

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, MARCH 15, 2010
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY COUNCIL MEMBER CHIP ADAMI](#)
- A.4 [APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF MARCH 1, 2010](#)

Public Hearing

- B.1 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5642](#)
Amending Chapter 4 of the Code of Ordinances, entitled "Business Regulations", Article 4.14, entitled "Alcoholic Beverages", at Sections 4.14.032 and 4.14.033, to Reflect the Change of State and, therefore, City Permit Fee Collection Procedures for Regulating the Manufacture, Distilling, Brewing, Importing, Transporting, Storing, Distributing or Sale of any Beer, Wine or Mixed Beverage; Amending Procedures for Permits and Renewal of Permits to Reflect Changes in State Law
- B.2 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5643](#)
Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Allow a Single Family Dwelling in a C-1 (Retail Business) District at 417 South Walnut Street, being 0.489 Acres in the Samuel Blagg Survey, Abstract No. 56 (The Roderick-LeGrand Trust, Revocable Living Trust of Eva C. Spence, Owner); Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Close Public Hearing and Consider Adoption of Ordinances

- B.3 [ADOPTION OF ORDINANCES](#)
Consider Adoption of Ordinance Numbers:
 - (a) 5642
 - (b) 5643

B.4 [CONSENT AGENDA](#)

Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

Resolutions

C.1 [* RESOLUTION NO. 5464](#)

Authorizing the Lease of Certain City-Owned Property known as 202 South Sam Rayburn Freeway, located at the Southwest Corner of Lamar Street and the West Frontage Road of U.S. Highway 75, to the Circle Ten Council, Boy Scouts of America

C.2 [* RESOLUTION NO. 5468](#)

Authorizing Execution of a Deed for the Resale of a Tract of Land at 403 North Branch Street, Seized for Delinquent Taxes

C.3 [RESOLUTION NO. 5469](#)

Endorsing Certain Legislative Changes Relating to the Sunset Review of the Texas Public Utility Commission and the Special Purpose Review of the Electric Reliability Council of Texas

C.4 [* RESOLUTION NO. 5470](#)

Awarding a Bid to and Authorizing Execution of a Contract with S&M Cleaning for Park Restroom Cleaning Services

C.5 [* RESOLUTION NO. 5471](#)

Awarding a Bid to and Authorizing Execution of a Contract with Perfection Landscaping for the 2010 Parks Maintenance Finish Mowing Program

C.6 [* RESOLUTION NO. 5472](#)

Approving the Greater Texoma Utility Authority's Intention to Contract with Tri-Con Services, Inc. for Construction of the U.S. Highway 75 North Sewer Improvements, Contract "B"

Request to Advertise

D.1 [* REQUEST TO ADVERTISE](#)

Seal Coat Emulsified Asphalt Oil

Other Business

D.2 [* OTHER BUSINESS](#)

Consider Request of the 2010 Earth Day Planning Committee to Temporarily Close Certain Streets, Suspend Parking Time Limits, and Use Certain City Facilities and Services for the 2010 Earth Day Festival on Saturday, April 24, 2010

D.3 [OTHER BUSINESS](#)

Accept Annual Audit Report for Year Ended September 30, 2009 from Pattillo, Brown & Hill, L.L.P.

D.4 [OTHER BUSINESS](#)

Receive Financial Update from Assistant City Manager/CFO Robby Hefton

D.5 [OTHER BUSINESS](#)

Consider Approval of the Budget Calendar for Fiscal Year 2010-2011

D.6 [CITIZEN REQUESTS](#)

D.7 [MEDIA QUESTIONS](#)

Consider Board/Commission Appointments

D.8 [APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS](#)

(a) Library Board (2)

D.9 [COUNCIL COMMENTS](#)

D.10 [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Chip Adami, Council Member



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. A.3

INVOCATION BY COUNCIL MEMBER CHIP ADAMI



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. A.4

APPROVE MINUTES
OF THE REGULAR CITY COUNCIL MEETING OF MARCH 1, 2010

STATE OF TEXAS

§

March 1, 2010

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 March 1, 2010.

MEMBERS PRESENT:

MAYOR BILL MAGERS.
COUNCIL MEMBERS ADAMI, HOWETH, SOFTLY, STEELE,
WACKER.

MEMBERS ABSENT:

DEPUTY MAYOR JOE SMITH.

CALL TO ORDER

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

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of February 15, 2010. Council Member Wacker moved to approve the Minutes as presented; Second by Council Member Softly. All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5640 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES, ENTITLED "TRAFFIC AND VEHICLES", ARTICLE 12.04, ENTITLED "STOPPING, STANDING AND PARKING", AT SECTION 12.04.006, ENTITLED "ANGLE PARKING", TO PROHIBIT VEHICLE OPERATORS FROM BACKING IN TO ANGLE PARKING SPACES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5640
DOWNTOWN
ANGLE PARKING

No citizens appeared before the City Council to discuss Ordinance 5640.

Mayor Magers introduced Ordinance 5641 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR PERMANENT "NO PARKING" SIGNS RESTRICTING PARKING ALONG BOTH SIDES OF EAST BROCKETT STREET, FROM TRAVIS STREET TO PORTER STREET, WITHIN THE CITY LIMITS OF THE CITY OF SHERMAN; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY.

ORD 5641
NO PARKING
ON BROCKETT ST.

No citizens appeared before the City Council to discuss Ordinance 5641.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5640

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES, ENTITLED "TRAFFIC AND VEHICLES", ARTICLE 12.04, ENTITLED "STOPPING, STANDING AND PARKING", AT SECTION 12.04.006, ENTITLED "ANGLE PARKING", TO PROHIBIT VEHICLE OPERATORS FROM BACKING IN TO ANGLE PARKING SPACES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

**ORD 5640
DOWNTOWN
ANGLE PARKING
(MOTION FAILED)**

Council Member Steele asked why this ordinance was needed and if there was a big problem with people backing into angle parking spaces. Tom Watt, Police Chief, said it was not a "catastrophic" problem, but it does cause a traffic flow problem and would be helpful.

Council Member Steele asked if it was legal to back into an angle parking space or would someone be breaking the law to do so. Chief Watt said the driver would probably be violating other traffic laws. He added that the proposed ordinance is aimed at specifically backing into the space and would be regardless of whether or not a double yellow line was crossed or driving left of center at an intersection. The actual violation would be for backing into the space.

Council Member Steele said there are spaces designated for 15 minute loading and unloading, and he asked if this ordinance would prevent someone from backing into these parking spaces.

Brandon Shelby, City Attorney, said as the Code is now, a citizen would already need a permit from the Police Department to back in and load or unload at the curb.

Council Member Adami asked what prompted the ordinance. Chief Watt said this is a problem especially in the 100 block of South Travis Street. There are numerous people that back into those spaces on a regular basis and it causes a disruption in the flow of traffic. Council Member Wacker said there is a double yellow line and there's not a lot of visibility there and she verified that it caused a "sight line" problem.

Council Member Steele asked if the ordinance would apply City wide. Mr. Shelby said it would not apply to parking lots but would apply to streets and highways inside the City.

Council Member Steele said if a police officer sees them in the act, then they should be ticketed. But if someone is already parked backwards they should not be ticketed.

Council Member Adami verified it would apply 24 hours a day. He did not feel there was a big need for the proposed ordinance. Council Member Steele verified that no additional signage would be needed.

Mr. Shelby referenced Section 12.04.012 of the Code of Ordinances, stating a permit was needed from the Police Department to back into an angle parking space to load or unload.

ACTION TAKEN.

Motion by Council Member Wacker to approve Ordinance No. 5640, as presented. Second by Council Member Howeth.

VOTING AYE: Howeth, Softly, Wacker.

VOTING NAY: Magers, Adami, Steele.

MOTION FAILED.

Ordinance 5641

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR PERMANENT "NO PARKING" SIGNS RESTRICTING PARKING ALONG BOTH SIDES OF EAST BROCKETT STREET, FROM TRAVIS STREET TO PORTER STREET, WITHIN THE CITY LIMITS OF THE CITY OF SHERMAN; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY.

ORD 5641
NO PARKING
ON BROCKETT ST.

Council Member Softly expressed concern about no parking along the street near the church that does not have a parking lot. He felt there would be a problem when they held services.

George Olson, City Manager, said there is currently an ordinance in place that prohibits parking 100 feet going west on the south side of Brockett Street. The no parking zone also goes east to Throckmorton Street.

Mayor Magers asked if the no parking designation became a problem, could the City Council revisit the issue. Council Member Softly said they could talk with the pastor to determine if there is a problem and then revisit the issue.

ACTION TAKEN.

Motion by Council Member Softly to approve Ordinance No. 5641, as presented. Second by Council Member Howeth.

VOTING AYE: Adami, Howeth, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

TABLED AT THE FEBRUARY 15, 2010 COUNCIL MEETING
ADOPTION OF ORDINANCE NO. 5637

Ordinance 5637

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 THE DRILLING OF AN OIL AND GAS WELL IN AN R-1 (ONE FAMILY RESIDENTIAL) DISTRICT IN THE 7200-8300 BLOCKS OF U.S. HIGHWAY 75 SOUTH AND THE 500-600 BLOCKS OF WEST SHEPHERD ROAD, BEING 109.35 ACRES IN THE FRIAR McNEELY SURVEY, ABSTRACT NO. 826 (YONGSHIK KIM, OWNER; VICKI ROSS, EOG RESOURCES, INC., REPRESENTATIVE; AND TOPOGRAPHIC LAND SURVEYORS, SURVEYOR); 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 5637
OIL AND GAS
WELL**

ACTION TAKEN.

Motion by Council Member Steele to remove Ordinance No. 5637 from table for discussion. Second by Council Member Adami.

AMENDED MOTION

Motion by Council Member Steele to amend his motion to include removing Item D-1, entitled "Consider EOG Resources, Inc.'s Application for a Permit to Drill an Oil and Gas Well in an R-1 (One Family Residential) District from table for discussion. Second by Council Member Adami.

VOTING AYE: Adami, Howeth, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED TO REMOVE FROM TABLE.

Penny Curtis, 1600 W. Shepherd Drive

Mrs. Curtis asked the City Council to diligently "check out" the oil and gas well that has applied for a Specific Use Permit and a permit to drill. She previously spoke with Robby Hefton, Assistant City Manager/CFO, and found that due diligence was done.

She felt they were at an impasse because the Council was probably not going to deny the requests, but she asked them to consider the concessions they requested at the last City Council Meeting. She asked the Council to represent the citizens, not the oil companies that don't reside in Sherman.

Mayor Magers reiterated that the City Council represents all the citizens. They understand her concerns and have done due diligence. Mrs. Curtis said she believed that due diligence was done by the City staff. She asked that the City Council represent the citizens and make sure the ordinances are enforced and the procedure inspected.

Mrs. Curtis said the citizens were concerned about lights, noise, air pollution, and that the large trucks enter off Highway 75 instead of Shepherd Drive. She addressed the concessions that were presented by her husband at the last City Council Meeting.

Mayor Magers said the ordinance is the same as ones used in the past and the safeguards were in place. Council Member Steele verified that the ordinance follows the requirements of the Railroad Commission and the Texas Commission on Environmental Quality. Council Member Adami asked if there was a provision to make sure the drilling was in compliance with State and Federal environmental regulations. Mr. Olson said there was not a provision in the ordinance but that was included with the permit held from the Railroad Commission.

Council Member Adami asked if the City required the permit holder to maintain a local or toll free 24 hour telephone number. Mr. Olson said those provisions could be included in the Specific Use Permit.

Council Member Adami recommended that the Specific Use Permit be contingent upon the permit holder maintaining a local or toll free 24 hour telephone number and indemnification of the City for all claims arising as a result of all drilling and well operations.

Mayor Magers addressed minimum distance requirements. Mr. Shelby said the strictest distance requirement he has seen from other cities is 500 feet from the well to the adjacent property line. Council Members agreed that the 500 feet distance would be appropriate.

Council Member Adami pointed out that a well was not simply a matter of economics, but other landowners also have property rights. He added it was hard to tell people what they can and cannot do with their property. Many things must be considered.

Mayor Magers added that economic development is not an important part of this deal. However, in Texas, mineral rights "trump" surface rights. The City has guidelines but must follow the Railroad Commission and TCEQ requirements. The City will follow the letter of the law and work to balance all rights.

Mayor Magers reiterated that conditions of the Specific Use Permit will include a distance of 500 feet from the well to the adjacent property line and a 24 hour contact telephone number.

David Frye, 421 W. Third, Suite 150, Fort Worth, Texas

Mr. Frye is the Land Manager for EOG Resources, Inc., and he said they would install a 24 hour contact telephone number for citizens to use.

Mayor Magers added that another condition would include indemnification of the City. He asked Mr. Frye about a possible light shield. Mr. Frye said they must meet certain FAA light requirements on the drilling rig, but they would attempt to maintain the light on their own property.

Council Member Steele asked if an issue does arise with the neighbors, would the City have the authority to enforce compliance from the company or would the issue be with TCEQ. Mr. Shelby said that would depend upon the issue, but the Specific Use Permit can include conditions and the City could revoke the permit if the company is not in compliance.

Council Member Adami urged EOG Resources, Inc. to “be good neighbors.” Mr. Frye said they have chosen not to use Shepherd Drive for access to the site.

Mrs. Curtis asked if the Specific Use Permit could include stricter conditions such as water sampling and testing.

Mr. Frye said they don’t test aquifers or surrounding water wells, but TCEQ requires them to set surface casing to protect the fresh water zones. They also tell them how deep to set the casing. The company will comply with TCEQ requirements.

Mr. Olson said the City tests the aquifer monthly for their own water system. Mark Gibson, Director of Utilities and Engineering, said the City also inspects the surface casing and perform pressure testing to make sure it complies with regulations.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5637 and Item D-1, the application for a permit to drill an oil and gas well, contingent upon a minimum distance of 500 feet from the adjacent property; compliance with all State and Federal environmental regulations, now existing and as modified during the life of the well; the company providing a local 24 hour contact number for complaints; and indemnification of the City for any and all claims arising as a result of drilling and well operations. Second by Council Member Wacker.

VOTING AYE: Adami, Howeth, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

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

CONSENT AGENDA

RESOLUTIONS

JOINT RESOLUTION NO. 5465 – ADOPTING AN INTERLOCAL COOPERATIVE AGREEMENT WITH THE SHERMAN INDEPENDENT SCHOOL DISTRICT FOR THE USE OF VETERAN'S FIELD AT FAIRVIEW PARK AND FIELD #7 AT OLD SETTLERS PARK

A JOINT RESOLUTION OF THE BOARD OF TRUSTEES OF THE SHERMAN INDEPENDENT SCHOOL DISTRICT AND THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ADOPTING AN INTERLOCAL COOPERATIVE AGREEMENT FOR THE USE OF VETERAN'S FIELD AT FAIRVIEW PARK AND FIELD #7 AT OLD SETTLERS PARK.
CONSENT AGENDA.

JOINT RES 5465
SISD AGREEMENT
FOR USE OF

VETERAN'S FIELD
& FIELD #7

RESOLUTION NO. 5466 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH DICKERSON CONSTRUCTION CO., INC. FOR REPLACEMENT OF THE PELTON STREET WATER MAIN BETWEEN RICKETTS STREET AND TRAVIS STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH DICKERSON CONSTRUCTION CO., INC. FOR REPLACEMENT OF THE PELTON STREET WATER MAIN BETWEEN RICKETTS STREET AND TRAVIS STREET.
CONSENT AGENDA.

RES 5466
PELTON ST. WATER
MAIN REPLACEMENT

RESOLUTION NO. 5467 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH DICKERSON CONSTRUCTION CO., INC. FOR REPLACEMENT OF THE BRENTS STREET SEWER MAIN BETWEEN RICHARDS STREET AND COLLEGE STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH DICKERSON CONSTRUCTION CO., INC. FOR REPLACEMENT OF THE BRENTS STREET SEWER MAIN BETWEEN RICHARDS STREET AND COLLEGE STREET.
CONSENT AGENDA.

RES 5467
BRENTS ST. SEWER
MAIN REPLACEMENT

OTHER BUSINESS

TABLED AT THE FEBRUARY 15, 2010 COUNCIL MEETING CONSIDER EOG RESOURCES, INC.'S APPLICATION FOR A PERMIT TO DRILL AN OIL AND GAS WELL IN AN R-1 (ONE FAMILY RESIDENTIAL) DISTRICT IN THE 7200-8300 BLOCKS OF U.S. HIGHWAY 75 SOUTH AND THE 500-600 BLOCKS OF WEST SHEPHERD ROAD, BEING 109.35 ACRES IN THE FRIAR McNEALLY SURVEY, ABSTRACT NO. 826

This item was removed from table and discussed in conjunction with Ordinance 5637 earlier in the meeting.

OIL AND GAS
WELL PERMIT

The Council also voted to approve the application for a permit to drill an oil and gas well at the same time they approved Ordinance 5637 for the Specific Use Permit.

CITIZENS REQUESTS

There were no citizen's requests.

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

AUSTIN COLLEGE BASKETBALL AWARDS

Council Member Wacker recognized Austin College Basketball for their recent awards through the Southern Collegiate Athletic Conference. Men's basketball player Kola Alade was named SCAC Player of the Year and Head Coach Rodney Wecker was named the SCAC Coach of the Year. In the women's division, Katy Williams was named Player of the Year and Coach Deb Hunter was named Coach of the Year.

THANKS TO STAFF

Mayor Magers said sometimes the Council addresses mundane things and sometimes they address items that affect the citizens on an intimate basis. He thanked the City staff for the work they did on the proposed oil and gas well.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:36 p.m.

CITIZENS REQUESTS

MEDIA QUESTIONS

**AUSTIN COLLEGE
BASKETBALL
AWARDS**

THANKS TO STAFF

ADJOURNMENT

MAYOR

CITY CLERK



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. B.1

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5642

Amending Chapter 4 of the Code of Ordinances, entitled “Business Regulations”, Article 4.14, entitled “Alcoholic Beverages”, at Sections 4.14.032 and 4.14.033, to Reflect the Change of State and, therefore, City Permit Fee Collection Procedures for Regulating the Manufacture, Distilling, Brewing, Importing, Transporting, Storing, Distributing or Sale of any Beer, Wine or Mixed Beverage; Amending Procedures for Permits and Renewal of Permits to Reflect Changes in State Law

Issue

Amending of an ordinance regulating the sale of alcoholic beverages to allow for a biennial (every two years) or as required by law collection of permit fees in advance

Background

On May 7, 2005, the citizens of Sherman approved the limited sale of beer and wine for off-premise consumption. The State has now changed the permits from one-year to two-year permits. The City is allowed to charge one-half of the State fee, in most cases, so that amount has also changed. This ordinance updates the changes made by State law.

Origination

City Clerk’s Office

Financial Consideration

Revenue to be received from this ordinance depends on the number of permits to be issued and therefore cannot be estimated at this time.

Staff Recommendation

The staff recommends approval.

Alternatives

There are no viable alternatives.

Attachments

Ordinance No. 5642

Sherman City Limits Map

Prepared by:

Brandon S. Shelby, City Attorney

Approved by:

George Olson, City Manager

ORDINANCE NO. 5642

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESS REGULATIONS", ARTICLE 4.14, ENTITLED "ALCOHOLIC BEVERAGES", AT SECTIONS 4.14.032 AND 4.14.033, TO REFLECT THE CHANGE OF STATE AND, THEREFORE, CITY PERMIT FEE COLLECTION PROCEDURES FOR REGULATING THE MANUFACTURE, DISTILLING, BREWING, IMPORTING, TRANSPORTING, STORING, DISTRIBUTING OR SALE OF ANY BEER, WINE OR MIXED BEVERAGE; AMENDING PROCEDURES FOR PERMITS AND RENEWAL OF PERMITS TO REFLECT CHANGES IN STATE LAW; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, on May 7, 2005, the voters of the City of Sherman voted on the legal sale of beer and wine for off-premise consumption and established regulations for the lawful sale of mixed beverages in restaurants by the holders of a food and beverage certificate; and

WHEREAS, the Texas Alcoholic Beverage Code provides limited authority for municipal governments to regulate the location and hours for the sale of alcoholic beverages; and

WHEREAS, the Texas Alcoholic Beverage Code allows municipalities to collect a permit fee, or permit renewal fee, in the amount of one-half of the amount of the State-imposed fee for businesses selling alcohol within the City limits at any time collection is made by the State;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That, from and after the passage of this ordinance, Chapter 4 of the Code of Ordinances, entitled "Business Regulations", Article 4.14, entitled "Alcoholic Beverages", Section 4.14.032, entitled "Initial administrative fee", be and is hereby amended so that such section shall read as follows:

Sec. 4.14.032. Initial administrative fee

- (a) The city initial administrative fee shall be equal to one-half of the state fee required by the state alcoholic beverage commission of every person that may be issued any state permit or license for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any beer, wine or mixed beverage, unless a different fee is allowed or required by state law. ~~The following fee schedule is hereby established for alcohol permit fees:~~

Type of Permit	Code	State Fee	City Fee
Beverage Cartage	PE	\$20.00	\$10.00
Caterer's	CB	\$500.00	\$250.00
Mixed Beverage Restaurant with FB Certificate	RM	\$3,000.00	0
— 1 st Renewal		\$2,250.00	0
— 2 nd Renewal		\$1,500.00	0
— 3 rd Renewal		\$750.00	\$375.00
Beer Retailer's Off Premise License	BF	\$60.00	\$30.00
Wine & Beer Retail Dealer's Off Premise	BQ	\$60.00	\$30.00

- (b) No State permit may be certified unless the initial administrative fee is received. The city clerk shall issue a receipt for the initial administrative fee and keep a record of the same in the city clerk's office.

SECTION 2. That, from and after the passage of this ordinance, Chapter 4 of the Code of Ordinances, entitled "Business Regulations", Article 4.14, entitled "Alcoholic Beverages", Section 4.14.033, entitled "Permit renewal; renewal administrative fee", be and is hereby amended so that such section shall read as follows:

Sec. 4.14.033. Permit renewal; renewal administrative fee

- (a) All State permits shall be renewed ~~annually~~ *as required by law* and no State permit shall be certified covering a term longer than ~~one year~~ *that established by State law*.
- (b) The city shall require payment of ~~an annual~~ *a* renewal administrative fee by all establishments selling alcoholic beverages within the city. The renewal administrative fee shall be equal to one-half of the state fee required by the state alcoholic beverage commission of every person that may be issued any state permit or license for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any beer, wine or mixed beverage, unless a different fee is allowed or required by state law.
- (c) The city clerk may notify the Texas Alcoholic Beverage Commission if a permittee fails to pay the renewal administrative fee. The city clerk shall send notice to permittee of such action to the address on file with the permit application.
- (d) A permittee who sells an alcoholic beverage without first having paid the renewal administrative fee under this section commits a misdemeanor punishable by a fine in accordance with the general penalty provisions found in section 1.01.009 of this code.

SECTION 3. That the municipal city boundaries of the City of Sherman in effect on May 7, 2005 are described in Exhibit "A", attached hereto and made a part hereof for all purposes.

SECTION 4. That it is the intention of the City Council of the City of Sherman, Texas, that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Sherman, Texas, and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 5. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 6. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2010.

ADOPTED on this the _____ day of _____, 2010.

EFFECTIVE DATE on this the _____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

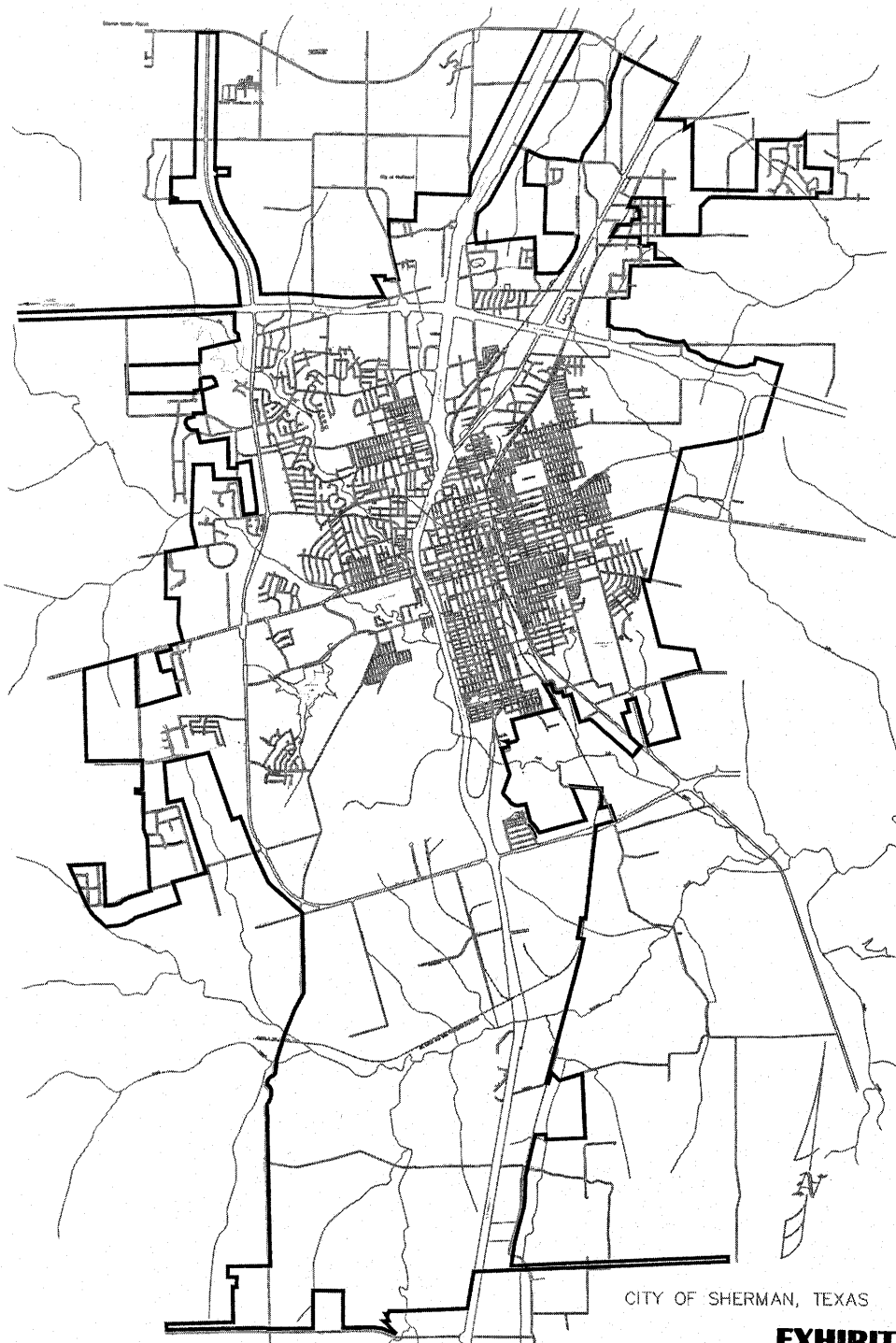
BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

**BRANDON S. SHELBY,
CITY ATTORNEY**



CITY OF SHERMAN, TEXAS

EXHIBIT A



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. B.2

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5643

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Allow a Single Family Dwelling in a C-1 (Retail Business) District at 417 South Walnut Street, being 0.489 Acres in the Samuel Blagg Survey, Abstract No. 56 (The Roderick-LeGrand Trust, Revocable Living Trust of Eva C. Spence, Owner); Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Issue

To consider the request of The Roderick-LeGrand Trust, Revocable Living Trust of Eva C. Spence (Owner) concerning the property located at 417 South Walnut Street, being 0.489 acres in the Samuel Blagg Survey, Abstract No. 56, to allow a single family dwelling in a C-1 (Retail Business) District

Background

The property is located at 417 South Walnut Street, between Cherry and King Streets. The building opened as an adult day care center in 2005, but closed in September, 2009. The owner would like to use the building as her single family residence.

Origination

The Roderick-LeGrand Trust, Revocable Living Trust of Eva C. Spence (Owner)

Board Recommendation

At the February 16, 2010 regular meeting, the Planning and Zoning Board voted 6/0 to recommend to the City Council that the Specific Use Permit be approved subject to the Staff Review Letter.

Attachments

Ordinance No. 5643
Location Map
Photograph
Site Plan
P&Z Communication Form
Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5643

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 A SINGLE FAMILY DWELLING IN A C-1 (RETAIL BUSINESS) DISTRICT AT 417 SOUTH WALNUT STREET, BEING 0.489 ACRES IN THE SAMUEL BLAGG SURVEY, ABSTRACT NO. 56 (THE RODERICK-LEGRAND TRUST, REVOCABLE LIVING TRUST OF EVA C. SPENCE, OWNER); 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; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this Specific Use Permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this specific use permit, subject to certain conditions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS;

SECTION 1. That, from and after the passage of this ordinance, The Roderick-LeGrand Trust, Revocable Living Trust of Eva C. Spence (Owner) is granted a Specific Use Permit to allow a single family dwelling in a C-1 (Retail Business) District at 417 South Walnut Street, and that Section 8, Subsection (5)(a), Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

SITUATED in the City of Sherman, Grayson County, Texas, being a part of the Samuel Blagg Survey, Abstract No. 56, and being the same tract of land referred to as Tract 2 conveyed by Robert Samuel Miles et al to The Roderick-LeGrand Trust by deed dated October 24, 2003, recorded in Volume 3555, Page 353, Official Public Records, Grayson County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 3/8" steel rod found maintaining the Southwest corner of said Tract 2 in the East right-of-way line of Walnut Street, said rod also maintaining the Northwest corner of the 75 x 142.5 feet tract of land conveyed by Charles N. Conley to Lino Castaneda et ux by deed dated October 13, 1997, recorded in Volume 2589, Page 39, said Official Public Records;

THENCE North 16°00'00" West with said West right-of-way line of Walnut Street a distance of 100.00 feet to a ½" steel rod set marking the Northwest corner of said Tract 2;

THENCE North 74°00'00" East along the North side of a stockade fence a distance of 213.00 feet to a ½" steel rod set marking the Northeast corner of said Tract 2;

THENCE South 16°00'00" East along the East side of said stockade fence a distance of 100.00 feet to a ½" steel rod marking the Southeast corner of said Tract 2 in the North line of an alley;

THENCE South 74°00'00" West along and near said fence, at a distance of 70.5 feet passing a 3/8" steel rod found maintaining the Northeast corner of the said Castaneda tract at the Northwest corner of said alley and continuing for a total distance of 213.00 feet to the **Point-of-Beginning and containing 0.489 acres of land**.....

SECTION 2. That this specific use permit is granted on the following conditions:

Zoning:

1. All requirements of the R-1 (One Family Residential) District shall be followed.
2. The building must meet the requirements of the 2006 International Residential Codes and the 2005 National Electrical Codes.
3. A Certificate of Occupancy Permit is required before occupying the building.
4. Site plan approval is valid for a period of one year, if progress has not been made within that time period; resubmission to the Planning & Zoning Commission is required.

SECTION 3. That this ordinance shall not become effective until entered upon the official zoning map as provided in Section 8, Subsection (5)(a), Ordinance No. 2280.

SECTION 4. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2010.

ADOPTED on this the _____ day of _____, 2010.

EFFECTIVE DATE on this the _____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

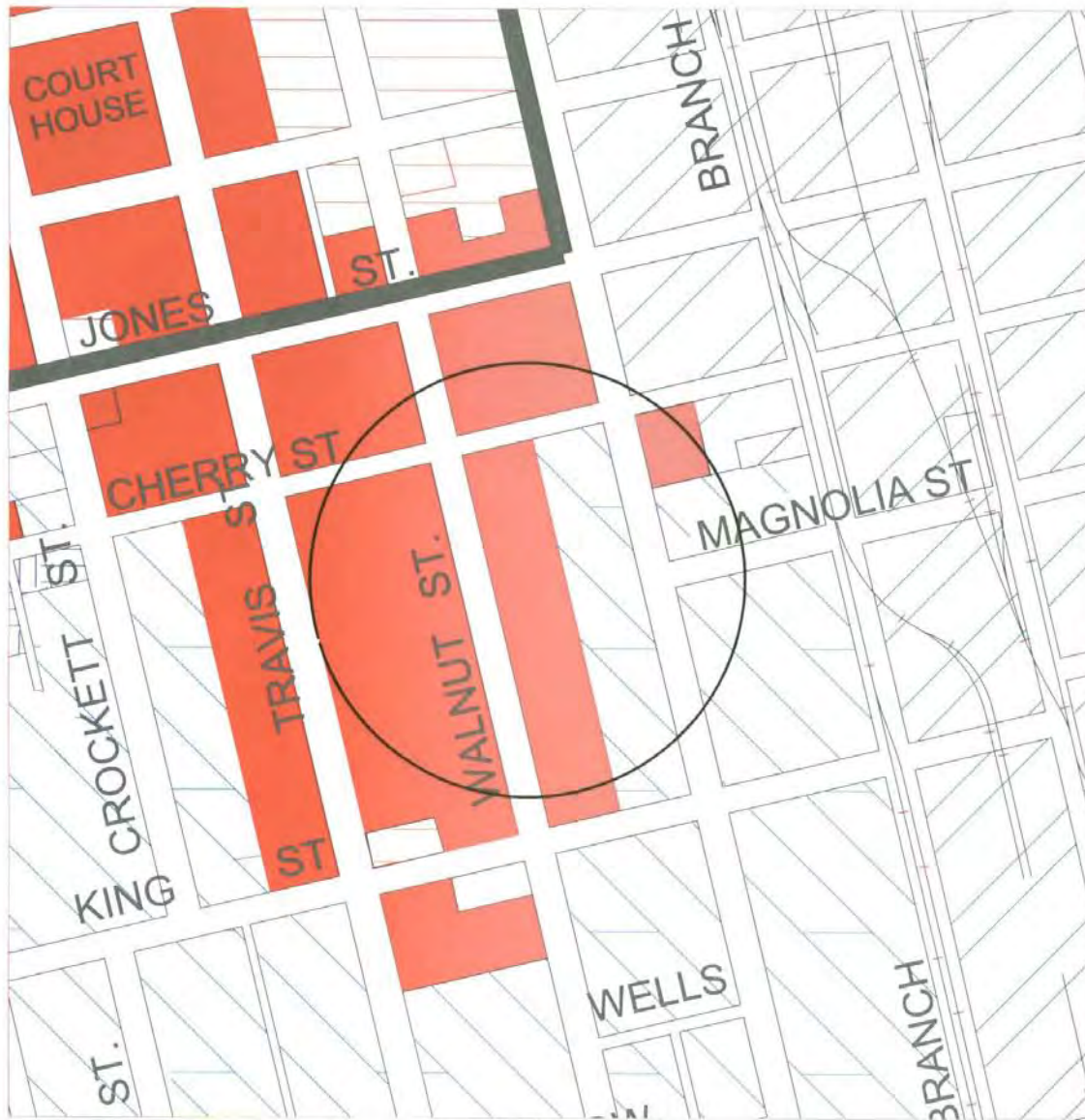
BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



LEGEND

R-A	SINGLE FAMILY AGRICULTURAL DISTRICT	M-2	HEAVY MANUFACTURING DISTRICT
SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT	M-H	MANUFACTURED HOUSING DISTRICT
R-1	ONE FAMILY RESIDENTIAL DISTRICT	B-I	BLALOCK INDUSTRIAL PARK
R-2	MULTI-FAMILY RESIDENTIAL DISTRICT	O-1	OVERLAY DISTRICT - 75 & 82
C-1	RETAIL BUSINESS DISTRICT	O-1.1	OVERLAY DISTRICT - 1417
C-2	GENERAL COMMERCIAL DISTRICT	O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
C-O	OFFICE DISTRICT	CPO	COLLEGE PARK OVERLAY
M-1	LIGHT MANUFACTURING DISTRICT	A&C	ARTS & CULTURAL OVERLAY DISTRICT
M-1.5	MEDIUM MANUFACTURING DISTRICT	CBD	CENTRAL BUSINESS DISTRICT



417 S. Walnut Street
417 S. Walnut Street

Department of Developmental Services



417 South Walnut Street

0 50 100 200 Feet



City of Sherman, Texas
Engineering Department

417 S. Walnut



EXHIBIT "A"

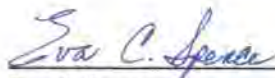
The property and building located at 417 South Walnut, Sherman, Texas is in the name of my Revocable Living Trust, Known as The Roderick-LeGrand Trust.

This building is a house plan that meets the requirements for an adult day care. The adult day care permanently closed September 30, 2009.

As the plan shows, there are two bedrooms, three baths, and one shower off the hallway. There is a gathering room, a dining area, a kitchen, and three rooms to be used as a library, an office, a sewing room, or other bedrooms. There is a covered porch across a portion of the back of the building. The outside looks residential.

The building was completed in 2005. Since then two residences have been built at the southeast corner of the lot and one residence across the street and to the south.

Since I do not own any other property and this building will not need any changes to become my residence, I request that the property at 417 South Walnut Street, Sherman, Texas be changed to residential.


Eva C. Spence



JOB NO. A5070565

The Surveyor General of the State of Texas, by and through the Surveyor General of the State of Texas, has caused to be surveyed and mapped the above described land, and the same is hereby certified to be correct and true.

Surveyed by J. H. Galt
Registered Professional Land Surveyor
No. 1453

0.489
ACRES

SEE LEGAL DESCRIPTION
ATTACHED

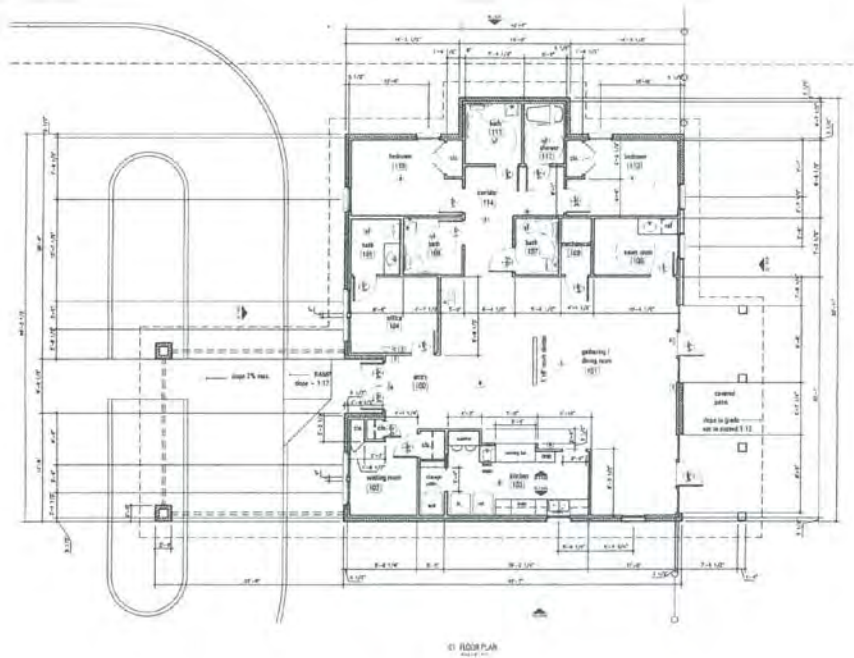
I, JAMES H. GALT, Registered Professional Land Surveyor, hereby certify that the survey was made on the ground on the property herein described herein, and is correct and that there are no other discrepancies, omissions, or errors, or rights of way, except as shown on the plat herein, and that the plat herein is a true and correct representation of the ground surveyed.



3-8-85
James H. Galt
Registered Professional
Land Surveyor No. 1453

SCALE
1" = 40'

UNDERWOOD



Adult Daycare Center
 10101 N. 101st Ave.
 Dallas, Texas 75243

DAVID FISHER & ARCHITECTS
 Architects - Interiors - Planning
 10101 N. 101st Ave., Suite 100
 Dallas, Texas 75243

JOSE GONZALEZ - CONTRACTOR
 10101 N. 101st Ave., Suite 100
 Dallas, Texas 75243

PROJECT NO. 10101

DATE: 10/10/10

SCALE: 1/8" = 1'-0"

PROJECT NO. 10101

DATE: 10/10/10

SCALE: 1/8" = 1'-0"

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
February 16, 2010
Lawrence Davis, Chairman

Jim Jacobs, Vice Chairman
Robin Atherton, Commissioner
Ron Barton, Commissioner
Don Hicks, Commissioner

Brad Morgan, Commissioner
David Plyler, Commissioner
Jason Sofey, Commissioner
Darren Tankersley, Commissioner

417 South Walnut Street
Being 0.489 acres in the Samuel Blagg Survey, Abstract No. 56
Specific Use Permit and Site Plan

Requested Action/Proposed Use

Planning and Zoning Commission

Specific Use Permit and site plan approval to allow a Single Family Dwelling in a C-1 (Retail Business) District.

Background

The property is located at 417 South Walnut Street between Cherry and King Streets. The building opened as an adult day care center in 2005, but closed in September, 2009. The owner would like to use the building as a single family residence.

Adjacent Zoning

C-1 (Retail Business) District and R-2 (Multi-Family Residential) District

Origination

The Roderick-LeGrand Trust, Revocable Living Trust of Eva C. Spence (Owner)

Master Plan Designation

Urban Downtown

Number of notices mailed

25

Objections Received

0

Attachments

Location map, Photographs, Site Plan, Staff Review Letter

Prepared by:
Patsy Reeves,
Development Services Secretary

Approved by:
Scott Shadden,
Director of Development Services

STAFF REVIEW LETTER

February 11, 2010

The Roderick-LeGrand Trust
Eva C. Spence
PO Box 308
Sherman, Texas 75091

Eva C. Spence
PO Box 308
Sherman, Texas 75091

Dear Applicants,

The request for approval of a Specific Use Permit and site plan approval to allow a Single Family Dwelling in a C-1 (Retail Business) District for the property at 417 South Walnut Street has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, February 16, 2010 at 5:00 P.M., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All requirements of the R-1 (One Family Residential) District shall be followed.
2. The building must meet the requirements of the 2006 International Residential Codes and the 2005 National Electrical Codes.
3. A Certificate of Occupancy Permit is required before occupying the building.
4. Site plan approval is valid for a period of one year, if progress has not been made within that time period; resubmission to the Planning & Zoning Commission is required.

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning and Zoning Commission.

You are hereby notified to be present, either in person or by a legally authorized representative to present your case on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Scott Shadden at 903-892-7229 prior to the meeting.

Respectfully,

Scott Shadden
Secretary, Planning and Zoning Board and Board of Adjustment

CC: George Olson, City Manager
Mark Gibson, Director Utilities & Engineering Services
Brandon Shelby, City Attorney
Lisa Whitfield, Engineering & Development Coordinator

Danny Fuller, Fire Marshal
Jeff Miller, Director of Public Works



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. B.3

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Numbers: 5642 and 5643

B.1 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5642

Amending Chapter 4 of the Code of Ordinances, entitled "Business Regulations", Article 4.14, entitled "Alcoholic Beverages", at Sections 4.14.032 and 4.14.033, to Reflect the Change of State and, therefore, City Permit Fee Collection Procedures for Regulating the Manufacture, Distilling, Brewing, Importing, Transporting, Storing, Distributing or Sale of any Beer, Wine or Mixed Beverage; Amending Procedures for Permits and Renewal of Permits to Reflect Changes in State Law

B.2 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5643

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Allow a Single Family Dwelling in a C-1 (Retail Business) District at 417 South Walnut Street, being 0.489 Acres in the Samuel Blagg Survey, Abstract No. 56 (The Roderick-LeGrand Trust, Revocable Living Trust of Eva C. Spence, Owner); Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. B.4

CONSENT AGENDA

Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

C.1 * RESOLUTION NO. 5464

Authorizing the Lease of Certain City-Owned Property known as 202 South Sam Rayburn Freeway, located at the Southwest Corner of Lamar Street and the West Frontage Road of U.S. Highway 75, to the Circle Ten Council, Boy Scouts of America

C.2 * RESOLUTION NO. 5468

Authorizing Execution of a Deed for the Resale of a Tract of Land at 403 North Branch Street, Seized for Delinquent Taxes

C.4 * RESOLUTION NO. 5470

Awarding a Bid to and Authorizing Execution of a Contract with S&M Cleaning for Park Restroom Cleaning Services

C.5 * RESOLUTION NO. 5471

Awarding a Bid to and Authorizing Execution of a Contract with Perfection Landscaping for the 2010 Parks Maintenance Finish Mowing Program

C.6 * RESOLUTION NO. 5472

Approving the Greater Texoma Utility Authority's Intention to Contract with Tri-Con Services, Inc. for Construction of the U.S. Highway 75 North Sewer Improvements, Contract "B"

D.1 * REQUEST TO ADVERTISE

Seal Coat Emulsified Asphalt Oil

D.2 * OTHER BUSINESS

Consider Request of the 2010 Earth Day Planning Committee to Temporarily Close Certain Streets, Suspend Parking Time Limits, and Use Certain City Facilities and Services for the 2010 Earth Day Festival on Saturday, April 24, 2010



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. C.1

*** RESOLUTION NO. 5464**

Authorizing the Lease of Certain City-Owned Property known as 202 South Sam Rayburn Freeway, located at the Southwest Corner of Lamar Street and the West Frontage Road of U.S. Highway 75, to the Circle Ten Council, Boy Scouts of America

Issue

A one-year extension of the Circle Ten Council, Boy Scouts of America's lease of the City-owned property known as 202 South Sam Rayburn Freeway and located at the southwest corner of Lamar Street and the west frontage road of U.S. Highway 75

Background

The City of Sherman owns the property and building at this location. The property has been leased in ten-year increments to the Boy Scouts of America since 1989, with the last lease expiring on December 31, 2009. The Circle Ten Council, Boy Scouts of America would like to extend the lease agreement for this property for one more year commencing on January 1, 2010 and extending through December 31, 2010. They have agreed to the same terms and conditions and have remitted the \$600.00 lease payment, which is due upon contract signing.

Origination

Circle Ten Council, Boy Scouts of America
City Manager

Financial Consideration

Payment in advance of \$600.00 for the one-year lease of the property

Staff Recommendation

It is recommended that the lease agreement be extended for a one-year period.

Alternatives

The Council could decide to disapprove the lease and utilize the property for other purposes.

Attachments

Resolution No. 5464
Lease Agreement
City Manager's Correspondence of January 29, 2010
Location Map

**Prepared and Approved by:
George Olson, City Manager**

RESOLUTION NO. 5464

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE LEASE OF CERTAIN CITY-OWNED PROPERTY KNOWN AS 202 SOUTH SAM RAYBURN FREEWAY, LOCATED AT THE SOUTHWEST CORNER OF LAMAR STREET AND THE WEST FRONTAGE ROAD OF U.S. HIGHWAY 75, TO THE CIRCLE TEN COUNCIL, BOY SCOUTS OF AMERICA; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Sherman, Texas, has determined that it is desirable to lease the City-owned property known as 202 South Sam Rayburn Freeway, located at the southwest corner of Lamar Street and the west frontage road of U.S. Highway 75; and

WHEREAS, the Circle Ten Council, Boy Scouts of America (formerly the Texoma Valley Council Boy Scouts of America) has leased the City-owned property since February 13, 1989, and wishes to extend the lease agreement for an additional one-year period under the same terms and conditions;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That all of the above recitals and preambles are found to be true and correct and are made a part hereof for all purposes.

SECTION 2. That the City Manager be and is hereby authorized, subject to all documents being property completed and approved as to form and content by the City Attorney, to execute a one-year lease of the City-owned property known as 202 South Sam Rayburn Freeway, located at the southwest corner of Lamar Street and the west frontage road of U.S. Highway 75, to the Circle Ten Council, Boy Scouts of America, in accordance with the terms and provisions of the lease agreement attached hereto and incorporated herein for all purposes.

SECTION 3. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

LEASE AGREEMENT

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF GRAYSON §

THIS AGREEMENT, between the **CITY OF SHERMAN, TEXAS**, hereinafter called "Lessor", acting by and through its City Manager pursuant to Resolution No. _____, and the **CIRCLE TEN COUNCIL, BOY SCOUTS OF AMERICA**, hereinafter called "Lessee";

W I T N E S S E T H:

That the said Lessor does by these presents lease and demise unto the said Lessee the property known as 202 South Sam Rayburn Freeway and also described as follows:

SITUATED in the City of Sherman, Grayson County, Texas, being the property lying south of Lamar Street and commencing at the center of Post Oak Creek and continuing east to the west side of the west access road of U. S. Highway 75;

THENCE continuing in a southerly direction to the south line of Jones Street extending westerly;

THENCE westerly to the center of Post Oak Creek;

THENCE northerly with the meanders of the creek to the **PLACE OF BEGINNING**.

TERMS OF LEASEHOLD

Lessor gives to Lessee a lease commencing on the 1st day of January, 2010, and extending through the 31st day of December, 2010, for a term of one (1) year.

RENTALS AND FEES

As consideration for this lease, Lessee covenants and agrees to pay in advance in the office of the City Manager of the City of Sherman the sum of Six Hundred Dollars and No Cents (\$600.00) as rent for the one-year term of this lease.

GENERAL PROVISIONS

1. Lessee agrees and covenants that Lessee will not make or suffer any unlawful, improper, illegal or offensive use of the demised premises or any part thereof; nor shall these premises be used for any purpose that constitutes a nuisance or may be objectionable to the operational use of any adjoining land.

2. Lessee agrees and covenants that Lessee will, at Lessee's own expense, make all repairs necessary to keep the land and structures from deteriorating in value or condition. Wear and tear from use for its intended purpose deemed ordinary by the Lessor is excepted.

3. Lessee specifically agrees not to assign or sublet the leased premises without the express written authority of the Lessor.

4. Lessee agrees and covenants that, in the event of a breach by Lessee of any of the covenants contained herein, the Lessor may, at its option, declare this lease forfeited and terminated as to the balance of the term thereof. Upon any such declaration, forfeiture or termination of this lease by Lessor, the Lessee agrees and covenants to give and declare immediate possession of the demised premises to the Lessor. Lessee further agrees and covenants that Lessee will, at the termination of this lease, peacefully deliver up to the Lessor the demised premises and appurtenances or additions thereto in as good condition and state of repair as same are now in, fair wear and tear only excepted, and vacate in good tenantable order.

5. LESSEE COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND LESSOR, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS FOR DAMAGE OR INJURIES TO PERSONS OR PROPERTY ARISING OUT OF OR INCIDENTAL TO THE LEASING OF OR THE USE AND OCCUPANCY OF THE PREMISES BY LESSEE, AND LESSEE HEREBY ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR INJURIES, CLAIMS OR SUITS FOR DAMAGES TO PERSONS OR PROPERTY OF WHATEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, OCCURRING DURING THE TERM OF THIS LEASE BY REASON OF THE USE OR OCCUPANCY OF PREMISES BY LESSEE, ITS AGENTS, SERVANTS OR EMPLOYEES, CONTRACTORS OR SUB-CONTRACTORS.

6. Lessee shall promptly, after the execution of this lease, provide proper general liability insurance for personal injuries or death growing out of any one accident or other cause in a minimum sum of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for one person, and THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) for two or more persons; and Lessee shall provide automobile liability insurance in the minimum sum of THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) for liability growing out of any one accident or other cause. Lessee shall maintain said insurance with insurance underwriters licensed to do business in the State of Texas and approved by the Lessor; Lessee shall furnish Lessor with a certificate from the insurance carrier showing such insurance to be in full force and effect during the entire term of this lease, with the City of Sherman named as an additional insured, or shall deposit with Lessor copies of said policies. Said policies or certificates shall contain a provision that written notice of cancellation or of any material change

in said policies by the insurer shall be delivered to Lessor thirty (30) days in advance of the effective date thereof.

7. Lessee shall obtain and remain in effect during the term of this lease, or any extension thereof, fire, property, and casualty insurance covering the leased premises and its contents to its full market value. The City of Sherman shall be named as an additional insured on the insurance certificates.

8. Lessee acknowledges that it has inspected the demised premises leased herein and accepts the same in their present condition with no implied or express warranties as to their fitness.

9. Lessee agrees and covenants that Lessor retains the use and enjoyment of all easements of whatsoever nature in and about or in whatever manner located on the above described demised premises.

TERMINATION OF SAID LEASE

1. CANCELLATION BY LESSOR. The lease shall be subject to cancellation by Lessor in the event Lessee shall:

- a. File a voluntary petition in bankruptcy;
- b. Abandon the demised premises;
- c. Make voluntary assignments for the benefit of creditors;
- d. Be in arrears in payment of the whole or any part of rent thirty (30) days after the time such payments become due and payable to Lessor;
- e. Default in the performance of any covenants and conditions required herein to be kept and performed by Lessee, and such default continues for a period

of thirty (30) days after receipt of written notice by Lessee from Lessor of said default.

Failure of the Lessor to declare this lease terminated upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of the Lessor to cancel this lease by reason of any subsequent violations of the terms hereunder.

All the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

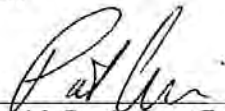
This lease agreement shall be construed in accordance with the laws of the State of Texas, and shall be deemed performable and enforceable in the State of Texas, with venue in Grayson County, Texas.

IN WITNESS WHEREOF, the parties have hereunto set their hands at Sherman, Grayson County, Texas, effective this the _____ day of _____, 2010.

LESSOR:
CITY OF SHERMAN, TEXAS

BY: _____
George Olson, City Manager

LESSEE:
CIRCLE TEN COUNCIL, BOY SCOUTS OF AMERICA

BY:  _____
Patrick Currie, Scout Executive/CEO

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared **GEORGE OLSON**, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said **CITY OF SHERMAN**, a municipal corporation of the State of Texas, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of March, 2010.



Vickie Allen
NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS §
COUNTY OF Dallas §

BEFORE ME, the undersigned authority, on this day personally appeared **PATRICK CURRIE**, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said **CIRCLE TEN COUNCIL, BOY SCOUTS OF AMERICA**, and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of March, 2010.

Vickie Allen
NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared **GEORGE OLSON**, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said **CITY OF SHERMAN**, a municipal corporation of the State of Texas, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____,
2010.

NOTARY PUBLIC, STATE OF TEXAS



202 South Sam Rayburn Freeway



City of Sherman, Texas
Engineering Department





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. C.2

*** RESOLUTION NO. 5468**

**Authorizing Execution of a Deed for the Resale of a Tract of Land
at 403 North Branch Street, Seized for Delinquent Taxes**

Issue

The attached resolution authorizes Grayson County to sell a tract of land at 403 North Branch Street due to unpaid property taxes.

Background

Grayson County is the owner of the property at 403 North Branch Street, as trustee for all taxing entities involved. The Grayson County Tax-Assessor and Collector has received an offer of \$3,000.00 for the property and is seeking the City Council's approval for the sale. The staff has reviewed the location of the property and determined that it has no foreseeable use for City purposes. Therefore, the staff is recommending that this property be sold.

Origination

John Ramsey, Assessor and Collector of Taxes for Grayson County

Financial Consideration

The proceeds of the sale would be applied to the cost of the sale and the delinquent taxes, with the City of Sherman receiving its pro-rated share. The sale would also return the property to the tax rolls.

Staff Recommendation

The staff recommends approval of this resolution.

Alternatives

The City Council could deny the resolution.

Attachments

Resolution No. 5468

Letter and attachments from Tax Assessor-Collector John Ramsey

Photo of Property

Location Map

Prepared by:

Robby Hefton, Assistant City Manager/CFO

Approved by:

George Olson, City Manager

RESOLUTION NO. 5468

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEED FOR THE RESALE OF A TRACT OF LAND AT 403 NORTH BRANCH STREET, SEIZED FOR DELINQUENT TAXES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, one tract of real property located at 403 North Branch Street has been struck-off/sold to Grayson County, Grayson County College, Choctaw Watershed District, City of Sherman and Sherman Independent School District for delinquent taxes; and

WHEREAS, Grayson County, Grayson County College, Choctaw Watershed District, City of Sherman, and Sherman Independent School District desires to sell this property and thereby place it back on the tax rolls; and

WHEREAS, Grayson County has received an offer to purchase the tract as described in the attached documentation; and

WHEREAS, the City of Sherman wishes to accept the offer on the property by the individual for the sum listed; and

WHEREAS, the City of Sherman believes the sale of this property for the price listed is in the best interest of the City; and

WHEREAS, the funds received pursuant to this sale shall be distributed according to the Texas Property Tax Code;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the tract of property described in the attached documentation is available for sale free of all tax liens held by the City of Sherman and may be sold for any offer accepted by Grayson County, Grayson County College, Choctaw Watershed District, City of Sherman, and Sherman Independent School District.

SECTION 2. That the Mayor, as the presiding officer of the City of Sherman, is hereby authorized, subject to all documents being properly completed and approved as to form and content by the City Attorney, to execute any deed or deeds on behalf of the City of Sherman necessary to complete the sale of said property in conformance with this resolution and without further approval by this governing body.

SECTION 3. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



Rec'd 2/26/10
no response from Dec.

OFFICE OF

JOHN W. RAMSEY

ASSESSOR AND COLLECTOR OF TAXES
GRAYSON COUNTY
www.co.grayson.tx.us

COURTHOUSE
100 W. HOUSTON • SUITE 11
P.O. BOX 2107
SHERMAN, TEXAS 75091-2107

(903) 892-TAXS (8297)
(903) 893-VOTE (8683)
(903) 813-4225 (AUTO)
Fax: (903) 893-4973
e-mail: ramseyj@co.grayson.tx.us

TO: Judge Drue Bynum, Grayson County, Commissioner Johnny Waldrip, Pct. 1, Commissioner David Whitlock, Pct. 2, Commissioner Jackie Crisp, Pct. 3, Commissioner Gene Short, Pct. 4

Mr. Giles Brown, Vice President Business Services, Grayson County College

Mr. Robby Hefton, Assistant City Manager, City of Sherman
Mr. Bruce Barnett, Assistant Superintendent of Business and Finance Services, Sherman ISD

Ms. Susan Way, Finance Director, City of Denison
Mr. Lee McNair, Assistant Superintendent, Business Services, Denison ISD

FROM: John Ramsey 

DATE: December 16, 2009

SUBJECT: Private Quote from December Sheriff's Sale

Tract 1 – S033 2020070 (R161322) – 403 N Branch Sherman
Tract 2 – D044 3210056 (R150575) – 900 W Rice, Denison

I recently received the attached offers of \$3,000 for the property at 403 N Branch, Sherman and \$1,500.00 for the property at 900 W Rice, Denison from Ms. Nancy Friesen, Rendezvous Real Estate to purchase the two tracts that were previously struck-off to Grayson County, as trustee for all taxing entities involved. The tracts were included but not sold in the December 1, 2009 Sheriff's sale. The properties are presently exempt from taxes while owned by the taxing entities. The attached documentation provides the description, recent tax and appraisal district values for the properties.

Please present the enclosed Resolution your jurisdiction at the next available meeting for consideration. Once a decision has been made by your governing body, please send a copy of the meeting minutes with your decision to this office. Also, please send back the signed Resolution if the sale has been approved.

Thank you.

JR:kb
enclosure:

Dec 7, 2009

To John Ramsey

From Nancy Friesen / Rendezvous Real Estate / 972-837-4661
211 Pheasant Run, Melissa 75454

I would like to submit the following bids on 2 properties from
the Dec 1 sale that are now struck off property

1.	Suit #	Acct #	Legal
	02-3128	5033-2020070 R 161322	S 25' of Lot 3 Block 10 GW Bonds addition

Owner	Location	Amount
Carmen Medrano	403 N Birch, Sherman	3,000

2.	07-3429	DO 44-3210056 R 150575	Lots 1-3 Block Sunny Side, Add'l
----	---------	---------------------------	----------------------------------

Tommy Laateson Johnson	906 W Rice, Denison
---------------------------	---------------------

1500

S033 2020070

R161322	Legal	BONDS 2ND ADDN, BLOCK 10, LOT PT 3	Owner	MEDRANO CARMEN(00040567)	Tax Year	2009	As Of	12/04/2009
			Situs	403 N BRANCH SHERMAN				

General Information

Prev

Next

Mailing Address

NBHD
Total Acres
Exemptions
Map ID

N/A

Print Appraisal Card

Owner **MEDRANO CARMEN**
Address **%MORALES R M
729 S WALNUT
SHERMAN, TX 75090**

Property Value

Value Method	N/A
Land Value	N/A
Building Value	N/A
Final Value	N/A

Taxing Units

CSH, GRA, JRC, SSH

SSH	Sherman School
CSH	Sherman City
JRC	Grayson College
GRA	Grayson County

Assessment Values

Improvement HS	\$0
Improvement NHS	\$44,079
Land HS	\$0
Land NHS	\$570
HS Cap Adjust	\$0
Ag Market	\$0
Ag Use	\$0
Timber Market	\$0
Timber Use	\$0
Late Ag Loss	\$0
Total Market	\$44,649
Total Assessed	\$44,649

Images

No Images Exist

Legacy ID R161322

Bill Summary *S033 2020070*

★ Effective Date 12/09/2009

Balances *R161322*

Payment Plan

Edit Detail



Exception Codes

Display Filters

View Transactions



Bill	Levy	P & I	Atty Fees	Disc/Credits	Amt Paid	Balance
2009	1,087.03	0.00	0.00	0.00	0.00	1,087.03
2008	1,087.32	76.12	0.00	0.00	1,163.44	0.00
2007	1,071.86	75.03	0.00	0.00	1,146.89	0.00
2006	815.91	0.00	0.00	0.00	815.91	0.00
2005	368.29	25.77	0.00	0.00	394.06	0.00
2004	367.50	0.00	0.00	0.00	367.50	0.00
2003	367.79	0.00	0.00	0.00	367.79	0.00
2002	366.94	25.68	0.00	0.00	392.62	0.00
2001	362.65	309.32	88.16	0.00	84.22	675.91
2000	357.57	356.29	107.08	0.00	105.85	715.09
1999	361.64	403.26	114.74	0.00	118.13	761.51
1998	353.12	436.68	118.47	0.00	124.47	783.80
1997	346.98	469.02	122.40	0.00	135.54	802.86
1996	330.93	483.85	122.22	0.00	145.66	791.34
1990	202.49	483.95	102.97	0.00	0.00	789.41
1989	188.01	471.91	98.99	0.00	0.00	758.91
1988	16.25	42.74	8.84	0.00	0.00	67.83
Totals	8,052.28	3,659.62	883.87	0.00	5,362.08	7,233.69

Taxes Owed





City of Sherman, Texas
Engineering Department





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. C.3

RESOLUTION NO. 5469

Endorsing Certain Legislative Changes Relating to the Sunset Review of the Texas Public Utility Commission and the Special Purpose Review of the Electric Reliability Council of Texas

Issue

The City Council's endorsement of the legislative agenda proposed by the Cities Aggregation Power Project, Inc. (CAPP)

Background

The City of Sherman is a member of CAPP. The CAPP Board of Directors has voted to authorize certain legislative efforts pertaining to the Sunset Advisory Commission's review of the Public Utility Commission ("PUC") and the Electric Reliability Council of Texas ("ERCOT"). The Sunset agency's recommendations pertaining to both organizations are expected to form the basis of bills during the 82nd Legislative Session in 2011. As such, CAPP will recommend legislative action related to the Sunset Advisory Commission's examination of both the PUC and ERCOT. In addition, CAPP will offer all resolutions of its members during Sunset hearings to apprise lawmakers of CAPP Cities' perspective on how to make the electric market more competitive and beneficial to consumers.

In 1999, Texas lawmakers adopted Senate Bill 7 ("SB 7"), the state's electric deregulation law. The legislation expanded competition in the wholesale electricity market and opened the door to competition among electric retailers. Proponents of the legislation promised lower electric prices. Unfortunately, the reality has been otherwise. Although Texans paid electric prices well below the national average during the decade before SB 7 was passed, customers in deregulated parts of the state now pay prices above the national average. In fact, even the lowest residential electric rates in deregulated areas of Texas typically exceed rates paid by **all residents** of neighboring states, such as those in Oklahoma and Louisiana. CAPP believes that, for deregulation to fulfill its promise, the market must become more competitive. Problems include the ability of some generators to exercise monopoly-like control in large swaths of the state, and the inability of many consumers to make informed choices because of confusion in the retail electricity market. Efforts to address market design issues by ERCOT also have been mismanaged, gone over budget and fallen behind schedule. As an active market participant, CAPP is in the unique position to identify problems that have developed in the deregulated marketplace and to provide a consumer's perspective to legislators interested in fixing those problems. Based upon this point of view, CAPP has formulated recommendations for the Sunset Advisory Commission as it conducts its PUC and ERCOT reviews. CAPP's recommendations are intended to improve competition in the electric market place by making the PUC and ERCOT more accountable to consumers, by limiting market power, and by creating competitive options for all customers. CAPP's recommendations reflect the organization's desire for a truly healthy electric market where consumers can save and competition can flourish. Such a market — one where power remains affordable and reliable — will mean more economic development for Texas cities and a better standard of living for our citizens. Legislative change is necessary to better protect cities' budgets, enhance cities' ability to protect their citizens, and increase competition among retail providers. The following changes are proposed by the CAPP Board:

- All generators, regardless of size, should explicitly be barred from the unlawful exercise of market power.
Current PUC rules protect relatively small generation companies from prosecution for anti-competitive behavior. But generators that control a small portion of the wholesale electricity market can sometimes have a big impact on prices. For instance, a relatively small operator in Texas temporarily drove up overall spot market prices in 2007 by engaging in an energy bidding practice that the Wall Street Journal said was “reminiscent of one that played a role in the meltdown of California’s electricity market.”
- Entities such as municipalities, commercial customers or retail electric providers harmed by wholesale market abuse should be given explicit standing to participate in market power abuse enforcement actions brought by the PUC.
In 2007, the Texas Public Utility Commission initiated an enforcement proceeding against TXU for allegedly engaging in anti-competitive behavior. PUC staff found that improper actions by TXU during a short interval in 2005 had increased overall wholesale energy costs by more than \$50 million. However, Retail Electric Providers, municipalities and others harmed by these higher costs were barred from participating in the enforcement proceeding. Such entities can contribute resources and expertise to the often overburdened PUC.
- Fines should be increased for market abuses in such a way that the PUC can order full restitution to the market, market participants, or parties injured by the violation.
In the above case, TXU’s improper behavior was found by the PUC staff to have caused more than \$50 million in harm to the wholesale energy market. However, the PUC fined the company only \$15 million — an amount not even equal to the extra revenue the PUC said TXU generated from its anti-competitive activities.
- Activities defined as market abuse by the Federal Energy Regulatory Commission should be prohibited.
According to a 2007 Wall Street Journal report, a generation company operating in Texas has freely engaged in an activity that appears to be very similar to energy bidding practices associated with Enron behavior in California. However, the activities are not expressly prohibited in Texas and, as a consequence of the company’s actions, it can collect \$157,000 an hour to run its plant — or more than 10 times the amount it would collect under more typical circumstances, according to the newspaper. The FERC, with authority over most wholesale electricity markets in the U.S., has the ability to recognize, define and prohibit market power abuse. Texas should prohibit the type of market abuse that occurs elsewhere in the country, as prescribed by the FERC.
- The statutory purpose of the PUC should be modified to ensure that the agency harmonizes its pursuit of competition with the protection of electric consumers.
Leaders at the Texas Public Utility Commission are some of state government’s most enthusiastic advocates for electric competition. However, in their zeal to promote the Texas deregulation law, leaders at the PUC have overlooked the higher electric prices paid by Texans relative to electric prices elsewhere. A slight adjustment of the Public Utility Regulatory Act would direct the agency to maintain its focus on consumer protection, even while it continues promoting electric competition.
- As a condition of conducting business in Texas, Retail Electric Providers (“REPs”) should be required to include among their offers one standard electricity package that has PUC-approved

terms and conditions. Such standard offer products will ensure that REPs compete based on price, not on customer confusion.

Comparing electric deals can be difficult. A quick review of the powertochoose website reveals a bewildering array of offers, each with difficult-to-comprehend fine print. Because the details of each offer vary, it is nearly impossible for consumers to make apples-to-apples comparisons when they shop for electricity. Requiring REPs to include among their offers a standard deal established by the Public Utility Commission would reduce confusion among residential electricity consumers. REPs would have the freedom to price such standard deals in any way they see fit.

- The number of consumer representatives on the ERCOT board should be increased from the current three members to six.

The ERCOT board sets many important rules for the Texas wholesale electricity market. The board is comprised of men and women who represent electric generation companies, retail electric providers and others with a financial stake in the market. However, end-use consumers — that is, those who ultimately pay all costs associated with the market — have been historically under-represented. As a consequence, consumers have been unable to block or mitigate potentially expensive initiatives that may benefit those with a financial interest in higher electric prices, but which do not hold any clear benefit for end-use consumers.

- The Office of the Comptroller should be assigned a seat on the ERCOT board and on, as appropriate, budget oversight panels within ERCOT. The Comptroller's office should be given access to all ERCOT contracting material and be charged with conducting a bi-annual performance review of ERCOT.

Mismanagement at ERCOT has led to cost overruns and even criminal convictions by top officials there. In 2003, for instance, the PUC directed ERCOT to begin making important changes to its management system for the wholesale electricity market. These changes were estimated to cost no more than \$76.3 million and were expected to be in place by October 1, 2006. Unfortunately, the project's costs have increased by at least 800 percent; and it is now four years behind schedule. Comptroller oversight would help discourage such costly missteps in the future.

- The PUC should be required to provide prior approval of all debt financing by ERCOT. *Debt service costs at ERCOT have increased by more than 400 percent since the 2003 fiscal year. The organization also has increased its use of debt to finance capital projects in recent years, including at least one recent capital project that is 100 percent financed with debt. More PUC oversight is required to ensure that the organization does not meet its annual budget targets through the inappropriate use of debt to shift costs into the future.*

The CAPP Board, made up exclusively of City representatives, requests that the City Council pass the attached resolution endorsing CAPP's legislative/Sunset agenda.

Origination

Geoffrey M. Gay of Lloyd Gosselink Rochelle & Townsend, P.C., General Counsel to CAPP

Financial Consideration

There is no financial consideration associated with this agenda item.

Staff Recommendation

The staff recommends the City Council adopt the proposed resolution and support CAPP's legislative agenda through correspondence with our State legislative representatives.

Alternatives

The Council could choose not to support CAPP's legislative/Sunset initiative.

Attachments

Resolution No. 5469

Mr. Gay's Memorandum of February 24, 2010

CAPP's Supporting Documentation

Prepared by:

Brandon S. Shelby, City Attorney

Approved by:

George Olson, City Manager

RESOLUTION NO. 5469

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ENDORSING CERTAIN LEGISLATIVE CHANGES RELATING TO THE SUNSET REVIEW OF THE TEXAS PUBLIC UTILITY COMMISSION AND THE SPECIAL PURPOSE REVIEW OF THE ELECTRIC RELIABILITY COUNCIL OF TEXAS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Sherman, Texas, is a member of Cities Aggregation Power Project, Inc. ("CAPP"), a non-profit organization created by cities throughout Texas to secure affordable energy for its members in the deregulated electric market; and

WHEREAS, affordable and reliable power means economic development for our cities and a better standard of living for our citizens; and

WHEREAS, by deregulating the retail electric market, Senate Bill 7 of 1999 ("SB 7") was intended to allow competitive forces to drive down the price of electricity; and

WHEREAS, CAPP's eight-year experience with the deregulated market, including negotiating power contracts with several different retail electric providers, indicates that the Texas electric retail market has failed to develop into a truly competitive market as envisioned by the Texas Legislature; and

WHEREAS, competition has failed to develop in the deregulated electric market because certain power generation companies own or control enough generation capacity to exercise market power to the detriment of customers and non-affiliated retail electric providers; and

WHEREAS, alleged market power abuse inquiries conducted by the Public Utility Commission ("PUC") are hampered by the lack of adequate resources because the parties hurt by the illegal activity, like cities, are not allowed to participate in the investigations; and

WHEREAS, the managers at the Electric Reliability Council of Texas ("ERCOT") have failed to adequately manage expenses and operations. The most obvious example is ERCOT's implementation of a nodal market – a project now four years behind schedule and expected to cost at least eight times original estimates; and

WHEREAS, the Sunset Advisory Commission is expected to recommend legislative reforms for the PUC and ERCOT; and

WHEREAS, the City supports all such legislative reforms that promote a truly healthy electric market where competition can flourish and consumers can save money; and

WHEREAS, the City endorses efforts proposed by CAPP that enhance electric competition, implement the original intent of SB 7, and reduce costs to the City and its residents;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City urges reforming the PUC and ERCOT in such a way as to enhance competition in the deregulated market, to promote consumer protection and to encourage the sale of affordable electricity. Specifically, the City urges the Texas Legislature, as it considers changes recommended by the Sunset Advisory Commission, to adopt reforms consistent with the following:

- All generators, regardless of size, should explicitly be barred from the unlawful exercise of market power.
- Entities such as municipalities, commercial customers or retail electric providers harmed by wholesale market abuse should be given explicit standing to participate in market power abuse enforcement actions brought by the PUC.
- Fines should be increased for market abuses in such a way that the PUC can order full restitution to the market, market participants, or parties injured by the violation.
- Activities defined as market abuse by the Federal Energy Regulatory Commission should be prohibited.
- The statutory purpose of the PUC should be modified to require it to harmonize its pursuit of competition with the protection of consumers of electricity.
- As a condition of conducting business within Texas, competitive Retail Electric Providers (REPs) should be required to include among their offers one standard electricity package that has PUC-approved terms and conditions.
- The number of consumer representatives on the ERCOT board should be increased from the current three members to six.
- The Office of the Comptroller should be assigned a seat on the board as well as on appropriate budget oversight panels within ERCOT. The Comptroller's office should be given access to all ERCOT contracting material and be charged with conducting a bi-annual performance review of ERCOT.
- The PUC should be required to pre-approve all debt financing by ERCOT.

SECTION 2. That a copy of the resolution shall be sent to the elected lawmakers representing the City's interests in the Texas House and Senate and to the legal counsel of CAPP.

SECTION 3. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532
www.lglawfirm.com

MEMORANDUM

TO: CAPP Members

FROM: Geoffrey Gay, General Counsel to CAPP

DATE: **DATE NEEDED 2010**

RE: **Action Needed – Resolution Supporting CAPP Sunset/Legislative Agenda**

The CAPP Board recommends that each CAPP member place consideration of the attached resolution on the agenda for your next scheduled council meeting and forward a copy of the signed resolution to my paralegal, Gary Stiffler by email (gstiffler@lglawfirm.com) or fax (512) 472-0532).

Also, it is important that your council provide copies of the signed resolution to your legislative delegation. When legislators are asked by the utility lobby why they favor something CAPP advocates, they need to be able to indicate that they are responding to constituent needs. Your help is critical. A draft cover letter to be signed by the Mayor is attached, along with the resolution and model staff report. You may contact Gary Stiffler (512-322-5893) if you have questions about your legislative delegation or their contact information.

The attached resolution pertains to CAPP's 2010 Sunset/Legislative agenda. As you may already know, the Sunset Advisory Commission is expected to issue recommendations this summer pertaining both to the Public Utility Commission and to the Electric Reliability Council of Texas. These recommendations are expected to form the basis of legislation during the upcoming session in 2011. The Sunset Advisory Commission will hold public hearings on ERCOT and the PUC May 25th and May 26th. These will take place in Austin. The Sunset Commission is then expected to issue its ERCOT and PUC recommendations on July 6th.

CAPP's position on critical reforms necessary to make the Texas electric market more competitive are set forth in the response to a Questionnaire from the Sunset Commission Staff, attached as Exhibit A. These recommendations presented to the Sunset Commission are reflected in the attached model Staff Report (Exhibit B), and model Resolution (Exhibit C). The model letter for the Mayor's signature is Exhibit D.

If you have any questions or need additional information, please don't hesitate to call or email me or Jake Dyer who can be reached at rdyer@lglawfirm.com or 512/322-5898. My contact information is gmg@lglawfirm.com and 512/322-5875.

Questionnaire

Public Utility Commission
Electric Reliability Council of Texas
Office of Public Utility Counsel

Name: Geoffrey Gay and R.A. “Jake” Dyer
Lloyd Gosselink
816 Congress Avenue
Suite 1900,
Austin, TX, 78701

Organizations you represent:

Cities Aggregation Power Project, Inc. (with 102 political subdivision members)
South Texas Aggregation Power Project, Inc. (with 51 political subdivision members)
Steering Committee of Cities Served by Oncor (with 146 city members)
Public Utility Commission

1. What changes should be made to the mission or functions of the Public Utility Commission (PUC), given today’s more competitive telecommunications and electricity markets?

The state’s PUC Commissioners are some of the state government’s most enthusiastic advocates for electric competition. The agency’s leaders rarely miss an opportunity to promote the concept of deregulation in general, and the Texas experience in particular. Moreover, the Commissioners’ philosophical cheerleading has permeated the entire agency, revealing it to be an organization more interested in defending deregulation theory than in working for meaningful protections that benefit all ratepayers. But in its zeal to excuse the failure of deregulation to deliver lower prices, the PUC appears to have lost sight of what should be the agency’s core mission: service to and protection of consumers.

Texans have gone from a long history of pre-deregulation rates that were below the national average to post-deregulation residential rates now consistently above the national average. This price switch is not simply reflected in two cherry-picked data points on a timeline, but rather is reflected in long trend lines that extend for more than a decade. Texans also pay prices well above those paid by residents in nearby regulated states — even those states that rely upon similar fuels for their electric generators. A recent survey has shown that even the **lowest cost** electricity deals from our state’s competitive electric suppliers cannot match the average prices of electricity in regulated Louisiana and Oklahoma.

But instead of acknowledging these realities and prioritizing policies designed to get Texas rates back in line, the PUC has stated in its self-evaluation report that not only are above-average rates acceptable — but they are a policy **target**. As noted on page 17 of its self-evaluation report, the PUC identifies its “target” for residential electric prices as those prices that are 113 percent of the national average. The same self-evaluation report also notes that Texas

exceeded this target because its rates were even **higher** — that is, instead of paying rates just 13 percent above the national average, residential customers of the state’s competitive electric suppliers instead paid rates nearly 30 percent above the national average.

The Sunset process should force the PUC to harmonize the pursuit of competition with the protection of consumers of electricity with a slight modification of the statutory purpose for the PUC. PURA should be changed in the following manner:

Sec. 39.001. LEGISLATIVE POLICY AND PURPOSE. (a) The legislature finds that the production and sale of electricity is not a monopoly warranting regulation of rates, operations, and services and that the public interest in competitive electric markets requires that, except for transmission and distribution services and for the recovery of stranded costs, electric services and their prices should be determined by customer choices and the normal forces of competition. As a result, this chapter is enacted to protect the public interest ~~during the transition to and the establishment of a fully competitive electric power industry.~~ **by minimizing consumer costs while facilitating the further development of a competitive electric power industry.**

2. How effectively does the PUC carry out its enforcement and consumer protection functions? Are there changes that you would recommend?

The PUC has exercised too light a hand with regards to its enforcement and consumer protection responsibilities. But electric competition cannot flourish without strong market rules and aggressive consumer protections. Ensuring both is more important than ever.

Examples of policies that neither benefit consumers nor enhance competition include a 2008 fine against TXU for \$15 million. The agency touts it as the largest fine in its history. In reality, it should have been much greater. According to findings from the PUC’s own staff, the fine failed to match even the level of illicit profits TXU received because of its anti-competitive behavior. Such a weak slap on the hand does not protect consumers, nor does it enhance competition. At a minimum, the PURA should require disgorgement of profit from anti-competitive actions.

Similarly, the PUC recently adopted rules whereby Retail Electric Providers (REPs) are required to send out customer notices 30-60 days in advance of the expiration of fixed-rate contracts. However, separate rules also allow REPs to charge early termination penalties up to 14 days before contract expiration. This disconnection in timing means that REPs can punish fixed-rate customers who, upon receiving notice that their contract is about to expire, immediately sign up with a competitor. Conversely, REPs can waive early termination penalties for those customers who, upon receiving notification that their contract is about to expire, agree instead to lock in another long-term deal with the original REP. Either way, this increases customer “stickiness” in the Texas electricity market, which neither enhances competition nor benefits consumers.

We would recommend the following policy changes:

- The PUC must more vigilantly monitor the market. More resources should be assigned to enforcement activity, fines should be increased, and potential violators should be put on notice that abusive behavior will not be tolerated.
- The REP or Transmission and Distribution Utility (TDU) should compensate the consumer through billing credits or direct payments for the failures of companies to deliver services that meet the service standards set by the PUC. The PUC should establish standard fines for billing errors, violation of disconnection rules, and other common rule violations.
- The PUC should create standard offer electricity products. Like the requirement that homeowner's insurance companies were under for years, REPs should be required to include among their offers one standard electricity package that has PUC-approved terms and conditions. Such standard offer products will ensure that REPs compete based on price, not on customer confusion.
- REPs should be required to employ only standardized contracts approved by the PUC. REPs should be prohibited from creating new fees that are not specifically required by the PUC.
- The PUC should be directed to prohibit pre-paid electricity contracts.
- Fines should be increased for market abuses in such a way that the PUC can order full restitution to the market, market participants, or parties injured by the violation. This would track some of the language in the PUC's self-evaluation report. As per deceptive trade practices law, violators also should be subject to fines set at three times the value of the harm caused to the market or market participants.
- The PUC enforcement division should be required to create monthly reports to indicate what enforcement actions have been initiated and the total amount in fines for the month. The monthly report would be posted online. Metrics should be established to evaluate the enforcement division on an annual basis. The PUC should also create monthly reports on complaints and how they have been resolved.
- The PUC should be required to establish a public relations campaign on an annual basis to publicize the role of the enforcement division. All publications and advertisements of the REPs should be reviewed by the PUC's enforcement division to make certain they contain no false, misleading or deceptive communications.

3. How effectively does PUC discharge its regulatory responsibilities over telecommunications providers? Are there changes that you would recommend?

No recommendation.

4. What improvements could be made to the telecommunications assistance and high cost programs in the Universal Service Fund and the energy assistance programs in the System Benefit Fund?

System Benefit Funds (SBF) should be used only for the purposes originally included in the legislation (i.e., rate discounts; bill payment assistance for the ill and the disabled; weatherization; customer education and administration). Therefore, all the revenue collected for the fund and accrued interest on the fund should be fully appropriated for the originally intended purposes. The SBF should be restructured as a trust fund outside the treasury with PUC oversight in the same manner as the telephone Universal Service Fund. Budget guidelines should be established to simplify the process of establishing annual budgets for SBF programs.

5. How effectively does PUC discharge its regulatory responsibilities over the electric industry? What changes are needed to ensure effective regulation?

As previously noted, the agency in recent years has cast itself less as a regulator and more as a cheerleader for deregulation. As such, it has allowed potentially anti-consumer practices to continue unchecked. It also has failed to discharge its oversight responsibilities with regards to those entities that continue to be regulated, such as the state's transmission and distribution utilities. For example, the Commission increasingly allows utilities to add insufficiently-reviewed surcharges and cost-recovery factors onto consumer bills. Such surcharges are implemented outside the regular rate review process, and as a consequence, their reasonableness cannot be determined until it is too late to do much about them.

As such, we recommend:

- The PUC should immediately re-evaluate existing utility surcharges when those utilities experience relevant changes. In October 2009, for instance, CenterPoint Energy Electric received \$200 million in stimulus funds to help underwrite the cost of installing advanced meters throughout its distribution system. To date there is no plan to reduce the surcharge approved by the PUC to pay for the meters.
- The PUC should be directed to specifically prohibit the future use of such surcharges or cost-recovery factors, the practice of decoupling rates from actual cost of service, or other alternative ratemaking practices that result in piecemeal ratemaking. Such practices needlessly drive up rates.
- The cost of compliance with the PUC's customer protections should be built into rates — not separated out in separate fees.

6. How effectively does PUC monitor the wholesale electricity market?

Wholesale electricity prices in Texas often surpass levels one would expect from a market with healthy competition. Troubling evidence has emerged that design flaws in the state's wholesale electricity market allow companies to act like monopolists at the expense of consumers. In 2007, for instance, a report determined that TXU (now Luminant) had been a “pivotal” supplier at least half the time, meaning that it had the ability to unilaterally impact prices in the balancing energy market — regardless of the actions of its competitors — during long periods.¹ TXU also engaged in activities in 2005 that the PUC staff characterized as abuse of the market, and a separate company in 2007 acknowledged engaging in practices in Texas that appeared very similar to hockey stick bidding, which has been found to violate market rules elsewhere in the nation.²

Given these realities one might expect extra vigilance from the Commission. But the PUC has avoided course corrections and on occasion even repealed useful protections. In 2006, for instance, the PUC increased wholesale price caps to levels well above those in other jurisdictions. It also has reversed a long-standing “sunshine policy” whereby ERCOT was required to quickly identify market participants that sold electricity on the spot market at prices well above marginal cost. The PUC, in its self-evaluation report, also notes that it had not conducted a single investigation for abuse of market power, market design, or anti-competitive behavior during the 2008 fiscal year.³ As previously noted, a recommended \$210 million fine against TXU for anti-competitive behavior was whittled down by the Commission to a mere \$15 million — which is even less than the \$20 million profit that the company reportedly reaped from its improper behavior.

Often, this hands-off approach is defended by claiming that the future nodal system will resolve many problems, or by claiming that the Independent Market Monitor will protect the market against abuses. Consumers should not take solace in either defense. A study by the American Public Power Association has found that nodal systems in other jurisdictions have not led to customer savings, nor have they reduced market abuses as advertised. Moreover, the Independent Market Monitor has not been found to be a strong consumer ally. He has called for policies that could lead to higher and more frequent price spikes in the wholesale market, and has not recommended the PUC begin any new enforcement actions for market abuses since at least 2007.

As such, we recommend that the PUC be given these additional tools and direction to police the market:

- Prohibit the five percent-of-market share safe harbor for market abusers. Under current rules, generators with less than five percent of the market are not deemed to have market power. As such they have a free hand to abuse the ERCOT market.

¹ R.A. Dyer, “PUC: TXU may be too dominant,” *Fort Worth Star Telegram*, Jan. 29, 2004.

² Parviz Adib and Jay Zarnikau, “Will the Texas market succeed,” page 11, 2007

³ “Public Utility Commission of Texas Self-Evaluation Report,” September 2009, page 17

- Prohibit hockey stick bidding and prohibit any activities defined as market abuse by the Federal Energy Regulatory Commission.
- As stated above, maximum permissible fines should be increased for market abuses in such a way that the PUC can order full restitution to the market, market participants, or parties injured by the violation. As per deceptive trade practices law, violators should be subject to fines set at three times the value of the harm caused to the market or market participants. While a regulatory body should have reasonable discretion in the penalties it imposes, companies found to be engaging in any sort of anti-competitive behavior should be required, at a minimum, to disgorge profits associated with anti-competitive behavior.
- Create more transparency within the ERCOT spot market by requiring extensive disclosure of information about bidding in the wholesale market within two days of the bid, instead of the current 60 days. An independent study has found that with such additional transparency, Texas electric consumers could potentially save nearly \$1 billion annually — or more than \$50 per year for the average household.
- ERCOT should be directed to develop a wholesale pricing mechanism that better reflects the actual cost of generation, and re-examine current requirements whereby the price to each successful seller in the spot wholesale market for energy or capacity is established by the highest-priced bid accepted by ERCOT.

7. What changes should be made in the ways that PUC oversees the Electric Reliability Council of Texas (ERCOT)?

- Make debt financing by ERCOT conditioned on prior approval by the PUC.
- Require the PUC to annually contract for an independent audit of ERCOT, with alternating financial and market protection reviews.

8. Should PUC be continued for 12 years? Why or why not?

Yes, with significant changes in the statute to require protection of consumers against market abuse and require pursuit of least cost regulated rates.

Electric Reliability Council of Texas

9. Should the structure of the ERCOT Board be modified? If so, how?

House Bill 2421, from the 81st Texas Legislature, included several useful reforms relating to ERCOT. That legislation fell victim to unrelated political maneuvering during the final days of the session and failed to pass. We believe many of the good ideas from HB 2421 should be resurrected and built upon. Namely:

- Increase the number of consumer representatives on the ERCOT board. Specifically, increase consumer representation from the current three members, to six. This can be achieved by giving the AG's office one seat to represent state consumer interests, giving cities one seat to represent municipal consumer interests, and assigning one citizen ratepayer to the board with the requirement that he or she is a consumer of electricity in the open market, and that he or she has no financial association or interest with any member of ERCOT, other than that of being a customer of a member company of ERCOT.
- Build upon the original recommendations of House Bill 2421 by removing electricity-asset-owning representatives from the board.

10. How effectively does ERCOT staff manage the budget and operations of the organization?

ERCOT has done a poor job of managing expenses and operations. The nodal project is the most obvious example. Initially projected to cost less than \$80 million and to be complete by 2006, the nodal system is now four years behind schedule and budgeted to cost more than \$640 million. Overall expenditures and debt financing at ERCOT also have increased steadily. A management breakdown at ERCOT allowed a criminal conspiracy to take hold inside the organization, leading to several arrests and prison sentences.

As such, we make the following recommendations:

- ERCOT should be required to reduce its dependence on the ERCOT Fee and Nodal Fees to cover costs. By 2012, ERCOT's budget should be supported by an ERCOT Fee of no more than 25¢ per MWh. All other expenses should be recovered directly from ERCOT's for-profit members.
- The Office of the Comptroller should be assigned a seat on the board as well as appropriate budget oversight panels at ERCOT. The Comptroller's office should be given access to all ERCOT contracting material and be charged with conducting a bi-annual performance review of ERCOT similar to those state agency reviews conducted by the Comptroller's office between 1991 and 2005. The Comptroller's office should release an ERCOT scorecard in advance of each regular legislative session.
- Make debt financing by ERCOT conditioned to prior approval by the PUC.
- Make ERCOT subject to open records laws, with appropriate exceptions for trade secrets. In the alternative, direct the PUC to establish rules consistent with Texas open records laws, including the creation of an appeal process to handle information disputes.

11. How well does ERCOT balance its role in managing the wholesale electricity market with its duty to ensure reliability? Would you change this balance and, if so, how?

ERCOT exercises its management duties of the wholesale electricity market and its duties over grid reliability through a stakeholder process that remains dominated by big industry players. These players pursue interests often at odds with those of consumers. As such, consumers should be given a greater voice at ERCOT, as per the recommendation in Question No. 9, above. That is, double the number of consumer representatives on the ERCOT board and remove electricity-asset-owning representatives from the board.

Reliability will increasingly involve questions of water rights, right-of-way acquisition, plans of private, unregulated entities that are driven by profit motives when deciding where to locate generation and transmission facilities, changing weather patterns that may be influenced by global warming, and federal and state laws that may compel conservation. System reliability should not be dependent upon private, profit motivated individuals, but rather the State of Texas should assume ultimate responsibility for ensuring a dynamic grid that considers and balances all the foregoing and other factors with customer demand for electricity. This effort should require coordination of the TCEQ and the PUC and should require all private parties to give notice of expected generation siting at least 18 months before commencing construction.

Office of Public Utility Counsel

12. What changes should be made to the mission or functions of the Office of Public Utility Counsel, given today's more competitive telecommunications and electricity markets?

No recommendation.

13. Should the Office of Public Utility Counsel be continued for 12 years? Why or why not?

No recommendation.

Other

14. Please add any other comments or recommendations you may have on any of these three agencies. If you suggest any changes, please provide:

- background information on how the current system works and a description of what you would like to see changed,
- benefits of your recommendation, and
- any potential difficulties that may arise from implementing your recommendation.

No recommendations.

Please return to:
Karl Spock
Sunset Commission
P.O. Box 13066
Austin, Texas 78711
Fax: (512) 463-0705
Phone: (512) 463-1300
email: sunset@sunset.state.tx.us

Exhibit D

(Date)

The Honorable _____
P.O. Box _____
Capitol Station
Austin, Texas 78711

Dear Senator/Representative _____:

On behalf of the City of Sherman, Texas, I am writing in support of proposed legislative reforms of the Public Utility Commission (PUC) and the Electric Reliability Council of Texas (ERCOT) intended to address continuing problems in the deregulated electricity market. As you know, recommendations by the Sunset Advisory Commission regarding these two organizations are expected to form the basis of bills during the 82nd legislative session that begins in 2011. The City of Sherman supports a number of PUC and ERCOT reforms intended to improve competition in the deregulated market and encourage savings for our citizens.

The City of Sherman is a member of Cities Aggregation Power Project ("CAPP"). Together CAPP and its sister political subdivision corporation South Texas Aggregation Project ("STAP") have more than 150 member political subdivisions, purchasing approximately 1.2 billion kWh annually. CAPP has served as a vehicle to increase cities' ability to navigate the deregulated market and bargain for the best electricity rates and contract terms.

As an active market participant, CAPP is in the unique position to identify problems that have developed in the deregulated marketplace. CAPP wants what all Texans want: a competitive electric market that works. Unfortunately, it has been our experience that the 1999 electric restructuring law has failed to live up to its initial promise. Repeated market power abuses have driven up consumer prices. And while residential rates have declined since last year, they still remain higher than those in neighboring states and well above those one would expect from a market with healthy competition.

The attached resolution reflects the City's support for legislative proposals relating to the Sunset Advisory Commission's examination of the PUC and ERCOT. These proposals, if implemented, can contribute to the establishment of a truly healthy electric market where consumers can save money and competition can flourish. Such a market — one where power remains affordable and reliable — will result in more economic development for our cities and a better standard of living for our citizens.

I also want to offer CAPP as a resource, as your eyes and ears in the market, while you consider the Sunset Advisory Commission's review of the PUC and ERCOT. CAPP has gained important first-hand knowledge about the deregulated electric market. CAPP members understand what works right for consumers and what needs to change. We share your goal of creating the best possible market for Texas. Working together, we know that reform is possible.

The City would very much appreciate your support regarding these issues.

Sincerely,



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. C.4

*** RESOLUTION NO. 5470**

**Awarding a Bid to and Authorizing Execution of a Contract
with S&M Cleaning for Park Restroom Cleaning Services**

Issue

To consider an award of bid to S&M Cleaning of Denison, Texas for a nine (9) month contract for the nightly cleaning of eight (8) public restrooms and emergency call-out services for specific restrooms located in various City parks

Background

The Parks Maintenance Department has previously annually bid a contract for the cleaning of six (6) park restrooms throughout our park system. During the 2008-2009 budget year, the Center Street Park restroom was added; and currently, the Pecan Grove Park restroom is under construction. As a result, a request for bids was advertised for all-inclusive janitorial services, nightly locking, and emergency call-out services for eight (8) City of Sherman park restrooms each day of the week for nine (9) months of the year (March - November). Park restrooms include: Fairview (2), Hawn, Herman Baker, Old Settlers, Martin Luther King, Jr., Center Street, and Pecan Grove. These services were appropriately advertised; and bids were opened on March 2, 2010.

Origination

Parks Maintenance Department

Financial Consideration

Adequate funds have been budgeted for these services. Six (6) qualified bids were received, with S&M Cleaning of Denison, Texas submitting the lowest bid in the amount of \$27,600.00.

Staff Recommendation

It is recommended that the Sherman City Council approve the contract with S&M Cleaning of Denison, Texas in the amount of \$27,600.00, and authorize the City Manager to execute the required contract documents.

Alternatives

As directed by the Sherman City Council

Attachments

Bid Tabulation

Resolution No. 5470

Prepared by:
Kevin Winkler, Parks & Recreation Administrator

Approved by:
George Olson, City Manager

CITY OF SHERMAN REQUEST FOR PARK RESTROOM CLEANING

Bidder	Base Bid	Total Bid	Call Out
Perfection Landscaping	\$26,500.00	\$28,300.00	\$75.00 each call out (24) \$1,800.00
S&M Cleaning	\$27,000.00	\$27,600.00	\$25.00 each call out (24) \$600.00
Wall to Wall	\$28,750.00	\$28,750.00	first 3 free / \$25.00 each additional
Dun-All Cleaning	\$34,200.00	\$34,200.00	0
Guest Janitorial	\$34,210.00	\$34,210.00	first 4 free / \$50.00 each additional
Members	\$42,800.00	\$42,800.00	0

RESOLUTION NO. 5470

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH S&M CLEANING FOR PARK RESTROOM CLEANING SERVICES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That S&M Cleaning of Denison, Texas, is hereby awarded the bid in the total amount of \$27,600.00 for park restroom cleaning services and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a contract with S&M Cleaning for said services, in accordance with the terms and conditions of the contract documents attached hereto and made a part hereof for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. C.5

*** RESOLUTION NO. 5471**

**Awarding a Bid to and Authorizing Execution of a Contract with
Perfection Landscaping for the 2010 Parks Maintenance Finish Mowing Program**

Issue

Award of a bid and contract for the 2010 Parks Maintenance Finish Mowing Program, which includes the annual mowing of City parks and other City properties

Background

This year, in order to obtain the best possible contractor cost for finish mowing at parks, street parkways, rights-of-way and other City-owned property, staff combined all sites and properties into one large list for prospective contractors to bid on under one bid proposal. A request for bids was advertised in the local newspaper; and three bids were received and opened on March 1st, 2010. Perfection Landscaping of Sherman, Texas was the low responsive bidder for the Parks Maintenance Finish Mowing Program, both on an annual basis and unit cost, when combining all mowing locations into one monthly charge. The work was bid as an annual contract with two optional additional one-year renewals. The expected cost for the entire contract is \$34,143.06. However, adjustments to the actual frequency of service, and therefore the total cost, will be made during the mowing season based upon the needs of the City, and will be at a pre-determined rate of \$47.00 per acre, as provided for in the contract.

Origination

Parks Maintenance Department

Financial Consideration

Funds have been budgeted this year to cover the bid amount submitted by Perfection Landscaping to maintain all of these properties.

Staff Recommendation

Award to Perfection Landscaping the bid and contract for the 2010 Parks Maintenance Finish Mowing Program

Alternatives

As may be recommended by the City Council

Attachments

Bid Tabulation

Resolution No. 5471

Prepared by:

Kevin Winkler, Parks & Recreation Administrator

Approved by:

George Olson, City Manager

CITY OF SHERMAN REQUEST FOR PROPOSAL MOWING SERVICES

Bidder	Perfection Landscaping/Chris Stephens	R Smith Ent./Russell Smith	Glover Mowing/Jeff Glover
Finish Mowing/Parks & Grounds	\$1647.20 / one mowing cycle for all sites \$47.00 / acre \$39,532.80 / at 24 max mows per yr	\$1,750.00 /one mowing cycle for all sites \$49.93 / acre \$42,000.00 /at 24 mowing cycles	\$2,203.21 /one mowing cycle for all sites \$57.48 / acre \$45,105.71 / year (16-24 total mowing)
Finish Mowing/Public Works	\$2,027.50 / one mowing cycle for all sites \$125.00 / acre \$32,440.00 / at 16 max mows per yr	\$2,720.00 /one mowing cycle for all sites \$137.27 / acre \$65,280.00 / at 24 mowing cycles	\$1,594.50 / one mowing cycle for all sites \$57.48 / acre \$24,822.16 / year (16-24 total mowing)
Rough Mowing Areas			\$4,881.69 /one mowing cycle for all sites \$49.48 / acre \$30,279.78 / year (16-20 total mowing)
Field Mowing Areas			\$98.96 /one mowing cycle for all sites \$49.48 / acre \$791.68 / year (16-20 total mowing)
Lot Mowing			\$1.55 / square yard \$75.00 / per mowing cycle (acre)

RESOLUTION NO. 5471

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH PERFECTION LANDSCAPING FOR THE 2010 PARKS MAINTENANCE FINISH MOWING PROGRAM; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That Perfection Landscaping of Sherman, Texas, is hereby awarded the City of Sherman's 2010 Parks Maintenance Finish Mowing Program, in accordance with all bid documentation, attached hereto and incorporated herein for all purposes.

SECTION 2. That the City Manager is hereby authorized and directed, subject to all contract documents being completed and approved as to form and content by the City Attorney, to execute a contract with Perfection Landscaping for the 2010 Parks Maintenance Finish Mowing Program, in accordance with the terms and provisions of the contract documents attached hereto and incorporated herein for all purposes.

SECTION 3. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. C.6

*** RESOLUTION NO. 5472**

**Approving the Greater Texoma Utility Authority's Intention
to Contract with Tri-Con Services, Inc. for Construction of the
U.S. Highway 75 North Sewer Improvements, Contract "B"**

Issue

Approving the intention of the Greater Texoma Utility Authority (GTUA) to administer an agreement for the construction of the second phase of the U.S. Highway 75 North sewer system. The project is divided into four phases, with Contract "B" being the second phase of construction.

Background

The current Capital Improvement Program contains a project to construct a sewer system along U.S. Highway 75 North. Seven (7) bidders responded to the request for bids. A bid tabulation is attached. The low bid in the amount of \$1,150,624.87 was submitted by Tri-Con Services, Inc.

Origination

Department of Utilities Administration

Financial Consideration

Funds for this project will be paid through GTUA.

Staff Recommendation

It is recommended that the City Council approve GTUA's intention to contract with the low bidder, Tri-Con Services, Inc., in the amount of \$1,150,624.87.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5472

Engineer's Recommendation with Bid Tabulation

Location Map

Prepared by:

Mark Gibson, Director of Engineering/Public Works

Approved by:

George Olson, City Manager

RESOLUTION NO. 5472

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING THE GREATER TEXOMA UTILITY AUTHORITY'S INTENTION TO CONTRACT WITH TRI-CON SERVICES, INC. FOR CONSTRUCTION OF THE U.S. HIGHWAY 75 NORTH SEWER IMPROVEMENTS, CONTRACT "B"; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the City of Sherman hereby approves the Greater Texoma Utility Authority's intention to enter into an agreement with Tri-Con Services, Inc. in the total amount of One Million One Hundred Fifty Thousand Six Hundred Twenty-Four Dollars and Eighty-Seven Cents (\$1,150,624.87) for construction of the U.S. Highway 75 North Sewer Improvements, Contract "B".

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



J. TERRY MILLICAN, P.E.
RICHARD A. DORMIER, P.E.
JOHN D. GATTIS, A.I.A.
DAMIR LULO, P.E.
MICHAEL K. STACEY, P.E.
LARRY J. FREEMAN, P.E.

March 9, 2010

Mr. Jerry W. Chapman
General Manager
Greater Texoma Utility Authority
5100 Airport Drive
Denison, Texas 75020

Re: Sherman Highway 75 North Sewer – Contract "B" Award

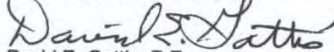
Dear Mr. Chapman:

Bids were received on the Highway 75 North Sewer – Contract "B" on February 23, 2010. A tabulation of these bids is attached. The project includes construction of approximately 10,700 feet of sanitary sewer and about 7,900 feet of 14" sewer force main. All but about 700 feet of the force main shares a common trench with the sewer line. Both the sewer line and the force main include substantial challenges at aerial creek crossings and at manholes where the force main and the sewer swap positions in the common trench. The sewer line also includes 2 challenging long bores under U.S. Highway 75.

Seven competitive bids were received. The low bid submitted at \$1,150,624.87 included a higher \$200.80 math error. The 3rd bid also had a lower math error of \$97.18. The low bid is about 1.0% lower than the 2nd bidder and about 4.1% under the 3rd bidder. The low bid is within the project budget.

The qualification statement and attached list of projects completed or in progress shows that the low bidder is qualified to complete the Contract "B" project. Checked references are very positive. We recommend that the Greater Texoma Utility Authority award the contract to the low bidder, Tri-Con Services, Inc. in the amount of \$1,150,624.87 and authorize execution of the required contract documents.

Sincerely,
FREEMAN - MILLICAN, INC.



David E. Gattis, P.E.

Enclosure (2)

Copy:

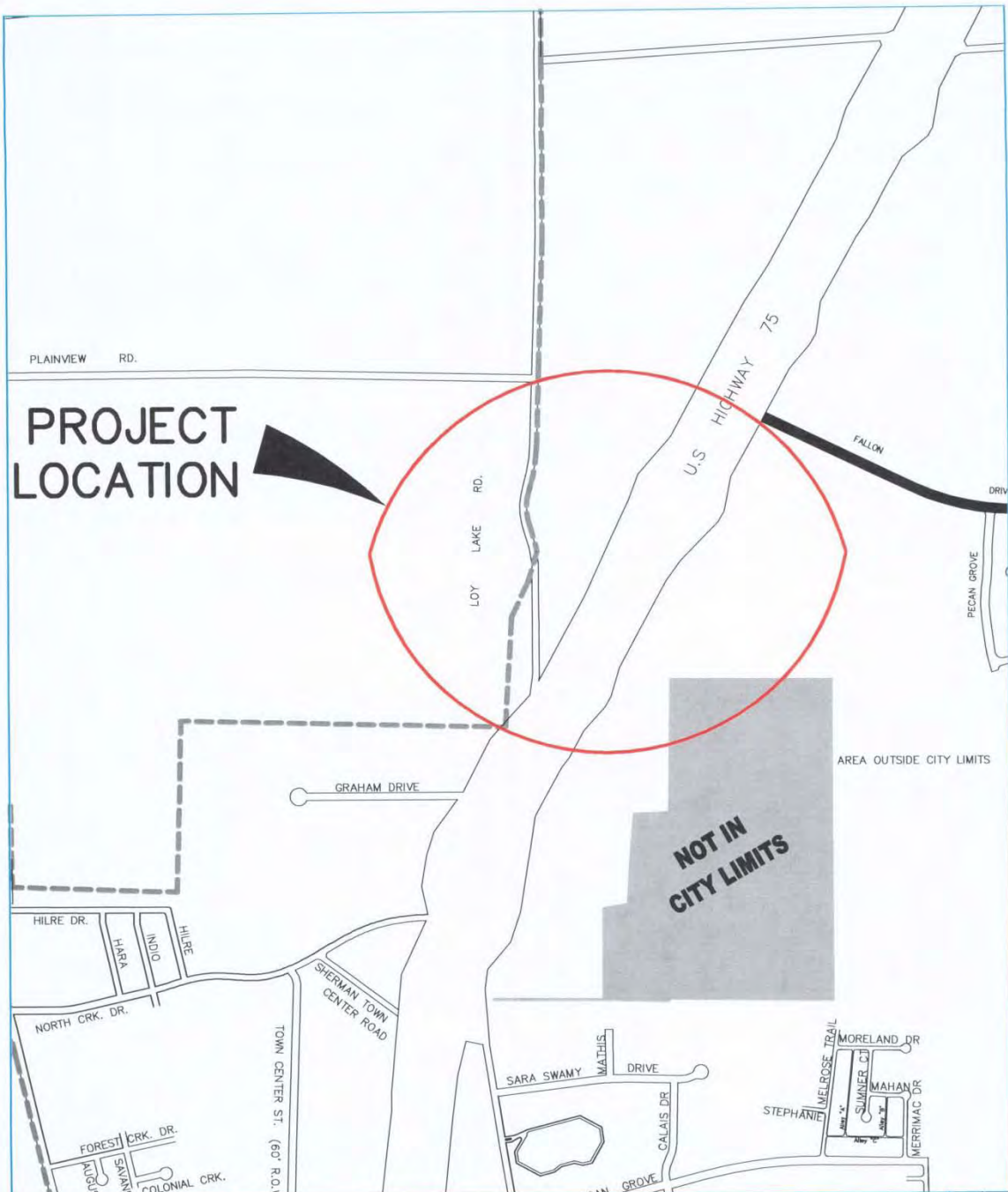
Sherman, Mark Gibson, Director of Engineering and Utilities
Terry Millican

BID TABULATION

OWNER: Greater Texoma Utility Authority				Contractor	Lewis Contractors, Inc.	Contractor	North Texas Contracting	Contractor	Alkins Brothers
PROJECT: City of Sherman - Highway 75 North Sewer - Contract "B"				Address	PO Box 1623	Address	4999 Keller Haslet Road	Address	918 W Marshall
ENGINEER: Freeman-Milican, Inc. - Firm Registration No. 2827				City, State	Bartman, TX 78605	City, State	Keller, TX 75248	City, State	Grand Prairie, TX 75051
BID DATE: February 23, 2010				Phone	512-260-9900	Phone	817-430-9500	Phone	972-647-8890
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
P.1	15" PVC Sewer Pipe 0'-11" Deep - Line 2A	156.00	LF	41.50	6,474.00	50.00	7,800.00	91.00	14,196.00
P.2	15" PVC Sewer Pipe 0'-8" Deep - Line 2B	1,541.00	LF	28.50	43,918.50	46.00	70,886.00	90.00	138,690.00
P.3	15" PVC Sewer Pipe 0'-18" Deep - Line 2B	458.00	LF	30.50	13,969.00	52.00	23,816.00	100.00	45,800.00
P.4	12" PVC Sewer Pipe 0'-9" Deep - Line 2A	123.00	LF	29.00	3,567.00	43.00	5,289.00	80.00	9,840.00
P.5	12" PVC Sewer Pipe 0'-2" Deep - Line 2A	57.00	LF	35.00	1,995.00	41.00	2,337.00	70.00	3,990.00
P.6	10" PVC Sewer Pipe 0'-9" Deep - Line 2B	252.00	LF	22.25	5,607.00	38.00	9,576.00	70.00	17,540.00
P.7	10" PVC Sewer Pipe 0'-14" Deep - Line 2B	245.00	LF	25.00	6,125.00	43.00	10,535.00	90.00	22,050.00
P.8	8" PVC Sewer Pipe 0'-7" Deep - Line 2A	191.00	LF	20.00	3,820.00	36.00	7,258.00	60.00	11,460.00
P.9	8" PVC Sewer Pipe 7'-11" Deep - Line 2A	233.00	LF	22.00	5,126.00	41.00	9,553.00	70.00	16,310.00
P.10	8" PVC Sewer Pipe 0'-11" Deep - Line 2B	151.00	LF	22.00	3,322.00	41.00	6,161.00	80.00	12,080.00
P.11	8" PVC Sewer Pipe 11'-17" Deep - Line 2B	87.00	LF	25.50	2,218.50	46.00	4,002.00	140.00	12,180.00
P.12	8" PVC Sewer Pipe 0'-11" Deep - Line 2G	253.00	LF	48.00	12,144.00	41.00	10,373.00	90.00	22,770.00
P.13	8" PVC Sewer Pipe 0'-9" Deep - Line 2H	48.00	LF	48.00	2,304.00	39.00	1,872.00	80.00	3,840.00
P.14	14" PVC Forcemain Pipe 0'-9" Deep - Line FM-2	827.00	LF	42.00	34,734.00	36.00	29,772.00	70.00	57,890.00
P.15	14" PVC Forcemain Pipe 9'-13" Deep - Line FM-2	242.00	LF	44.00	10,648.00	43.00	10,406.00	75.00	18,150.00
P.16	15" PVC Sewer Pipe & 14" PVC Forcemain Pipe 0'-19" Deep - Lines 2A & FM-2	571.00	LF	58.00	33,108.00	77.00	43,967.00	130.00	74,230.00
P.17	15" PVC Sewer Pipe & 14" PVC Forcemain Pipe 0'-13" Deep - Lines 2A & FM-2	471.00	LF	56.00	26,376.00	60.00	28,260.00	140.00	65,940.00
P.18	12" PVC Sewer Pipe & 14" PVC Forcemain Pipe 0'-19" Deep - Lines 2A & FM-2	1,208.00	LF	58.00	69,864.00	70.00	84,560.00	130.00	156,850.00
P.19	12" PVC Sewer Pipe & 14" PVC Forcemain Pipe 9'-13" Deep - Lines 2A & FM-2	518.00	LF	59.00	30,462.00	73.00	37,868.00	140.00	72,240.00
P.20	10" PVC Sewer Pipe & 14" PVC Forcemain Pipe 0'-8" Deep - Lines 2A & FM-2	1,082.00	LF	49.00	53,018.00	63.00	68,166.00	100.00	108,200.00
P.21	10" PVC Sewer Pipe & 14" PVC Forcemain Pipe 0'-13" Deep - Lines 2A & FM-2	493.00	LF	50.00	24,650.00	66.00	32,538.00	120.00	57,860.00

P.22	10" PVC Sewer Pipe & 14" PVC Forcemain Pipe 13'-15" Deep - Lines 2A & FM-2	65.00	LF	53.00	3,445.00	69.00	4,485.00	160.00	10,400.00
P.23	8" PVC Sewer Pipe & 14" PVC Forcemain Pipe 0'-7" Deep - Lines 2A & FM-2	1,021.00	LF	51.00	52,071.00	81.00	82,881.00	90.00	91,890.00
P.24	8" PVC Sewer Pipe & 14" PVC Forcemain Pipe 7'-11" Deep - Lines 2A & FM-2	483.00	LF	53.00	25,599.00	66.00	31,878.00	90.00	43,470.00
P.25	10" PVC Sewer Pipe in Existing 16" Steel Encasement - Line 2A	40.00	LF	79.00	3,160.00	70.00	2,800.00	100.00	4,000.00
P.26	14" PVC Forcemain Pipe in Existing 20" Steel Encasement - Line FM-2	40.00	LF	95.00	3,800.00	77.00	3,080.00	100.00	4,000.00
P.27	12" PVC Sewer Pipe in 18" Steel Encasement 0'-12" Deep by Open Cut - Line 2A	115.00	LF	95.00	10,925.00	105.00	12,075.00	110.00	12,650.00
P.28	14" PVC Forcemain Pipe in 22" Steel Encasement by Boring - Line FM-2	115.00	LF	122.00	14,030.00	135.00	15,525.00	110.00	12,650.00
P.29	15" PVC Sewer Pipe in 22" Steel Encasement by Boring - Line 2A	120.00	LF	294.00	35,280.00	285.00	34,200.00	210.00	25,200.00
P.30	14" PVC Sewer Pipe in 22" Steel Encasement by Boring - Line FM-2	120.00	LF	302.00	36,240.00	300.00	36,000.00	210.00	25,200.00
P.31	12" PVC Sewer Pipe in 18" Steel Encasement by Boring - Line 2A	530.00	LF	394.00	208,820.00	300.00	159,000.00	521.00	276,130.00
P.32	14" PVC Sewer Pipe in 22" Steel Encasement by Boring - Line FM-2	530.00	LF	430.00	227,900.00	330.00	174,900.00	521.00	276,130.00
P.33	Aerial Crossing at Sta. 12+81.50 - Line 2A	80.00	LF	568.00	45,440.00	530.00	42,400.00	100.00	8,000.00
P.34	Aerial Crossing at Sta. 38+89.67 - Line 2A	46.00	LF	520.00	23,920.00	600.00	27,600.00	600.00	27,600.00







Location Map
US Highway 75 Contract "B"

City of Sherman, Texas





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.1

*** REQUEST TO ADVERTISE**
Seal Coat Emulsified Asphalt Oil

Issue

Approve advertising for bids that will provide the City with seal coat emulsified asphalt oil for annual street maintenance work

Background

Each year, the Street Department evaluates and ranks all City streets to determine their need for maintenance. From the street evaluation process, a priority list of streets to be seal coated is prepared. The Street Department's goal each year is to seal coat in the range of 25-30 miles of streets depending on material costs and the annual budget. Advertising for seal coat materials early in the construction season helps assure that adequate materials are available and can be purchased at the lowest possible price.

Origination

Department of Public Works

Financial Consideration

Funds to purchase seal coat emulsified asphalt oil are provided in this year's Street Department budget. Cost of advertising is expected to be less than \$200.00.

Staff Recommendation

Proceed with advertising for vendors to provide seal coat emulsified asphalt oil for the 2010 Street Maintenance Program.

Alternatives

As may be directed by the City Council

Attachments

None

Prepared by:

Don Keene, Exec. Director of Planning/Public Works

Approved by:

George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.2

*** OTHER BUSINESS**

Consider Request of the 2010 Earth Day Planning Committee to Temporarily Close Certain Streets, Suspend Parking Time Limits, and Use Certain City Facilities and Services for the 2010 Earth Day Festival on Saturday, April 24, 2010

Issue

The 2010 Earth Day Planning Committee proposes to hold the 2010 Earth Day Festival on Saturday, April 24th, and requests barricades, street closures, and the use of City facilities and services.

Background

Ms. Amy Hoffman-Shehan, representing the 2010 Earth Day Planning Committee, proposes to hold the 2nd annual Earth Day Festival in the Sherman Municipal Building Ballroom and on the Municipal Building grounds from 8:00 a.m. to 5:00 p.m. on Saturday, April 24th. In order to accommodate the festival, the Committee also requests solid waste services, delivery and pick up of barricades, and street closures around the Municipal Building. No special law enforcement support is planned.

Origination

Ms. Amy Hoffman-Shehan of the 2010 Earth Day Planning Committee

Financial Consideration

The event will require staff overtime to close and open the streets on the day of the event. The event organizers will pay non-profit usage fees and provide security in the Ballroom and on the Municipal Building grounds.

Staff Recommendation

It is recommended that the City Council authorize the street closures, the utilization of the Municipal Building Ballroom and grounds, and City staff overtime and resources to accommodate this event.

Alternatives

As directed by the Council

Attachments

Ms. Hoffman's request received March 8, 2010
Barricade Location Map

Prepared by:
Don Keene, Exec. Director of Planning/Public Works

Approved by:
George Olson, City Manager

Earth Day Festival
Amy Hoffman-Shehan
1503 S Travis St
Sherman TX 75090
www.earthdaytexoma.org

City of Sherman
George Olson, City Manager
Robby Hefton, Assistant City Manager
Jeff Miller, Director of Public Works
Members of the Sherman City Council

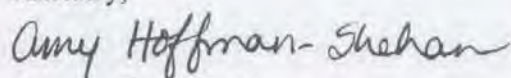
March 8, 2010

The 2nd Annual Earth Day Festival is scheduled for April 24, 2010. It will be held at the Sherman Municipal Ballroom and Grounds. Please place our street closure request on the agenda for the March 15, 2010 City Council Meeting. The street and parking lot closures will be needed from 6:00 am until 5:00 pm on April 24. We would like to close South Rusk Street between Mulberry and Pecan Streets and South Elm Street between Mulberry and Pecan Streets. We would also like to close the parking lot on the south side of City Hall. It will be used for a free, community wide paper shredding event. Please see the attached map.

Please keep an eye on the Earth Day website, as it is updated on a regular basis as the event evolves. All of the coordinated events of last year will be repeated, and we have added a few new ones. The coordinated events that are repeats from last year are a children's art show, the paper shredding event, continuing education from the Texas Illegal Dumping Resource Center, a blood drive, pet adoptions through the Sherman Animal Shelter, a tour of the Sneed Prairie Restoration Project, annual plant sales of the Grayson County Master Gardeners and Red River Rose Society, and childrens' activities. Newly coordinated events include the Kiwanis Pancake Day, the used book sale through the Friends of the Sherman Library, a recycled art show sponsored by the Grayson County College Art Department, a youth essay contest, and an appearance by Howard Garrett on April 22.

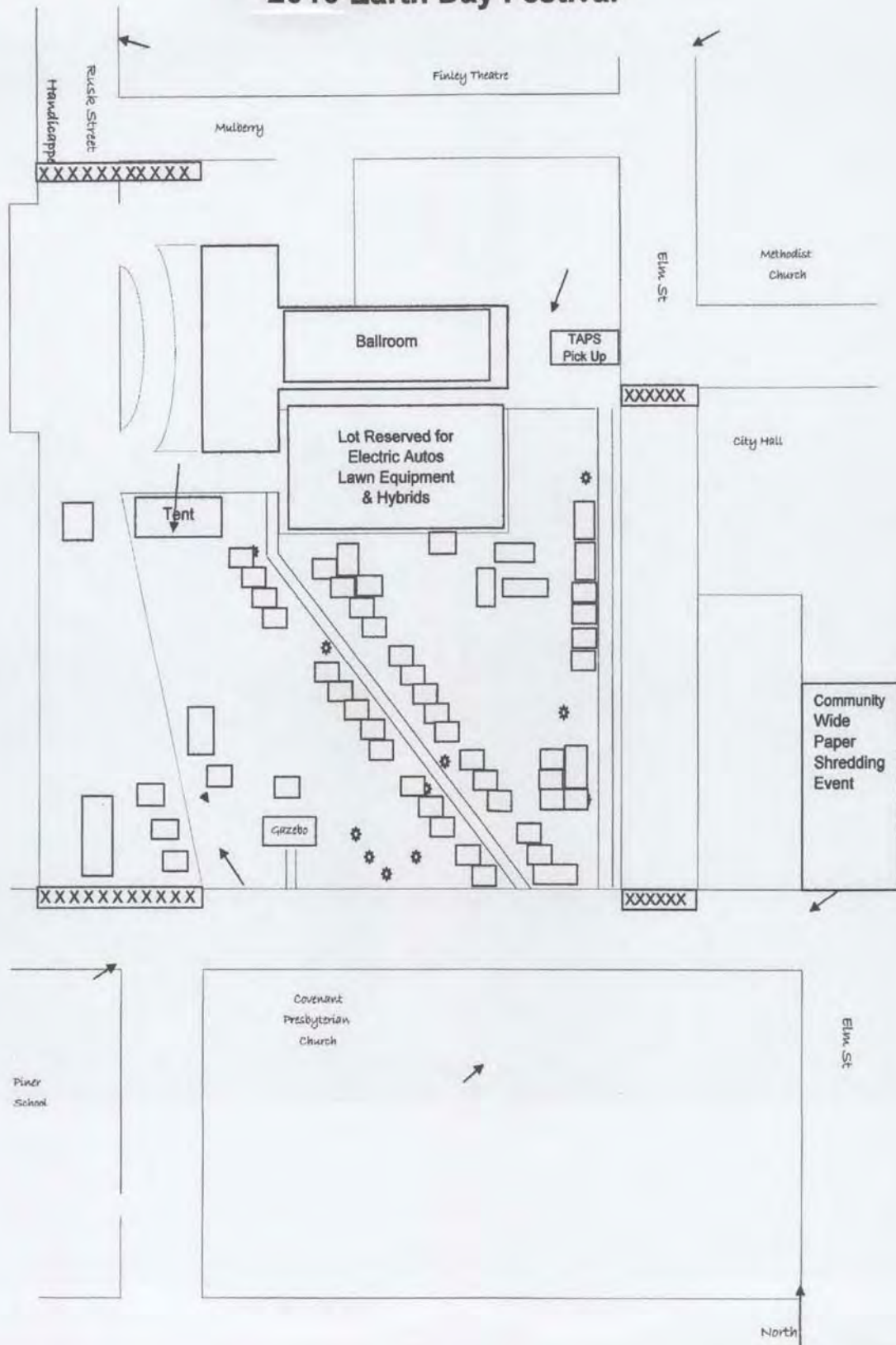
The 2009 Earth Day Festival was a true grass roots festival, promoted mostly through networking and word of mouth and with a small amount of local media support. In spite of the squeaky tight budget and limited resources, the Earth Day Planning Committee managed to attract more than 1200 visitors to the event and create the second largest event held on the Municipal Grounds. We expect the event to grow rapidly and become a major event in Sherman. We greatly appreciate our partnership with the City of Sherman and encourage all of your participation.

Sincerely,



Amy Hoffman-Shehan
Event Organizer

2010 Earth Day Festival





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.3

OTHER BUSINESS

**Accept Annual Audit Report for Year Ended September 30, 2009
from Pattillo, Brown & Hill, L.L.P.**

Issue

To receive a presentation from Pattillo, Brown & Hill, L.L.P. of Waco, Texas, and accept the audit report for the year ended September 30, 2009

Background

On February 18th, the Audit Committee, City Manager, Assistant City Manager, and Controller met with the City's external auditors to discuss the results of the independent audit for the year ended September 30, 2009. The auditors gave a "clean" audit opinion, meaning that, in their opinion, the financial statements are fairly presented in accordance with established accounting standards. The financial statements reflect that the operating results for the year ended September 30, 2009 were generally in line with expected results, and that fund balances at year end were sufficient. The Audit Committee had various questions regarding the draft audit report and, after discussion, recommended the report be presented to the Council at the March 15, 2010 meeting. There were no material findings arising out of the audit.

Origination

Assistant City Manager/CFO

Financial Consideration

None

Staff Recommendation

The staff recommends that the Council accept the audit report, as recommended by the Audit Committee.

Alternatives

None recommended

Attachments

Audit Report (distributed separately)

Prepared by:
Robby Hefton, Assistant City Manager/CFO

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.4

OTHER BUSINESS

Receive Financial Update from Assistant City Manager/CFO Robby Hefton

Issue

To present a financial update to the Council on various items of interest

Background

Periodically, the staff presents financial updates to the Council to communicate important financial and economic conditions. This presentation will focus primarily on issues related to the major operating funds, which are the General Fund, Utility Fund, and Water and Sewer Fund, as well as the Insurance Fund. This presentation is given in preparation for the upcoming fiscal year 2011 budget development process.

Origination

City Manager's Office

Financial Consideration

This presentation is for informational purposes only and has no impact on the City's revenues or expenses.

Council Action Requested

No action is needed by the Council. This presentation is informational only.

Attachments

None

Prepared by:
Robby Hefton, Assistant City Manager/CFO

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.5

OTHER BUSINESS

Consider Approval of the Budget Calendar for Fiscal Year 2010-2011

Issue

Set budget calendar for the fiscal year (FY) 2010-2011

Background

Several meetings are necessary to develop the budget for the upcoming fiscal year. There is some flexibility in meeting dates reflected in the proposed budget calendar. Particularly important are the dates for the Budget Planning Meeting and the Budget Workshop. The Budget Planning Meeting will be used to garner Council input on Council initiatives to be included in the budget development process and update the Council on the progress of the staff's budget activities. The Budget Workshop will present a more detailed picture of the City budget and will be used to summarize Council direction for the upcoming year.

Included in this year's budget process will be discussion of the five-year financial and operational projections. Although we will only be developing a budget and appropriating funds for FY 2010-2011, this five-year time horizon will reflect the impacts of such things as the capital improvement program, debt service, and projected tax base changes on the City's long-term financial state. It is important that the budget calendar be set earlier this year than in prior years because of the additional meetings being held at the staff level for this budget cycle.

Origination

George Olson, City Manager

Robby Hefton, Assistant City Manager/Chief Financial Officer

Financial Consideration

None

Staff Recommendation

The staff recommends that the Council approve the budget calendar as presented and confirm the City Council Chambers as the site for the Budget Workshop.

Alternatives

The Council could select alternative dates for the meetings, subject to Charter requirements.

Attachments

Proposed Budget Calendar for FY 2010-2011

Prepared by:

Robby Hefton, Assistant City Manager/CFO

Approved by:

George Olson, City Manager

DRAFT BUDGET CALENDAR

FISCAL YEAR 2010-2011

Strategic Budget Development Meetings – Staff

- | | |
|--|--------------------------|
| • Revenue Outlook and Essential/Complimentary Introduction | March 4, 2010 |
| • Essential/Complimentary Roundtable | March 11, 2010 |
| • Essential/Complimentary Evaluation due to City Manager | March 25, 2010 |
| • Management Review of Essential/Complimentary Input | March 29 - April 2, 2010 |

Financial Update to City Council

March 15, 2010

Budget Planning Meeting with City Council*

April 30, 2010

Input Due from Departments

May 14, 2010

Management Review of Budget Requests

May 17-21, 2010

Budget Workshop and Long-Range Planning

June 17-18, 2010

Present Draft Budget to Council

July 19, 2010

Introduce Budget Ordinance

August 2, 2010

Final Action on Budget Ordinance
Introduce Tax Rate Ordinance

August 16, 2010

Final Action on Tax Rate Ordinance

September 7, 2010

Notes:

Meeting times and locations to be confirmed after the Budget Calendar is approved.

- * An alternative date is Thursday, April 29th. It is recommended that the Budget Planning Meeting take place in the City Council Chambers.



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.6

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.7

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.8

**APPOINT/REMOVE OR CONSIDER QUALIFICATIONS
TO BOARDS AND COMMISSIONS
(a) Library Board (2)**

Issue

Ms. Nan Jones' term on the Library Board expires on March 20, 2010; and Dr. Charles Whitfield's term expires on April 3, 2010. Both members are eligible and do wish to be reappointed. There is also a vacancy on the Board. We currently do not have any applications on file.

Background

The Library Board serves in an advisory capacity to the City Librarian, the City Manager, and the City Council.

Origination

The request originated with the City Clerk's Office.

Financial Consideration

There is no financial consideration to the City.

Staff Recommendation

It is recommended that the City Council consider reappointments to the Library Board.

Alternatives

The City Council could delay reappointments to the Board.

Attachments

A membership roster, fact sheet, applicant list, and reappointment letters are attached for examination.

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager

MEMBERSHIP ROSTER

LIBRARY BOARD

LENGTH OF TERMS: THREE YEARS

Term Limit: Three Consecutive Terms

MEMBER	DISTRICT	TERM BEGINS	TERM EXPIRES	TERMS	MEMBERSHIP REQUIREMENTS
Nan Jones	4	A 3/20/2007	3/20/2010	1	Members are required to be residents of Sherman; have knowledge of Library Affairs and operations; and appreciate books.
Dr. Charles Whitfield	4	A 4/3/2007	4/3/2010	1	
Ron Roberts	4	A 4/8/2008	4/8/2011	1	
Kate Whitfield	4	U 2/23/2005	9/30/2006	1	
		R 9/30/2006	9/30/2009	2	
		R 9/30/2009	9/30/2012	3	
Mib Garrard	4	U 9/4/2002	9/30/2003	0	
		R 9/30/2003	9/30/2006	1	
		R 9/30/2006	9/30/2009	2	
		R 9/30/2009	9/30/2012	3	
Darlene Schweizer	4	A 4/8/2008	4/8/2011	1	
Vacant					

NOTE:

CITY STAFF: Jacqueline Banfield, Director of Library Services
Revised 10/6/2009

FACT SHEET

LIBRARY BOARD

Established by ORDINANCE 1736 – APRIL 14, 1948; REVISED ORDINANCE 4223 – OCTOBER 21, 1991; REVISED ORDINANCE 4367 – OCTOBER 3, 1994

1. Number of Members: SEVEN
2. Term of Appointment: THREE YEARS
3. Consecutive Term Rule: THREE TERMS – ORDINANCE 4223 (10/21/91)
4. Qualifications for Membership: RESIDENTS OF SHERMAN; KNOWLEDGE OF LIBRARY AFFAIRS AND OPERATION; APPRECIATION OF BOOKS
5. Appointed by: MAYOR AND CITY COUNCIL
6. Board Organization
CHAIRPERSON E VICE CHAIRPERSON SECRETARY E
ELECTED E APPOINTED
7. Departmental Responsibility: DIRECTOR OF LIBRARY SERVICES
8. Meeting Date: NO RULE – AS SET BY BOARD BY-LAWS
9. Attendance Requirements: NO RULE – AS SET BY BOARD BY-LAWS

=====

PURPOSE:

Shall serve in an advisory capacity with the City Librarian, the City Manager and the City Council.

RESPONSIBILITIES:

Said Board shall have no authority to bind the City of Sherman to any contract or interfere in any manner with City operations of Library Services.

APPLICANT LIST

Library Board

Positions Vacant 3

Applicant	Address	District	Qualifications
Nan Jones	2409 W. Haven Court	4	Current Member; Wishes to be Reappointed
Dr. Charles Whitfield	1518 Crescent	4	Current Member; Wishes to be Reappointed

COMMENTS:

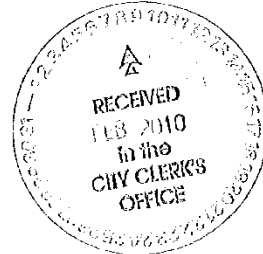
SHERMAN



PUBLIC RECORDS DEPARTMENT

Phone No. (903) 892-7204

Fax No. (903) 892-7394



February 3, 2010

Nan Jones
2409 W. Haven Court
Sherman, Texas 75092

RE: Library Board

Dear Ms. Jones:

Your term on the Library Board expires on March 20, 2010. You are eligible for reappointment to the Board. Please let me know whether or not you are interested in reappointment to this board by checking the appropriate statement at the bottom of this letter and returning a copy to me at the address below. If you have any questions or need additional information, please don't hesitate to contact me.

Best regards,

Linda Ashby

Linda Ashby
City Clerk

cc: Jacqueline Banfield, Library Services Administrator

 X

I do wish to be considered for reappointed to this board

I do not wish to be considered for reappointment to this board

Nan Jones
Signature

Feb. 4, 2010
Date

Please return to:

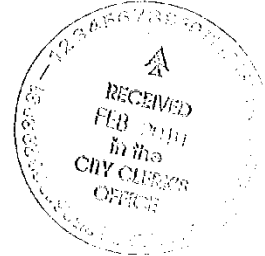
City of Sherman
City Clerk's Office
P.O. Box 1106
Sherman, Texas 75091-1106

P.O. BOX 1106 • SHERMAN, TEXAS 75091-1106 (903) 892-7206

SHERMAN



PUBLIC RECORDS DEPARTMENT
Phone No. (903) 892-7204
Fax No. (903) 892-7394



February 3, 2010

Dr. Charles Whitfield
1516 Crescent
Sherman, Texas 75092

RE: Library Board

Dear Dr. Whitfield:

Your term on the Library Board expires on April 3, 2010. You are eligible for reappointment to the Board. Please let me know whether or not you are interested in reappointment to this board by checking the appropriate statement at the bottom of this letter and returning a copy to me at the address below. If you have any questions or need additional information, please don't hesitate to contact me.

Best regards,

Linda Ashby
City Clerk

cc: Jacqueline Banfield, Library Services Administrator

☒

I do wish to be considered for reappointed to this board

☐

I do not wish to be considered for reappointment to this board

Signature

Date

2-05-10

Please return to:

City of Sherman
City Clerk's Office
P.O. Box 1106
Sherman, Texas 75091-1106

P.O. BOX 1106 • SHERMAN, TEXAS 75091-1106 (903) 892-7206



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.9

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. D.10

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 3-15-2010

Subject: Agenda Item No. N/A

COUNCIL CALENDAR

2010 CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		5	6	7	1	2
3	4				8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		6	7	8	9	10
4	5					
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		4	5	6	7	1
2	3					8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		5	6	7	1	2
3	4				8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

01/04/10 - January 4th Council meeting cancelled - holiday schedules
01/18/10 - M.L.K., Jr. Birthday / Regular Council Meeting
02/15/10 - Washington's Birthday / Regular Council Meeting
05/08/10 - City Council Election
05/11/10 - Called Meeting to Canvass Election Results
07/05/10 - Independence Day - Called Council Meeting on 07/06/10
09/06/10 - Labor Day / Called Council Meeting on 09/07/10