

STATE OF TEXAS

§

March 5, 2012

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 5, 2012.

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

MEMBERS ABSENT: NONE.

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 David Plyler.

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of February 20, 2012. Council Member Smith moved to approve the Minutes as presented; Second by Council Member Howeth. All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

PROCLAMATION

"TEXAS PUBLIC SCHOOLS WEEK" – MARCH 5-9, 2012

Council Member Howeth presented a proclamation to April Patterson, Sherman Independent School District Director of Communications, designating March 5 through 9, 2012 as "Texas Public Schools Week."

TEXAS PUBLIC
SCHOOLS WEEK
(MARCH 5-9, 2012)

On behalf of Dr. Al Hambrick, Superintendent of Schools, and the Sherman School Board, Ms. Patterson thanked the City Council for the proclamation and for their support.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5735 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESS REGULATIONS", AT ARTICLE 4.14, ENTITLED "ALCOHOLIC BEVERAGES", DIVISION 2, ENTITLED "LAWFUL CONSUMPTION", TO PROVIDE FOR A NEW SECTION 4.14.036 TO BE ENTITLED "DOWNTOWN DISTRICT"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5735
DOWNTOWN OVERLAY
DISTRICT

No citizens appeared before the City Council to discuss Ordinance 5735.

Mayor Magers introduced Ordinance 5736 and called for a public hearing:

ORD 5736
ALCOHOL AT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESS REGULATIONS", AT ARTICLE 4.14, ENTITLED "ALCOHOLIC BEVERAGES", DIVISION 3, ENTITLED "UNLAWFUL CONSUMPTION", SECTIONS 4.14.061 AND 4.14.062 TO PROVIDE FOR THE SALE, POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES DURING SPECIAL EVENTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

SPECIAL EVENTS

David Baca, President of Downtown Sherman Preservation & Revitalization

Mr. Baca appeared representing DSP&R, and thanked the City Council for considering the ordinances. He said there are other ideas "in the works" to help promote the downtown area. This is a step in the right direction.

In the past there have been people that wanted to open businesses to sell alcohol and that also want to provide music on the streets. These ventures have not gone very far because of the presumption that alcohol cannot be sold downtown.

Mr. Baca said DSP&R appreciates this step to move forward and he encouraged Council Members to approve the ordinance.

No other citizens appeared before the City Council to discuss Ordinance 5736.

Mayor Magers introduced Ordinance 5737 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES, ENTITLED "OFFENSES AND NUISANCES", AT ARTICLE 8.03, ENTITLED "OFFENSES INVOLVING PUBLIC PEACE AND ORDER", SECTION 8.03.002, ENTITLED "CONSUMPTION, POSSESSION OF ALCOHOLIC BEVERAGES", TO PROVIDE FOR NEW SUBSECTIONS (E) AND (F); PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

**ORD 5737
CONSUMPTION OF
ALCOHOLIC
BEVERAGES**

No citizens appeared before the City Council to discuss Ordinance 5737.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5735

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESS REGULATIONS", AT ARTICLE 4.14, ENTITLED "ALCOHOLIC BEVERAGES", DIVISION 2, ENTITLED "LAWFUL CONSUMPTION", TO

**ORD 5735
DOWNTOWN OVERLAY
DISTRICT**

PROVIDE FOR A NEW SECTION 4.14.036 TO BE ENTITLED "DOWNTOWN DISTRICT"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

Brandon Shelby, City Attorney, briefed the City Council on the proposed Downtown District saying that, at the last meeting, Mayor Magers had appointed a committee to study the proposal. He met with committee members, Mr. Baca; Lawrence Davis, Chairman of the Planning and Zoning Commission; and Scott Shadden, Director of Development Services.

The committee wanted to keep the proposed Downtown District simple and wanted to concentrate on three points. The first would be an exemption from the developmental standards which would exempt the downtown area from the distance requirements that were adopted from the Texas Alcoholic Beverage Commission.

Currently there are no locations in the Downtown District that are within 300 feet of a church or school. However, should one move in, he said this will help businesses in the future when they apply for alcohol permits.

The second change would be an exemption from certain noise ordinances. People that own restaurants and bars like to play music, however the committee also knew that downtown is filled with professionals. Therefore the committee is proposing to exclude the businesses from the noise ordinance only after weekday business hours.

The City already allows dining in outdoor areas in front of downtown businesses. The committee wanted to promote the outdoor dining, so the third change would allow a provision for the consumption of alcohol in those outdoor areas.

Mr. Shelby said the committee also discussed the boundaries of the Downtown District. He presented a map of the proposed boundary, which includes the traditional retail corridor of downtown Sherman. In the future, if new businesses open, the Council could reconsider these boundaries if they so desire.

Mayor Magers said the committee felt the focus of this ordinance should be to reinvigorate the original downtown retail district. This can be expanded if future City Councils would like to do so.

He also added that this ordinance cost the taxpayers nothing, but it is an opportunity to generate revenues downtown without increasing taxes. Secondly, it does not impede on one property owner's rights. It allows businesses to co-exist with other service industries or businesses without anyone having anything taken away

from them. It expands property rights. Mayor Magers said it will give another incentive for citizens to do business in the downtown area.

He added that it doesn't allow anyone to walk down the street carrying an alcoholic beverage. It only allows businesses that are serving alcoholic beverages to serve them in their sidewalk dining area. It does not allow for any market or grocery store to open downtown to sell alcoholic beverages without coming before the Council and obtaining the proper permits.

Mr. Shelby confirmed that the exemption from the development standards is for on-site consumption and not for off-site sales. Mayor Magers said they want to be sure that the City Council has control of its downtown area.

Council Member Plyler said it appears that the Methodist Church and the Presbyterian Church are located across the street from these boundaries and First Baptist and First Christian are within 120 feet of the area. He expressed concern that if there is an exemption from the development standards, bars could locate across the street from the churches.

Mayor Magers explained that the only way to allow the changes on both sides of Crockett Street was to take the boundary to Elm Street. Mr. Shadden said it is over 300 feet from First Baptist Church. It is measured from front door to front door. It is across the street from the Presbyterian Church's parking lot.

Mr. Shelby added that the boundary lines were drawn in part, because there are currently no churches or schools within 300 feet, door to door, with businesses located inside the designated area.

Council Member Plyler added that the Methodist Church, the Presbyterian Church, and Kidd-Key Auditorium, are cultural landmarks that should be highlighted in Sherman and he did not want to see the area take away from that. He asked if the churches were aware of the proposed changes.

Deputy Mayor Steele asked how the citizens and businesses have been notified about the proposed changes. Mr. Shadden said it is not a land use or zoning issue so there was not additional advertising. Mr. Shelby said the overlay district included some actual zoning changes and required advertisement.

Deputy Mayor Steele said the ordinance happened very quickly. Council Member Softly said there is one church on Walnut Street, but Mr. Shelby said it is not included in the district and is more than 300 feet front door to front door.

COUNCIL MINUTES – MARCH 5, 2012

Deputy Mayor Steele felt this is one of the best things the Council has considered for the downtown, and two of the ordinances are needed for the upcoming DSP&R event. He did have a few reservations about the fact that it affects so many citizens and he felt they should have an opportunity to voice their opinion.

He asked if Ordinance 5735 should be tabled, while the Council considers Ordinance 5736 and 5737 to allow the special events to take place. That would allow additional time to review the Downtown District and to hear from citizens. He felt it would be great for downtown Sherman and addresses issues that have hindered development.

Mayor Magers said there is an opportunity now and “if the window closes” Sherman will be back where it started.

Council Member Plyler said he understood that the distance for alcohol sales would be decreased from 300 foot to 150 foot, not eliminated entirely.

Council Member Wacker verified that the development standards for alcohol sales for on-site consumption remain at 300 feet from churches and schools. She added that DSP&R unanimously agrees with the proposed ordinance and she felt it would be a great help with economic development downtown.

Mr. Shelby added that these exemptions aren’t unique to Sherman and many cities are doing similar things in urban environments where property lines are adjacent to one another.

Mayor Magers verified that the distance would have no impact in residential areas and would only affect the downtown businesses. Deputy Mayor Steele still felt it was a great proposal, but that it came quickly and more time should be taken for its consideration. He added that some churches aren’t aware of the proposal.

Council Member Wacker verified that the proposed ordinance doesn’t change the permit required by TABC to sell alcohol. Mr. Shelby said currently if a church or school moves in downtown, any restaurant requesting to sell alcohol within 300 feet would be denied. It would not affect a restaurant with an existing alcohol permit. If the proposed ordinance passes, the restaurant could apply for a permit whether or not they were within 300 feet of the church or school.

Mr. Shelby added that the TABC requirements don’t affect the churches ability to move anywhere they want, even next door to an establishment that sells alcohol. It only affects the business selling the alcohol. Those businesses would still be required to be permitted through the TABC process.

COUNCIL MINUTES – MARCH 5, 2012

Council Member Smith added that churches or citizens within 300 feet of a business selling alcohol would still have the right to protest through the TABC process.

Mayor Magers referenced a recent Dallas article that talked about leveling the field for existing and future property owners. There are currently no churches in downtown Sherman and he did not feel the designated district would impact area churches. Any church or school can open in the district, but they would not be bound by the 300 foot rule.

Council Member Softly asked what the impact would be if the issue was tabled. Mayor Magers said if the item is tabled, a church or school could open in the proposed district tomorrow. Council Member Smith said the Council has repeatedly discussed the downtown area and they need to help. There is one opportunity to do this and he has received positive feedback.

Ordinance 5736

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESS REGULATIONS", AT ARTICLE 4.14, ENTITLED "ALCOHOLIC BEVERAGES", DIVISION 3, ENTITLED "UNLAWFUL CONSUMPTION", SECTIONS 4.14.061 AND 4.14.062 TO PROVIDE FOR THE SALE, POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES DURING SPECIAL EVENTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

**ORD 5736
ALCOHOL AT
SPECIAL EVENTS**

Ordinance 5737

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES, ENTITLED "OFFENSES AND NUISANCES", AT ARTICLE 8.03, ENTITLED "OFFENSES INVOLVING PUBLIC PEACE AND ORDER", SECTION 8.03.002, ENTITLED "CONSUMPTION, POSSESSION OF ALCOHOLIC BEVERAGES", TO PROVIDE FOR NEW SUBSECTIONS (E) AND (F); PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

**ORD 5737
CONSUMPTION OF
ALCOHOLIC
BEVERAGES**

ACTION TAKEN.

Motion by Council Member Smith to approve Ordinance Nos. 5735, 5736, and 5737, as presented. Second by Council Member Howeth.

VOTING AYE: Howeth, Plyler, Smith, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

Council Member Smith left the Council Meeting at 5:30 p.m.

CONSENT AGENDA

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

RESOLUTIONS

RESOLUTION NO. 5657 – AUTHORIZING THE EXECUTION OF PROFESSIONAL SERVICES AGREEMENTS WITH MORRIS ENGINEERS AND UNDERWOOD DRAFTING AND SURVEYING, INC. FOR THE DESIGN AND SURVEYING OF THE STATE HIGHWAY 289 WATER MAIN IMPROVEMENTS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE EXECUTION OF PROFESSIONAL SERVICES AGREEMENTS WITH MORRIS ENGINEERS AND UNDERWOOD DRAFTING AND SURVEYING, INC. FOR THE DESIGN AND SURVEYING OF THE STATE HIGHWAY 289 WATER MAIN IMPROVEMENTS.

George Olson, City Manager, explained that the City has a water line that goes to S.H. 289 on U.S. Hwy 82, and this proposed line will go south to the City limits. It will be closer to S.H. 56 in the newly annexed area.

ACTION TAKEN.

Motion by Council Member Wacker to approve Resolution No. 5657, as presented. Second by Deputy Mayor Steele.

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

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 5658 – AUTHORIZING THE EXECUTION OF A DEED FOR THE RESALE OF ONE TRACT OF LAND AND ITS IMPROVEMENTS LOCATED AT 2102 SOUTH FIRST STREET WITHIN THE SHERMAN CITY LIMITS SEIZED FOR DELINQUENT TAXES

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE EXECUTION OF A DEED FOR THE RESALE OF ONE TRACT OF LAND AND ITS IMPROVEMENTS LOCATED AT 2102 SOUTH FIRST STREET WITHIN THE SHERMAN CITY LIMITS SEIZED FOR DELINQUENT TAXES.

CONSENT AGENDA.

REQUEST TO ADVERTISE

SEAL COAT EMULSIFIED ASPHALT OIL AND STONE

The City Council approved the request to advertise for bids to provide seal coat stone and emulsified asphalt oil for the City's annual street maintenance work.

CONSENT AGENDA.

OTHER BUSINESS

ACCEPT ANNUAL AUDIT REPORT FOR YEAR ENDED SEPTEMBER 30, 2011 FROM PATTILLO, BROWN & HILL,

CONSENT AGENDA

RES 5657

S.H. 289 WATER

MAIN IMPROVEMENTS

RES 5658

**SALE OF PROPERTY
FOR DELINQUENT
TAXES**

REQ TO ADVERTISE

**SEAL COAT
MATERIALS**

ANNUAL AUDIT

REPORT

L.L.P

Mayor Magers introduced John Manning, Pattillo, Brown & Hill, L.L.P., to present the Annual Audit Report for the year ended September 30, 2011. The Audit Committee has previously reviewed the report.

Mr. Manning explained that the auditor's responsibility is to express an opinion as to whether the financial statements are materially correct as of September 30, 2011. This means, do the numbers given by management accurately state the financial position of the City.

There are four types of opinions that outside auditors can give and the City received the highest level of assurance. These opinions are important when a City applies for debt or grants.

The General Fund has adequate reserves and all transactions were presented with a lot of support. Overall the financial statements look very good. They also review internal control and compliance and there were no findings there.

Since the City spends over \$500,000 in Federal funds they must also audit under the Single Audit Act and there were no findings on internal control or compliance there either.

All three reports issued were "clean" and there were no findings. Mr. Manning also thanked the Audit Committee for meeting with them.

Mayor Magers asked if Mr. Manning was aware of anything that might negatively affect the City's bond rating. Mr. Manning said they look at adequate reserves and they make sure that there are no internal control issues. He felt that the report showed that the City was "in strong working order."

Mayor Magers added that the City sits on many boards and commissions and he felt that the financial rating is a big asset.

ACTION TAKEN.

Motion by Council Member Wacker to accept the Annual Audit Report for the year ended September 30, 2011, as presented. Second by Council Member Howeth.

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

VOTING NAY: None.

MOTION CARRIED.

RECEIVE CAPTAIN OTIS HENRY'S BRIEFING ON THE POLICE DEPARTMENT'S "RETAIL THEFT INITIATIVE" ORIGINATING FROM THE DEPARTMENT'S INTELLIGENCE OFFICE

Captain Otis Henry presented a briefing on the Police Department's Retail Theft Initiative. Anytime citizens purchase something from a retail store, they are paying an

POLICE DEPT.
RETAIL THEFT
INITIATIVE

additional amount to the store to help them recoup money that has been lost to thieves. He added that 92% of retailers are victims of retail theft and these organized thieves swipe between \$15 billion and \$30 billion in goods annually.

Several years ago the Police Department began intelligent led policing, with an offshoot to retail theft meetings. Intelligent led policing allows officers to bring intelligence and analysis to the forefront of any problem found. The information is then used in a pro-active way to target criminal groups and activities.

The Police Intelligence Unit opened in late 2007 with a primary focus on sexual predators. Sergeant Mark McRee worked hard in the division and in the first two cases, the offenders received 25 years prison time and ten years probation/parole.

Partnerships have been developed with Federal law enforcement agencies and now with private retailers. The office has been expanded to provide statistical information too.

The first retail theft meeting was held in November, 2011 and many local retailers attended and worked together to identify and target repeat offenders. Since its inception 25 serial thieves have been identified and information about their methods has been established. One felony organized retail theft case has been filed which accounts for approximately \$5,000 in retail theft from Sherman.

Captain Henry said thieves will steal anything on which they can quickly turn a profit, such as baby formula, electronics, and clothing. The program focuses on the prolific thieves, the ones that make a living from stealing.

In January 2012 there were 127 total thefts reported and in February 2012 it dropped to 78. These thieves are also found to be the car burglars and drug users.

Deputy Mayor Steele verified that these cases are “organized retail crime” and not just teenagers that happen to shoplift. Captain Henry said these thieves actually have “shopping lists.”

Captain Henry said the program is pretty unique for law enforcement in the area. They are also very proud of the officers who put so much time into the program.

Mayor Magers said that is one more reason for a retailer to consider moving to Sherman.

CONSIDER APPROVAL OF THE BUDGET CALENDAR FOR FISCAL YEAR 2012-2013

Council Members discussed possible dates for the Budget Kick-Off Meeting and the Budget Work Session. The Budget

**FY 2012-2013
BUDGET CALENDAR**

COUNCIL MINUTES – MARCH 5, 2012

Kick-Off Meeting was set for Friday, April 20, 2012. Council Members were available to attend the Budget Work Session on Thursday, June 21, 2012 but Council Member Howeth could not attend on Friday, June 22, 2012.

CITIZENS REQUESTS

There were no citizen's requests.

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

POLICE DEPARTMENT RETAIL THEFT INITIATIVE

Council Member Plyler congratulated the Police Department on the success of their Retail Theft Initiative.

TEXAS PUBLIC SCHOOLS WEEK

Council Member Plyler congratulated the Sherman Independent School District on the proclamation for "Texas Public Schools Week" and encouraged citizens to get involved in the education of our children.

ATOKA, OKLAHOMA EVENT FOR GUINNESS BOOK OF WORLD RECORDS

Deputy Mayor Steele said the City of Atoka, Oklahoma recently had an event where they were trying to set the world's record for having the most fire trucks in a parade. Fire Chief J.J. Jones and the City of Sherman were represented in the event. They did break the world record with over 250 pieces of fire apparatus in the parade. Previously the record was for 140 pieces of fire equipment.

RECOGNITION OF STUDENTS IN SHERMAN

Council Member Wacker said along with the proclamation for "Texas Public Schools Week" the Circle of Success recognition for students will be held on Thursday. This is another way to recognize Sherman students and teachers. She also wished everyone a happy Spring Break week.

SAFE SPRING BREAK

Council Member Howeth wished everyone a safe Spring Break week.

3D: DECIDE, DEFINE, DELIVER PROGRAM

Mayor Magers recognized Dani Jarvis, Haley Cooper, and Amanda Lee, Sherman High School students, who will be "going to State", with their project "3D: Decide, Define, Deliver" which is an anti-bullying program. The project won best overall project in a National program and action category at the Texas Region 3 Meeting. He said these are "good kids, doing good things."

CITIZENS REQUESTS

MEDIA QUESTIONS

POLICE DEPT. RETAIL THEFT INITIATIVE

TEXAS PUBLIC SCHOOLS WEEK

ATOKA, OKLA. EVENT FOR GUINNESS BOOK OF WORLD RECORDS

RECOGNITION OF STUDENTS IN SHERMAN

SAFE SPRING BREAK

3D: DECIDE, DEFINE, DELIVER PROGRAM

COUNCIL MINUTES – MARCH 5, 2012

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:53 p.m.

ADJOURNMENT

MAYOR

CITY CLERK