but he objects to a decision being made at this time and asks that any decision be tabled until further study.

During the Comprehensive Master Plan Study, one issue was the protection of the gateways to the community. Specifically there were some concerns about billboards.

Mr. Wynne urged the Council to see what is best for all the citizens, not just one land owner. He asked them to table the current request and study the issue. He added that there are new issues related to the changeable electronic billboards including safety issues and things such as duration of the message, transition time, brightness, and location.

He felt there should be a study concerning the safety issues and other issues such as building materials, color, content, the number, spacing, location, and other specific standards. He urged that this study be completed prior to approving any billboards in this area.

Deputy Mayor Steele asked where Mr. Harmon's property was located in relation to the request. Mr. Wynne said the property is immediately to the south of the subject property

and is currently zoned residential, although he admitted that would probably not be the highest and best use of the property.

Deputy Mayor Steele clarified Mr. Wynne's objection. Mr. Wynne said Mr. Harmon objected to the location and the variance for the setback that would allow the billboard to be located five feet from his property line instead of the regular 30 feet.

Mr. Wynne said the bigger issue is that they would like to see the studies completed prior to any billboards being erected so they can be built with orderly guidelines. Mr. Wynne added that Mr. Harmon has no intention of putting up a billboard.

Mayor Magers said the City currently has an ordinance that would allow a billboard 1,000 feet away from another billboard. There are rules in effect today. Mr. Wynne said these rules were sufficient years ago, but he was not sure they would be sufficient for the electronic billboards today. He added that the northern gateway to Sherman should be protected as much as possible.

Council Member Smith verified that the requested variance would allow the billboard to be located five feet north of Mr. Harmon's property line as opposed to the 30 feet requirement for residential property.

Jason Sofey, 1218 Preston
Mr. Sofey appeared representing the property owner requesting the variance. He explained that they requested a variance for a five foot setback instead of a 30 foot setback because five foot is the requirement for commercial property. Mr. Harmon's property is zoned residential because when it was annexed, property was automatically annexed as residential. No one expects that the zoning will remain residential, so they requested the setback for a commercial zone.

Mr. Sofey added that the safety issues for signs are currently regulated by the Department of Transportation. There are rules in place in Sherman and they work.

Council Member Smith asked if the setback was left at 30 feet, would it adversely affect the development. Mr. Sofey said it would place the sign closer to the structure and some adjustment might have to be made, but he said it would not drastically affect the project.

They requested the five foot setback because they realized it would all be commercial property at some point.

No other citizens appeared before the City Council to discuss Ordinance 5698.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5694

ORD 5694
S.H. 289 SPEED LIMITS

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING MAXIMUM, REASONABLE AND PRUDENT RATES OF SPEED ON CERTAIN PORTIONS OF S.H. 289 IN THE CITY OF SHERMAN; FIXING PENALTIES FOR VIOLATION THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5694, as presented. Second by Council Member Wacker.

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

Ordinance 5695

ORD 5695
ONCOR RATE INCREASE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING A NEGOTIATED RESOLUTION BETWEEN THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR ("STEERING COMMITTEE") AND ONCOR ELECTRIC DELIVERY COMPANY LLC ("ONCOR" OR "COMPANY") REGARDING THE COMPANY'S APPLICATION TO INCREASE ELECTRIC RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ONCOR'S PROOF OF REVENUES; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

Brandon Shelby, City Attorney, explained that in January 2011, Oncor filed to increase their rates by $353 million. In February the City adopted an ordinance opposing that increase. This rate represents a settlement between the Oncor Cities Steering Committee, of which Sherman is a member, and Oncor. The settlement is for a rate increase of $136.7 million, which is about 60% of the amount they requested.

Mayor Magers clarified that Sherman is a member of the Steering Committee and the current ordinance says that Sherman supports what the Committee has negotiated. Mr. Shelby said there are approximately 160 cities that are members of the Steering Committee.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5695, as presented. Second by Council Member Smith.

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

Ordinance 5696

ORD 5696
SUP FOR AUTO REPAIR & TIRE SALES (2012 S. TRAVIS)

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 ALLOW AUTOMOBILE REPAIR AND TIRE SALES AND SERVICE IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 2012 SOUTH TRAVIS STREET, BEING 1.023 ACRES IN THE PRESTON KITCHENS SURVEY, ABSTRACT NO. 667 (JOHN ABRAMS AND ESTATE OF HELEN ABRAMS, OWNERS; JORGE ONTERVES, APPLICANT; AND MARY ANN KAUFMAN, REPRESENTATIVE); 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 that he has known Jorge Onterves for several years and he was a tenant in a building previously owned by the Mayor.

Council Member Adami noted that one citizen had an objection to the proposed use of the property. Council Member Adami said there are two parts to Travis Street, one that curves and is on the west side of the property and one on the east side of the property that goes to the back of St. Mary's Cemetery.

He asked if the requestors would be willing to restrict their commercial entrance to Travis Street on the west, where the other commercial traffic is located, rather than the one on the east which is in the residential area.

<u>Mary Ann Kaufman, 354 Grigg Road, Sherman</u>
Ms. Kaufman spoke as a representative for the request, saying yes they would agree to keep that door closed, not have any parking on that side, and have traffic enter from the west side. They agreed to add that to the ordinance.

Council Member Adami added that the staff review letter states that there will be no parking on unpaved surfaces. He asked if any of the front area was paved or if they have plans to pave it. Ms. Kaufman confirmed that all storage will be inside the building. There is some partial pavement on the front side. Scott Shadden, Director of Development Services, said any areas they use for parking will need to be paved. There is some existing pavement that can be used.

Deputy Mayor Steele addressed the requirement for no outside parking or storage of dismantled vehicles, wrecks or

parts. He asked if that meant they would need to be inside the building or inside the fence. Mr. Shadden confirmed that those items would need to be inside the building. Ms. Kaufman said they also agreed to that requirement.

Council Member Adami said the property does look better than it previously did.

ACTION TAKEN.
Motion by Council Member Adami to approve Ordinance No. 5696, contingent upon the only commercial entrance being on Travis Street, west of the property. Second by Council Member Smith.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

Ordinance 5697
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 4300 BLOCK OF U.S. HIGHWAY 75 NORTH, BEING 6.588 ACRES IN THE W. BROWN AND B.A. RICKETTS SURVEY, ABSTRACT NO. 1553 AND THE T.J. SHANNON SURVEY, ABSTRACT NO. 1137, AND BEING LOTS 2, 3 AND PART OF LOT 1 OF THE PROPOSED WESTGATE HILL ADDITION (SAMUEL NECHAMKIN AND GARY HOGE, OWNERS; JASON SOFEY, SOFEY CONSTRUCTION AND DESIGN, LLC, REPRESENTATIVE; CHRIS SCHMITT, TEAGUE, NALL AND PERKINS, ENGINEER; DAVID BACA, ARCHITECT; AND UNDERWOOD DRAFTING AND SURVEYING, SURVEYORS); PROVIDING FOR A REPEALER.

ORD 5697
ZONE CHANGE FOR 4300 BLOCK OF U.S. HWY 75 NORTH

Mayor Magers verified that Ordinance 5697 is the zone change for the 4300 block of U.S. Hwy 75 North. He confirmed with Dr. Samuel Nechamkin, the property owner, that he had no plans to build a residential home on the property.

ACTION TAKEN.
Motion by Council Member Smith to approve Ordinance No. 5697, as presented. Second by Council Member Adami.
VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

Ordinance 5698
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-2 (GENERAL COMMERCIAL) DISTRICT AND SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW A BILLBOARD IN A C-2 (GENERAL COMMERCIAL) DISTRICT

ORD 5698
SUP FOR BILLBOARD (4300 BLOCK OF U.S. HWY 75 NORTH)

AND O-1 (75 & 82) OVERLAY DISTRICT IN THE 4300 BLOCK OF U.S. HIGHWAY 75 NORTH, BEING 0.051 ACRES IN THE W. BROWN AND B.A. RICKETTS SURVEY, ABSTRACT NO 1553 AND THE T.J. SHANNON SURVEY, ABSTRACT NO. 1137, AND BEING PART OF LOT 1 OF THE PROPOSED WESTGATE HILL ADDITION (SAMUEL NECHAMKIN AND GARY HOGE, OWNERS; JASON SOFEY, SOFEY CONSTRUCTION AND DESIGN, LLC, REPRESENTATIVE; CHRIS SCHMITT, TEAGUE, NALL AND PERKINS, ENGINEER; DAVID BACA, ARCHITECT; AND UNDERWOOD DRAFTING AND SURVEYING, SURVEYORS); 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 agreed with comments made by Mr. Wynne during the Public Hearing. Digital billboards are a new phenomenon. Recently the City of Dallas passed an ordinance limiting billboards to digital only and in return they are doing a "six for one swap out." He agreed that the City needs to review their ordinance.

He proposed that the next City Council Meeting include an agenda item to enact a 90 day moratorium while the issue is being studied. Mayor Magers said there are currently rules in place for the City of Sherman and this property owner has followed those rules. Any changes to the ordinance should be from this point forward.

He asked Mr. Shelby if there were any legal risks to not approving the current request. Mr. Shelby said any time you take away a property right, you put yourself at some risk for denying the property right to a citizen that has followed the proper steps.

Council Member Smith verified that Mr. Harmon's property is currently zoned residential and the setback requirement for residential property is 30 feet. Mr. Shadden said the variance was approved at the Planning and Zoning Board Meeting and is not an issue at this meeting. The Council is only considering the Specific Use Permit.

Council Member Wacker verified that they are asking for permission now, but at this time they have no specific plans to construct the billboard. Mr. Sofey said they are planning on building a billboard, but the economics of the project will determine whether or not it is digital. They have asked for everything the City requires and hope to build a digital billboard for the aesthetic value.

Mr. Sofey said Dr. Nechamkin owns a six-acre tract and with the City's current sign ordinance, he can legally put signs as large as the requested billboard, five foot closer and ten foot higher than they are requesting, on each individual parcel of land in that tract. By asking for a billboard they are going

five foot farther back and ten foot shorter, with the hope of using the digital billboard for other tenants within the development, as well as for offsite advertising. They do plan on moving forward with the development and the billboard immediately.

Council Member Howeth asked if they could compromise by moving the billboard back 15 feet instead of five feet. Mr. Sofey said that is possible, but the 30 feet would "press them." He added that their request was based on the Comprehensive Master Plan and the potential zoning of that property as commercial. Council Member Howeth asked if there would be a big impact to the development if the setback was 15 feet instead of five feet. Mr. Sofey said probably not at 15 feet.

Mayor Magers verified that the current zoning ordinance says there is a five foot setback on commercial property next to commercial property. He said the requestor assumed that at some point the adjoining property would be zoned commercial and requested the five foot setback.

Deputy Mayor Steele verified that Mr. Harmon didn't necessarily disagree with the billboard itself, just the setback. Mr. Sofey said the sign that is currently allowed would be more obstructive than the variance they are requesting.

Council Member Wacker recommended that a committee study the number of billboards that should be allowed along that part of Highway 75. The Overlay District has also been enacted to protect that area.

Council Member Adami verified that if the request was tabled tonight, the Council would not be bound by the outcome of the proposed study, since the request was made prior to the study. Mr. Shelby confirmed that this application was made under the current ordinance and would not be bound by any changes recommended by the study.

Council Member Adami said he agreed with some of the points made by Mr. Wynne and felt there should be a study. However, he wasn't sure it was relevant for this specific request.

Mr. Wynne confirmed that the setback was the only objection Mr. Harmon had, except he felt the study should be completed prior to granting permission for the Specific Use Permit, when guidelines were in place.

Mayor Magers said there are guidelines in place, however they don't deal specifically with the digital billboards. Mr. Wynne said Mr. Harmon is concerned with the aesthetics of the billboard.

Mr. Sofey said the Council had previously directed the Planning and Zoning Commission to look at sign ordinances and billboards in preparation for the Comprehensive Master Plan study, and that was done. The consultants reviewed the broad scope of the ordinance and they made no recommendations for changes.

Council Member Adami asked if they planned to construct a nice billboard such as the one on Hwy 82. Mr. Sofey said it would be nicer than the one on Hwy 82 and will be below the maximum size allowed. The property owner has invested money in purchasing the property and will be investing a lot of money in the development and they want it to be the best possible. They would like to have the billboard double sided which will look better.

Mayor Magers confirmed that there are no requirements to construct a digital billboard. They could construct a regular billboard today and make it digital at some point in the future.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5698, as presented. Second by Deputy Mayor Steele.

VOTING AYE: Adami, Howeth, Smith, Softly, Steele.
VOTING NAY: Wacker.
MOTION CARRIED.

Mayor Magers asked that an item be placed on the next City Council Agenda to consider a 90-day moratorium on billboards in the Overlay Districts on Heritage Parkway and on Sam Rayburn Freeway. He felt the City should consider allowing only digital billboards and should consider the size of signs on Heritage Parkway.

CONSENT AGENDA

CONSENT AGENDA

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

RESOLUTIONS

RES 5577
GRAYSON COUNTY EMERGENCY NOTIFICATION SYSTEM

RESOLUTION NO. 5577 – AUTHORIZING EXECUTION OF AN AMENDMENT TO INTERLOCAL AGREEMENT FOR GRAYSON COUNTY MULTI-JURISDICTIONAL EMERGENCY NOTIFICATION SYSTEM

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AMENDMENT TO INTERLOCAL AGREEMENT FOR GRAYSON COUNTY MULTI-JURISDICTIONAL EMERGENCY NOTIFICATION SYSTEM.

Jeff Jones, Fire Chief, said the City of Sherman has had CodeRED since 2006, and was the Reverse 911 call only. Beginning in 2008, Grayson County added CodeRED for the entire County, and added the weather warn system.

The County system was paid for from a Federal grant, and allowed the City of Sherman to join, at no cost for that system.

Originally the CodeRED system for the citizens of Sherman cost about $18,000. If the weather warn system was added to that today, the cost would be about $22,000.

This amendment is contingent on the City continuing cooperation with Grayson County to support their Emergency Management operation. The City pays Grayson County an annual fee of $20,000 toward that operation. Therefore the City is saving about $2,000 annually by joining with Grayson County's Emergency Management operation and getting CodeRED free.

Chief Jones said CodeRED is a valuable asset, both for weather warning and for lost children and adults. The amendment is approved annually.

Deputy Mayor Steele asked who made the decision on the CodeRED calls. Chief Jones explained that locally the Police Chief, Fire Chief, or one of the Assistant Emergency Management Coordinators would make the decision to launch a CodeRED notification for the City of Sherman.

The Emergency Management Coordinator in Denison or Grayson County, or any of the Mayors or City Managers could make a request for CodeRED activation. The entities share a number of minutes annually, so there are some strict criteria as to activation. There is an additional cost if that allotted number of minutes is exceeded.

Deputy Mayor Steele verified that Grayson County is responsible for deciding when the outlying cities receive a CodeRED call. Chief Jones added that a CodeRED notification can even be sent to a single neighborhood or street, or to the entire County, as needed.

ACTION TAKEN.

Motion by Council Member Wacker to approve Resolution No. 5577, as presented. Second by Council Member Softly.

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

CHANGE ORDER
U.S. HWY 75 NORTH
SEWER PROJECT

CHANGE ORDER NO. 2
U.S. HIGHWAY 75 NORTH SEWER IMPROVEMENTS, CONTRACT "B"; TRI-CON SERVICES, INC; $800.00 INCREASE

The City Council approved Change Order No. 2, which provides for additional soil stabilization for portions of the U.S. Highway 75 North Sewer Improvement Project. After recent heavy rainfall events, the need arose to stabilize additional steep slopes in areas disturbed by construction

activities, requiring an additional 320 square yards of finished grade stabilization.

The change order results in an increase of $800 to the original contract, for a final contract amount of $1,157,901.39.
CONSENT AGENDA.

OTHER BUSINESS
RECEIVE DOWNTOWN SHERMAN PRESERVATION AND REVITALIZATION, INC.'S RESOLUTION COMMENDING THE SHERMAN CITY COUNCIL FOR THEIR COMMITMENT TO DOWNTOWN SHERMAN IMPROVEMENTS

DOWNTOWN IMPROVEMENTS

Jared Tredway, Volunteer with Downtown Sherman Preservation and Revitalization, Inc., read a resolution commending the Sherman City Council and staff for their commitment to improvement in the Downtown area. He added that DSP&R wanted to express their gratitude for the City's ongoing commitment to proposed improvements.

He said they looked forward to continued cooperation between the City and DSP&R as they work toward their common goals of cultural vitality and economic success in the City's center. A vibrant and sustainable Downtown will make Sherman more attractive to future residents, businesses, and industries and lead to continued economic success.

Mayor Magers thanked Mr. Tredway for the comments adding a thank you to DSP&R for their hard work.

RECEIVE QUARTERLY PROGRESS REPORT FROM SHERMAN ECONOMIC DEVELOMENT CORPORATION BOARD VICE CHAIRMAN JUSTON DOBBS AND VICE PRESIDENT FRANK GADEK

SEDCO UPDATE

Todd Thompson, Chairman of the Sherman Economic Development Corporation, gave a quarterly progress report on the Board's activities from January through March 2011.

The last 90 days have been very eventful for SEDCO with many changes and a review of policies and procedures. Three projects were announced during the quarter. Sunny Delight had the Alpla deal for $10 million, which was the retention part of Sunny Delight. The agreement was for 10 to 15 jobs and did not include a tax abatement.

Another Sunny Delight deal was for $17 million. They actually spent over $25 million, but the agreement was an incentive on the capital investment that was shown on the tax roll. This was also a retention program for new tax dollars and did not include a tax abatement.

The third project was for GlobiTech. This was their third agreement and did not include a tax abatement.

Deputy Mayor Steele asked about the agreement with Grayson County for fiber optic installation for their new facility, which was previously the Sherman Independent School District Administration Building. Mr. Thompson said the fiber optics would enhance the Downtown area and would pull fiber optics from the Justice Center to the County's new building. The fiber optics will be useful for anyone located along that route and should help with job retention in the Downtown area.

Council Member Adami asked about a verbal commitment that SEDCO previously made to partner with the City for Downtown street improvements. He asked that SEDCO continue to review that possibility and see how they can participate. Mr. Thompson said $550,000 was earmarked in SEDCO's Work Plan for burying the utilities underground in the Downtown area. This project would clearly be an infrastructure project.

Mr. Thompson said after the City develops their plan, SEDCO would be happy to see where they can participate by working within the limits of their guidelines.

Mr. Thompson thanked the City Council for their patience during the past few months.

Mayor Magers said using the impact analysis was started three years ago, and includes a third-party economist reviewing the proposed deal and reporting on the return on investment so SEDCO can determine if it is a good deal or a bad deal.

He said he was often asked about the status of the project with Panda Energy. When they originally talked about coming to Sherman, the economic situation was different. They still had a multiple year option that they were utilizing for free. SEDCO approached them about paying a reasonable fee to retain the option, based on the difference that it would be sold to them for.

Mayor Magers said the biggest recent change is that while reviewing a project, SEDCO is looking at a return on taxpayer dollars.

He thanked Mr. Thompson for his leadership in SEDCO.

QUARTERLY INVESTMENT REPORTS

APPROVE QUARTERLY INVESTMENT REPORTS FOR PERIOD ENDING MARCH 31, 2011

The City Council approved the Quarterly Investment Reports for the period ending March 31, 2011. As of March 31, 2011, both the Operating Portfolio and the Debt Proceeds Portfolio were in compliance with applicable State laws and the City's internal Investment Policy.

The Operating Portfolio had a book value of about $23.1 million, up about $4.3 million from three months ago due to

property tax collections during the period. This portfolio is appropriately liquid, and its weighted-average maturity increased to about 230 days, up from 184 days last period, because of investment purchases during the quarter.

The portfolio yield of 0.67% for the quarter is higher than the benchmark yield of 0.17%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.

The Debt Proceeds Portfolio balance decreased about $0.9 million due to payments made for construction projects during the period. The portfolio remains adequately liquid, with all of the funds available within one day. Its yield of 0.15% for the quarter is slightly lower than the benchmark yield of 0.17%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio. CONSENT AGENDA.

SPECIAL CONSIDERATION TO NOT REQUIRE SIDEWALKS (AUSTIN COLLEGE) (REQUEST DIED FOR LACK OF A MOTION)

SPECIAL CONSIDERATION TO ORDINANCE NO. 2684, SECTION 12 (F) TO NOT REQUIRE SIDEWALKS ON A PORTION OF THE PROJECT IN AN R-2 (MULTI-FAMILY RESIDENTIAL) DISTRICT / COLLEGE PARK OVERLAY DISTRICT; BEING LOT 1, BLOCK 1, BROCKETT SW ADDITION; AUSTIN COLLEGE, OWNERS; HEIDI ELLIS, AUSTIN COLLEGE REPRESENTATIVE; TODD WILLIAMS, KANGAROO HOUSING INVESTORS, LLC, DEVELOPER / APPLICANT; AND MATTHEW CAIN, CAIN CONSULTING AND ENGINEERING SERVICES, ENGINEERS (916 EAST BROCKETT STREET)

Council Member Wacker abstained from the discussion due to a conflict of interest.

Matthew Cain, Cain Consulting and Engineering Services, 6136 Frisco Square Blvd., Suite 400, Frisco, Texas

Mr. Cain appeared representing Austin College and Kangaroo Housing Investors in their request to not require sidewalks on a portion of their project in the College Park Overlay District.

They are requesting an exception to the sidewalk ordinance for the apartment building that is being constructed on Brockett Street. The student housing will feature 94 bedrooms and sits next to the existing power plant building.

The exception states lots adjacent to developed lots that have no sidewalk. In this area, the only sidewalks available are those along Brockett Street. There is one sidewalk in front of one house, but there is no connectivity.

Mayor Magers verified that they want sidewalks on Brockett Street and on the east side of the development which is Porter Street. Their main objective is to take students from the building and move them onto campus.

Mayor Magers asked why they were requesting a variance on the west side of the development, on Willow Street. The Austin College Master Plan eventually calls for that to be part of the campus.

Mr. Cain said they wanted to move students toward the campus and there is no development on the south side of the property. There are a couple of industrial buildings and the railroad track. He felt there would be a security issue of people entering the campus area from that direction and from an undeveloped area. Mr. Cain said they also didn't want the students walking into that area to "hang out."

Mayor Magers said the same argument could be made on the east side. Mr. Cain said a large recreation area will be located in that area and students will be going into that area. There is also an existing Austin College building where students can be seen on the east side for security purposes. There is no direct visibility on the west side. They would also like students to be able to enter the parking lot without going through the building.

Mayor Magers said the Austin College Master Plan calls for continued building out of the campus and he felt sidewalks would eventually be needed there. Mr. Cain said there is the potential for future development and Austin College has said they will build a sidewalk when there is a need for the sidewalk. They just don't feel it is the best need at this point in time, for this development. Mr. Shadden confirmed that the sidewalk could be constructed at a later date.

Council Member Howeth and Council Member Smith said they did not like the College's arguments. Council Member Howeth did not appreciate the fact that they did not want Austin College students associating with certain people in Sherman. College students are old enough to make the decision as to where they want to walk and don't need a sidewalk to direct them. There are other houses in the area that might also want to use the sidewalks.

She said she loved the development and Austin College has done tremendous work in that area. However, she felt they should finish the sidewalks too.

Mr. Cain said they did not want to alienate the neighbors, but they felt there was a security issue and said they needed to keep the students safe. Mayor Magers said that was an Austin College issue and not a City issue.

He added that the City's sidewalk ordinance is designed to build connectivity in the City. Pacific Street on the south side of the development goes nowhere and he understood not including sidewalks there. He felt the Brockett Street sidewalk should be connected on Willow Street. The College's Master Plan is to continue westward.

Council Member Softly also had a problem with no sidewalks on the west side to connect Brockett Street. The City has invested a lot of money on Brockett Street and it looks nice.

Mr. Cain said there is no connectivity on the south because there are no sidewalks. Mayor Magers reiterated that there are no sidewalks there today. Mr. Cain agreed adding that there is not a need for them today. He added that when the "green space" is built, there is full potential that the sidewalk will be connected to Brockett Street.

Council Member Smith asked if it cost so much to add the sidewalks and was it worth the delay of construction. He added that it is apparent that at some point there will be construction on the south side of the proposed building and sidewalks will be needed. Mr. Cain said the sidewalks would cost more than $2,500 but the money was not the point.

Mr. Cain said the project was designed to move the students to campus as quickly as possible. They also wanted to keep students off the Willow Street side because vehicles and trash trucks would be entering from that side. Mr. Cain recommended that the sidewalk be constructed when it was needed, not at this time.

Council Member Smith said the sidewalks should be added now because they are required by the ordinance. He asked what the City should tell other developers when they don't want to construct a sidewalk on their project.

Mayor Magers asked if anyone had an issue with not requiring the sidewalk along Pacific Street. The sidewalk along Pacific Street will never cross Willow Street because the home there has a variance and there is not enough room for a sidewalk.

Mayor Magers said the issue is whether the City Council would like to grant a variance for the sidewalk running north and south from Brockett Street to Pacific Street. Austin College is requesting a variance on the west side and the south side.

Council Member Adami addressed the Austin College Master Plan adding that he felt the sidewalk should be constructed on both sides. Deputy Mayor Steele felt it was okay not to construct a sidewalk on the west side, along Willow Street.

Council Member Softly said if there is not a sidewalk on the west side, students will walk in the street, where it is not safe.

Tim Millerick, Vice President of Student Affairs and Athletics at Austin College, said they considered all the options and felt their request was the best for the student's safety. There

will be about 94 to 98 cars in the parking lot and trash trucks twice weekly which will add a risk for the students.

Mayor Magers reiterated that the variance was for sidewalks on the west and the south sides of the proposed project. Mr. Shelby explained that in considering the request, the City Council can be more restrictive but not less restrictive. Mayor Magers said the issue on the table is whether or not to allow Austin College a variance on the sidewalk ordinance which would allow them not to construct a sidewalk on the west side and the south side of the project. An affirmative vote will allow them not to install sidewalks, and a negative vote will require them to install the sidewalks.

Council Member Adami said as a long time Sherman resident and as a City Council Member, he is very appreciative of everything that Austin College has done and the investment they have made over the last 10 or 15 years. But the City has an ordinance in place for a reason, to allow connectivity within the community. For this reason he is not in favor of granting the variance.

Council Member Smith said he is a proud graduate of Austin College but he is against the variance.

Mr. Millerick said he felt the City Council was being naïve about the true meaning of the connectivity and the safety issues they will be creating.

Mayor Magers asked for a motion. No motion was made so the request died for lack of a motion. Mr. Shelby clarified that no motion is the same as a no vote.
REQUEST DIED.

Council Member Wacker reminded everyone of her abstention.

<u>FINAL PLAT APPROVAL OF WESTGATE HILL ADDITION; BEING 6.6367 ACRES IN THE W. BROWN AND B.A. RICKETTS SURVEY, ABSTRACT NO. 1553 AND THE T.J. SHANNON SURVEY, ABSTRACT NO. 1137; SAMUEL NECHAMKIN AND GARY HOGE, OWNERS; JASON SOFEY, SOFEY CONSTRUCTION AND DESIGN, LLC, REPRESENTATIVE; CHRIS SCHMITT, TEAGUE, NALL AND PERKINS, ENGINEER; DAVID BACA, ARCHITECT; AND UNDERWOOD DRAFTING AND SURVEYING, SURVEYORS (4300 BLOCK OF U.S. HIGHWAY 75 NORTH)</u>

APPROVE FINAL PLAT WESTGATE HILL ADDITION (4300 BLOCK OF U.S. HWY 75 NORTH)

The City Council approved the Final Plat of Westgate Hill Addition, located in the 4300 block of U.S. Highway 75 North, north of Sherman Town Center. The owner would like to plat the 6.6367 acres into three lots for commercial development.

The Planning and Zoning Commission recommended approval of the Final Plat.
CONSENT AGENDA.

REPLAT APPROVAL OF LOTS 1-7, BLOCK 1, FAIRVIEW PARK PATIO HOMES, PHASE ONE; BEING 1.252 ACRES IN THE J.B. McANAIR SURVEY, ABSTRACT NO. 763; SHREETEJAS, INC., OWNER; DEREK HUMPHREYS, REPRESENTATIVE; AND DELTA LAND SURVEYING, SURVEYORS (1400-1500 BLOCKS OF PARK PLACE)

APPROVE REPLAT FAIRVIEW PARK PATIO HOMES (1400-1500 BLOCKS OF PARK PLACE)

The City Council approved the Replat of Lots 1 through 7, Block 1, in Fairview Park Patio Homes, Phase One, located in the 1400 to 1500 blocks of Park Place.

The property consists of 1.242 acres and was platted and granted a Specific Use Permit to allow patio homes in 1999. The owner would like to replat the property into four lots for multi-family development.

The Planning and Zoning Commission recommended approval of the Replat.
CONSENT AGENDA.

REPLAT APPROVAL OF SHERMAN CROSSING ADDITION, A REPLAT OF A PORTION OF LOT 1, BLOCK 1, SHERMAN SHOPPING CENTER ADDITION; BEING 8.633 ACRES IN THE J.B. McANAIR SURVEY, ABSTRACT NO. 763; 75-82 SHERMAN CROSSING, LTD, OWNERS; DAVID WALLENSTEIN, REPRESENTATIVE; AND UNDERWOOD DRAFTING AND SURVEYING, SURVEYOR (3200 BLOCK OF U.S. HIGHWAY 75 NORTH)

APPROVE REPLAT SHERMAN CROSSING ADDITION (3200 BLOCK OF U.S. HWY 75 NORTH)

The City Council approved the Replat of Sherman Crossing Addition, which is a Replat of a portion of Lot 1, Block 1, Sherman Shopping Center Addition, located in the 3200 block of U.S. Highway 75 North.

The owners of this 8.633 acre site, on the northeast corner of Highway 75 and 82, are proposing the division of a portion of one lot into two lots for the purpose of development.

The Planning and Zoning Commission recommended approval of the Replat.
CONSENT AGENDA.

CITIZENS REQUESTS

CONDITION OF BASEBALL FIELD AT VETERANS PARK

CONDITION OF BASEBALL FIELD AT VETERANS PARK

Art Olson, 1004 Western Hills Drive, said there were about 150 visitors in Sherman last week for the baseball game between Sherman and Waxahachie, as well as scouts looking at a Sherman player. There was also 150 to 200 residents supporting Sherman.

He commended Parks and Recreation and the City employees that groomed that field. One of the scouts from Detroit also commented on the field saying it was one of the best fields he has seen this year.

MEDIA QUESTIONS

MEDIA QUESTIONS

There were no media questions.

APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS:

PARKS AND RECREATION ADVISORY BOARD (2)

PARKS & RECREATION BOARD

ACTION TAKEN.

Motion by Council Member Adami to appoint Jason Howard and Lauren Alexis Bolin to the Parks and Recreation Advisory Board for a term from May 17, 2011 to May 17, 2013. Second by Council Member Smith.

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

COUNCIL AUDIT COMMITTEE (3)

COUNCIL AUDIT COMMITTEE

Council Members extended the Council Audit Committee terms of Joe Smith, Chip Adami and Cary Wacker to November 2011, to coincide with Council terms. A Charter Amendment Election moved the date for the Regular Municipal Election to November and appointments to this Board are normally made after the new Council Members take office.
CONSENT AGENDA.

INVESTMENT COMMITTEE (2)

INVESTMENT COMMITTEE

Council Members extended the Investment Committee terms of Willie Steele and Robert Softly to November 2011, to coincide with Council terms. A Charter Amendment Election moved the date for the Regular Municipal Election to November and appointments to this Board are normally made after the new Council Members take office.
CONSENT AGENDA.

TAX REINVESTMENT COMMITTEE (2)

TAX REINVESTMENT COMMITTEE

Council Members extended the Tax Reinvestment Committee terms of Joe Smith and Chip Adami to November 2011, to coincide with Council terms. A Charter Amendment Election moved the date for the Regular Municipal Election to November and appointments to this Board are normally made after the new Council Members take office.
CONSENT AGENDA.

TAX INCREMENT FINANCING BOARD #1 (3)

TAX INCREMENT FINANCING BOARD #1

Council Members extended the Tax Increment Financing Board #1 terms of Bill Magers, Willie Steele, and Chip Adami to November 2011, to coincide with Council terms. A Charter Amendment Election moved the date for the Regular Municipal Election to November and appointments to this Board are normally made after the new Council Members take office.
CONSENT AGENDA.

TAX INCREMENT FINANCING BOARD #2 (3)

TAX INCREMENT FINANCING BOARD #2

Council Members extended the Tax Increment Financing Board #2 terms of Bill Magers, Willie Steele, and Chip Adami to November 2011, to coincide with Council terms. A Charter Amendment Election moved the date for the Regular Municipal Election to November and appointments to this

Board are normally made after the new Council Members take office.
CONSENT AGENDA.

<u>TAX INCREMENT FINANCING BOARD #3 (3)</u>
TAX INCREMENT FINANCING BOARD #3
Council Members extended the Tax Increment Financing Board #3 terms of Bill Magers, Willie Steele, and Chip Adami to November 2011, to coincide with Council terms. A Charter Amendment Election moved the date for the Regular Municipal Election to November and appointments to this Board are normally made after the new Council Members take office.
CONSENT AGENDA.

<u>COUNCIL COMMENTS</u>
<u>OPPORTUNITY TO DISCUSS ISSUES</u>
OPPORTUNITY TO DISCUSS ISSUES
Deputy Mayor Steele said meetings allow the Council Members and citizens to discuss issues. They don't always agree. Everyone acted professional tonight and no one got upset even though it didn't go their way.

After traveling to other countries, it is nice to see that Americans have the right to gather in a professional manner and argue issues.

<u>UPCOMING COMMUNITY EVENTS</u>
UPCOMING COMMUNITY EVENTS
Council Member Wacker said this is a busy time of year with all the commencement ceremonies and special events coming up. She wished everyone a happy and safe Memorial Day weekend.

She also looked forward to kicking off community events such as Hot Summer Nights.

<u>CODERED WEATHER WARNING SYSTEM</u>
CODERED WEATHER WARNING SYSTEM
Council Member Softly told Fire Chief Jeff Jones to "keep the CodeRED coming."

<u>CODERED WEATHER WARNING SYSTEM</u>
CODERED WEATHER WARNING SYSTEM
Council Member Howeth said everyone appreciates the CodeRED weather warning system. It alerted everyone to a problem and kept everyone safe. She said the citizens appreciate the City's efforts.

<u>AT THE COUNCIL MEETING</u>
AT THE COUNCIL MEETING
Mayor Magers said if you look at the issues on tonight's City Council Meeting, they stopped electric companies from "gouging" the citizens, helped a small business open with certain restrictions, did the right thing with a property owner in following the rules, and had a discussion with a major employer in the community that is expanding.

He said this is the way that democracy and the local government should work and he is proud of the way the

Sherman City Council handles business.

EXECUTIVE SESSION

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.

SECTION 551.074 **PERSONNEL MATTERS CONSIDER THE QUALIFICATION, APPOINTMENT AND REMOVAL OF MEMBERS TO BOARDS AND COMMISSIONS: HISTORICAL PRESERVATION BOARD (2)**

PLANNING AND ZONING COMMISSION (2)

Council Members decided that an Executive Session was not needed.

HISTORICAL PRESERVATION BOARD & PLANNING & ZONING COMMISSION

APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS:
HISTORICAL PRESERVATION BOARD (2)
PLANNING AND ZONING COMMISSION (2)
ACTION TAKEN.

Motion by Council Member Wacker to reappoint David Plyler, to the Historical Preservation Board for a term from April 29, 2011 to April 29, 2015, and to reappoint Brad Morgan, to the Planning and Zoning Commission for a term from May 6, 2011 to May 6, 2014. Second by Deputy Mayor Steele.

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

ADJOURNMENT

ADJOURNMENT
On Motion duly made and carried, the meeting adjourned at 6:25 p.m.

____
MAYOR

____
CITY CLERK