STATE OF TEXAS §

March 7, 2011

COUNTY OF GRAYSON §

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on March 7, 2011.

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

MEMBERS ABSENT: **NONE.**

CALL TO ORDER — **CALL TO ORDER**

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

APPROVE MINUTES — **APPROVE MINUTES**

The Council reviewed the Minutes of the Regular City Council Meeting of February 21, 2011. Council Member Adami moved to approve the Minutes as presented; Second by Council Member Smith. All present voted AYE.
MOTION CARRIED.

SPECIAL RECOGNITION

THE SHERMAN ECONOMIC DEVELOPMENT CORPORATION BOARD'S ANNOUNCEMENT CONCERNING AN ECONOMIC DEVELOPMENT MATTER — **SEDCO ANNOUNCEMENT**

Mayor Magers recognized John Henry, Director of Engineering and Operations for Sunny Delight, and Sherman Economic Development Board Members Dean Gilbert Jr., Juston Dobbs, Rad Richardson, and Ex-Officio Member Al Hambrick.

Todd Thompson, SEDCO Chairman, announced that negotiations have been finalized with Sunny Delight for a new product, a square, refrigerator-friendly bottle.

Mr. Henry said in December 2010, SEDCO and the City Council supported Sunny Delight in the purchase of the old Folgers Building and they have now finalized their plans for a "sizeable" investment in the expansion of the operation. In conjunction with the expansion, they are bringing a new company, Alpla, Inc., into the community. The company is a global producer of plastic bottles.

Alpla will make the new square bottle, as well as all the other sizes of bottles that are produced on site. The target for Alpla's start-up is in April 2011. Shortly after that, Sunny Delight will make a significant investment in Sherman to start producing the bottle, as well.

Mr. Thompson said the investment will be approximately $23 million on Sunny Delight's portion and just under $10 million on the bottler's portion. SEDCO will be paying for all incentives and no tax abatements will be requested.

Mayor Magers emphasized that the deal would not have happened without SEDCO's support. During the site purchase there was also some environmental mitigation that took place which was good for the citizens of Sherman. He added that in tough economical times, tax abatements are a big deal. He also thanked Frank Gadek, Vice President of SEDCO, for his work on the deal.

Mr. Thompson said Sunny Delight also has 150,000 square footage available for additional capital investment.

PUBLIC HEARING

CONDUCT THE SECOND PUBLIC HEARING CONCERNING THE ANNEXATION OF APPROXIMATELY 23.065 ACRES SOUTH OF DRIPPING SPRINGS ROAD AND WEST OF CEDAR PARK VILLAGE IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION

ANNEXATION SOUTH OF DRIPPING SPRINGS RD. & WEST OF CEDAR PARK VILLAGE

Mayor Magers asked if there were any citizens that wished to speak on the proposed annexation of approximately 23.065 acres south of Dripping Springs Road and west of Cedar Park Village in the City's Extra Territorial Jurisdiction.

No citizens appeared before the City Council to discuss the proposed annexation.

The Public Hearing was closed.

OTHER BUSINESS

ACCEPT ANNUAL AUDIT REPORT FOR YEAR ENDED SEPTEMBER 30, 2010 FROM PATTILLO, BROWN & HILL, L.L.P.

ANNUAL AUDIT

John Manning, Partner, Pattillo, Brown & Hill, L.L.P., presented an overview of the Annual Audit Report. Mr. Manning said that the auditors have met with the Audit Committee and discussed the Audit in great detail.

He said the independent auditors report states that the numbers behind the report accurately state the financial position of the City as of September 30, 2010. The City received an unqualified opinion, which is the highest level of assurance an outside auditor can give. This is very important since the City receives grants and issues debt.

Mr. Manning presented the management discussion and analysis which is a narrative that breaks down what happened at the City from an accounting standpoint throughout the year. This is the only part of the report that provides comparative information.

He added that all net assets on the balance sheet are positive, which is a good sign of financial strength, and

there are reserves available. The ending fund balance of the General Fund decreased this year, but still has a very healthy reserve, in terms of the level of expenditures that the City has annually.

From a financial standpoint, Mr. Manning said there is nothing in the Audit Report or the Financial Statement that sends up a "red flag" or that they need to warn the City Council about.

Because the City is a local government, the auditors must complete the Audit under government auditing standards, which requires them to review internal controls and compliance with certain laws and regulations. There were no findings in these areas.

Also, since the City spends over $500,000 of Federal funds, they had to complete the Audit under the Single Audit Act. There were no findings there either.

Mr. Manning said from an Audit standpoint, it can't get any better. He thanked the City staff, especially in the financial area, for their help in completing the Audit.

Mayor Magers thanked the Audit Committee for serving and for reviewing the Audit in detail.

Council Member Adami said the Audit Committee did meet with the independent auditors and they were very complimentary of the staff and it seems that everything went smoothly.

ACTION TAKEN.

Motion by Council Member Adami to accept the Annual Audit Report for the Year Ended September 30, 2010, as presented. Second by Council Member Wacker.

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

REJECT BIDS FOR TRAVIS ST. STREETSCAPE PROJECT

<u>CONSIDER BID REJECTION FOR THE TRAVIS STREET STREETSCAPE PROJECT</u>

Don Keene, Executive Director of Planning and Public Works, said the City received five bids for the Travis Street Streetscape Project. Due to the complexity of the project, the staff chose to use a competitive sealed proposal process, which allows the staff to consider experience, reputation, construction time, and other things besides cost.

The requirements for that process were clearly explained in the bids, however when the bids were analyzed it was determined that only one of the bidders submitted a complete bid. The City's engineering consultant felt that the lack of more than one qualified bid compromised the process.

In addition, all five of the bids came in above the project budget. Therefore the staff recommends rejecting the bids and review options within the budget. Those options will be presented to the City Council in the future.

Mayor Magers verified that the budget was just under $1.2 million for the project. The bids received were from $1.5 million to $2.1 million. He said normally the City's capital projects are under budget and on time and he felt the City should stick to the budget.

He added that the Council has made some commitments on mill and overlay and have completed those projects. He said they committed to the citizens, with a sales tax initiative, that they would take care of Travis Street and he felt strongly that should be a part of the final project.

George Olson, City Manager, said the City doesn't have additional funding, therefore the staff's recommendation is to reject the bids and allow them to come back with options for the Council's consideration.

ACTION TAKEN.

Motion by Council Member Adami to reject the bids for the Travis Street Streetscape Project, as presented. Second by Council Member Smith.

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

ANNEXATIONS HWY 82 & HWY 289 CORRIDORS

CONSIDER APPROVAL OF A TIMELINE FOR THE PROPOSED U.S. HIGHWAY 82 AND S.H. 289 ANNEXATIONS

Mr. Olson said at the last meeting, the Council directed the staff to prepare a timeline for the proposed annexation of the U.S. Highway 82 and S.H. 289 corridors. He asked for approval from the Council to proceed with this schedule.

ACTION TAKEN.

Motion by Council Member Smith to approve the timeline for the proposed annexation of the U.S. Highway 82 and S.H. 289 corridor, as presented, and direct the staff to proceed. Second by Deputy Mayor Steele.

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

CIVILIAN VOLUNTEER HANDICAP PARKING ENFORCEMENT

RECEIVE PRESENTATION BY POLICE CAPTAIN KEN FRANCIS ON A CIVILIAN VOLUNTEER HANDICAP PARKING ENFORCEMENT PROGRAM

Police Captain Ken Francis briefed the City Council on a Civilian Volunteer Handicap Parking Enforcement Program proposed for Sherman. A citizen saw information about Plano's program and approached Captain Francis about the possibility of a similar program in Sherman.

After researching the issue, Captain Francis determined that the Texas Legislature had passed a law that permits citizens to be appointed by Police Departments to issue handicapped parking citations, and only those citations. Several Texas cities have implemented the program, including Austin, Dallas, Mesquite, and Plano.

There are specific criteria for a citizen to be appointed to the program and they must take an oath and complete a training program. Currently, after two years in operation, Plano has about 35 volunteers actively involved in the program.

Captain Francis said after reviewing Plano's program, it seems to be a good way for citizens to become involved and to connect with police officers.

The reason this is being considered for handicapped parking and not other parking offenses is because of the harm that can be done to handicapped citizens that need access to facilities. Other parking offenses may be annoying, however they are not harmful.

He explained that to alleviate confrontations between parking enforcement volunteers and citizens, if the volunteer is approached by a citizen while writing a citation, they obtain a promise not to do it again and change the citation to a warning. He added that Plano writes significantly more warnings than they do citations for the offenses. Captain Francis also suggested publicizing a campaign to inform citizens about the legalities of handicapped parking.

Mayor Magers asked if the citizen volunteers wear uniforms or t-shirts designating their position. Captain Francis said most cities issue them a vest which identifies them as a handicapped parking volunteer. Some cities even allow the volunteers to put magnetic signs on their vehicles.

He added that the law specifically states that if the volunteer drives their own vehicle, the State and the City are not held liable for any of their actions. He added that most cities also issue the volunteer a digital camera so when they issue a citation they can take two photographs. A photograph should be taken of the front and back of the vehicle, showing that the vehicle did not have a proper placard.

Mayor Magers asked if there is a big problem in Sherman with people parking illegally in handicapped parking spaces. Captain Francis said most officers see it quite often.

Deputy Mayor Steele asked if the volunteers would have a certain "beat" or area to which they are assigned. Captain Francis said the volunteer would be issued a citation book and that is tracked very closely, along with their hours. The specifics have not been determined, however he felt the volunteer could provide enforcement wherever there was a legal handicapped parking space in the City.

Council Member Wacker asked if there would be a specific number of volunteers and Captain Francis said they would initially like to limit it to five active volunteers.

Council Member Howeth verified that even with the handicapped placard, a person can only park in a handicapped space if the actual person issued the placard is in the vehicle. Captain Francis said the name is on the placard, however if there is any doubt, a citation would not be issued. Council Member Howeth was glad they were taking pro-active steps because she did feel it was a problem in Sherman.

Mayor Magers asked if there had been any feedback from businesses. Captain Francis said the volunteers would be dressed appropriately and would handle the program appropriately. They don't want any vigilantes involved.

Council Member Howeth asked if other cities used regular officers to enforce the handicapped parking instead of using volunteers. Captain Francis said the City does have one parking enforcement person, however she is not an officer.

Deputy Mayor Steele verified that the minimum fine for a handicapped parking violation is $500 and the second offense is up to approximately $850. Council Member Adami asked how many violations were issued annually in Sherman. Captain Francis did not have that information available.

He added that there are only a specific number of officers in Sherman and in many cases they are handling actual calls and don't see these violations. He said in 2010, Plano wrote 1,690 citations and issued 1,993 warnings.

Council Member Adami asked about the expected costs of the program. Captain Francis estimated it would be $300 to $400 per volunteer, which would cover training, a camera, a reflective vest, and possibly a magnetic sign for their vehicle.

Captain Francis explained that the current discussion is to see if the Council wants the staff to move forward with the project. Mayor Magers confirmed that there would be no additional personnel required. Captain Francis said all training will be completed in-house and representatives from Plano Police Department have offered to assist in the training.

Council Member Adami asked for additional information before approval is given. He also wanted to know the number of violations annually, who issues the citations now, and the cost outlays that would be required. It is a tough budget and he felt it could cause anger with the citizens.

Captain Francis said if someone receives a citation and brings the valid placard in, the ticket will be dismissed. Mr. Olson said the staff will discuss the operation of the program and put some parameters on it for the Council to consider at a later date.

PARK RESERVATION FEES

RECEIVE BRIEFING FROM PARKS AND RECREATION ADMINISTRATOR KEVIN WINKLER ON FEES FOR THE RESERVATION OF PAVILIONS AND AMPHITHEATRES WITHIN SHERMAN'S PARKS SYSTEM

Kevin Winkler, Parks and Recreation Administrator, briefed the City Council on proposed fees for the reservation of pavilions and amphitheatres within the park system. He presented proposed charges for the individual pavilions and the Amphitheatre. Council Member Smith verified that the charges do not apply to rental of facilities at the Splash.

Mr. Winkler explained that in the past there was a $5 reservation fee enacted however when he moved to the Parks and Recreation Department, that fee was not being charged.

As the new park areas were developed, the staff saw the need to recoup the costs for electricity, extra trash, and to facilitate the preparation of the site for rental.

Mr. Winkler researched the costs and amenities at seven different cities and based their charges on comparison. Sherman is still below the average cost of these other cities.

Mayor Magers said as a taxpayer, part of a citizen's money goes to Parks and Recreation. This would allow exclusive use of a particular pavilion in a particular park. The charges are based on size and amenities of the facility.

Mr. Winkler said citizens can still use these facilities on a daily, first come, first served basis without charge. The charge would be strictly for those citizens that want a reservation. The renter would receive a copy of the reservation form and if the facility is in use when they arrive for their reservation, they are directed to contact the Police Department.

He added that there is not currently signage at every location, but the City plans to follow up with signage reflecting the policy. Rental costs are for a six hour period.

Deputy Mayor Steele verified that there are no exemptions for schools or churches. Mr. Olson added that normally the schools would be using parks during the weekdays. Rentals will be used mainly during weekend traffic. Mr. Winkler said that schools usually just walk over and use the facility without renting, and that will still be possible.

Council Member Adami said he would like to see more disparity between the rental fees for residents and non-

residents to give residents more incentive to book. Mr. Winkler said during his research, he found that most cities increase rental fees to non-residents by as much as 50% to 200%. Plano does not allow non-residents to rent their facilities.

Mr. Olson said the staff is required by Charter to establish the fees through the City Council. Mayor Magers said these proposed fees are very reasonable and he felt it should be doubled for non-residents, since they aren't paying taxes.

Council Member Howeth asked if the City could post when the facility has been reserved so anyone walking up would know it was reserved for a specific time period. Mr. Olson said that would be on the new website, but it is also an educational situation. Mr. Winkler said with a park ranger position, they would be able to post and police the facility rentals. Council Member Adami suggested adding a sign with a telephone number to call for facility rental.

Mr. Winkler said historically, they have had 350 to 400 reservations annually, but that was before Pecan Grove Park was opened. They are seeing more out-of-towners coming to the newer park.

Council Member Wacker added that fees at the Splash are currently double for non-residents. She felt the Council was following the precedent set at the Splash, however to support tourism, she did not want to discourage visitors from using the facilities

Traci Carlson, Chamber of Commerce President, asked if the fees would apply to businesses too. Mayor Magers said Sherman businesses would also be allowed to rent as a resident.

ACTION TAKEN.

Motion by Deputy Mayor Steele to approve the proposed fees for use of the individual pavilions and Amphitheatre by residents and to double the fees for non-residents. The per-hour charge for the Amphitheatre will be the same for residents or non-residents. Second by Council Member Adami.

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

Clarification of Approved Fees:
Tier 1 Pavilion $10 for Resident / $20 for Non-Resident
Tier 2 Pavilion $20 for Resident / $40 for Non-Resident
Tier 3 Pavilion $30 for Resident / $60 for Non-Resident
Tier 4 Pavilion $40 for Resident / $80 for Non-Resident

Amphitheatre Reservation fee for Resident is $100 and for Non-Resident is $200; also $25-$75 per hour charge and a refundable damage deposit of $200 to $500.

RED RIVER GROUNDWATER CONSERVATION DISTRICT

RECEIVE THE CITY MANAGER'S BRIEFING ON ACTIVITIES OF THE RED RIVER GROUNDWATER CONSERVATION DISTRICT

Mr. Olson briefed the Council on the activities of the Red River Groundwater Conservation District. In 2005, the Texas Legislature decided the groundwater conservation districts were the preferred mechanism for addressing the groundwater problems in the State. There are currently 96 different groundwater conservation districts in Texas.

In 2006, groundwater management areas were established in 16 different regions. Sherman is in GMA #8, which includes 44 counties from the Red River south to Austin. There are currently 12 groundwater conservation districts in GMA #8.

In 2007, Texas Commission on Environmental Quality, TCEQ, issued a report for a need to have groundwater conservation districts in North Texas. Mayor Magers added that despite the fact that Sherman was using less of the groundwater as a City and were complying with all the rules and regulations.

Mr. Olson said in 2008, the groundwater producers in Grayson and Fannin Counties challenged the requirement to establish a groundwater conservation district, but the challenge was rejected. The Red River Groundwater Conservation District was created in 2009 and began addressing the statutory requirements in 2010.

The District meets monthly and uses the Greater Texoma Utility Authority to assist with the Board. They have also signed an administrative services contract with GTUA to avoid hiring additional staff and establishing separate offices.

The District adopted a budget of $150,000, which also includes $30,000 that was used last year. Sherman produces about 33% of the water in Grayson and Fannin Counties.

They are developing temporary rules to govern exempt and non-exempt wells and registration and spacing of the wells. They are also developing a Groundwater Management Plan outlining the use of available water from the Trinity and Woodbine Aquifers. The District is cooperating with the North Texas and the Prairielands Groundwater Conservation Districts to secure a geodatabase program at the lowest cost.

Future activities include reviewing the draft rules for adoption and they anticipate registering wells and establishing fees by January 2012. Mayor Magers confirmed that based on the current budget, the cost is about three cents per 1,000 gallons. The Board anticipates this cost going down after the initial year.

Mr. Olson added that "nothing is absolute about groundwater in Texas" but the Board is working hard to keep the cost as low as possible. Mayor Magers asked if the Red River Groundwater Conservation District had "weighed in" on the issues yet. Mr. Olson said the City sent a resolution opposing the legislation originally and another resolution will be on the agenda for consideration by the District at the next meeting.

Mayor Magers thanked Jerry Chapman, General Manager of GTUA, for his hard work in coordinating the Red River Groundwater Conservation District for Grayson and Fannin Counties. He added that in Sherman, groundwater is a critical part of the community. He also thanked Mr. Olson for his service on the Board.

CITIZENS REQUESTS

AIRPORT ADVISORY BOARD — **AIRPORT ADVISORY BOARD**

Ross Richardson, 2115 Turtle Creek Circle, advised the Council that for the past few months the Airport Advisory Board has been unable to meet because they don't have a quorum. There are approximately four applications on file at the City of citizens that could be appointed to the Board so they could meet their obligations.

He asked the Council to add the appointments to an upcoming meeting agenda for consideration.

Mr. Richardson added that last year the Board worked very hard to prepare a presentation for submittal to the City Council. Again he asked that the presentation be added to an upcoming agenda so the Board can make the presentation about where the Airport has been and where they want it to go.

Mayor Magers verified that Mr. Richardson has not spoken with Mr. Olson about these issues, but has contacted staff members. Mr. Richardson added that he is not officially on the Airport Advisory Board, but has submitted an application for consideration as a Board Member.

Mayor Magers said he understood that some of the numbers in the presentation were no longer accurate. He said as the Council begins the budget process, they will be looking at all City departments, including the Airport.

MEDIA QUESTIONS

There were no media questions. — **MEDIA QUESTIONS**

COUNCIL COMMENTS

SUNNY DELIGHT ANNOUNCEMENT — **SUNNY DELIGHT ANNOUNCEMENT**

Council Member Adami said it was great to see Sunny Delight making a long term commitment to Sherman. It's good to see that the former Folgers plant will continue to be used and that jobs will stay in the community.

SUNNY DELIGHT ANNOUNCEMENT — **SUNNY DELIGHT ANNOUNCEMENT**

Deputy Mayor Steele also thanked Sunny Delight and members of the SEDCO Board for their hard work with the expansion.

BASEBALL TOURNAMENT — **BASEBALL TOURNAMENT**

Deputy Mayor Steele said there was recently a baseball tournament in Sherman that drew in people from many communities. Approximately 60 to 70 teams participated and the fields were in great condition. He thanked the staff for their hard work and wanted to be sure the employees that were out early in the morning preparing the fields received a thank you.

THANKS TO CITY STAFF — **THANKS TO CITY STAFF**

Council Member Wacker commended the City staff for their hard work and for keeping things going.

SUNNY DELIGHT ANNOUNCEMENT — **SUNNY DELIGHT ANNOUNCEMENT**

Council Member Softly said after spending nearly 20 years at the Folgers Plant, it was good to see its acquisition by Sunny Delight. Mayor Magers added that Council Member Softly attended some of the meetings too.

BASEBALL TOURNAMENT — **BASEBALL TOURNAMENT**

Mayor Magers said he also attended the Baseball Tournament at Old Settlers Park on Saturday and the temperature was 32°.

He said the Council has some tough decisions to make but they are moving forward in Sherman, Texas. He thanked the staff for the way they were looking at the budget, with a long-term, measured approach to a situation over which they have only some control.

Sherman is facing some challenges but not nearly as many as some cities, and that's because of the way the money has been spent in the past and the way they have stayed in budget on projects.

He again thanked the staff, adding that some of the visitors at the Baseball Tournament were very complimentary of their experience in Sherman.

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

THE CITY COUNCIL WILL NOW HOLD AN EXECUTIVE SESSION PURSUANT TO THE PROVISIONS OF THE OPEN MEETINGS LAW, CHAPTER 551, GOVERNMENT CODE, VERNONS TEXAS CODES ANNOTATED, IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN THE FOLLOWING SECTIONS.

SECTION 551.074 **PERSONNEL MATTERS CONSIDER THE QUALIFICATION, APPOINTMENT AND REMOVAL OF MEMBERS TO BOARDS AND COMMISSIONS: PLANNING AND ZONING COMMISSION (1)**

Mayor Magers announced that the Executive Session was not needed tonight.

ADJOURNMENT **ADJOURNMENT**

On Motion duly made and carried, the meeting adjourned at 5:58 p.m.

MAYOR

CITY CLERK