

**MINUTES OF REGULAR BUSINESS MEETING**  
City of Stephenville - City Council  
**TUESDAY, JANUARY 3, 2006– 5:30 P.M.**

The City Council of the City of Stephenville, Texas, convened on January 3, 2006, at 5:30 p.m., in the Council Chambers at City Hall, 298 West Washington Street, for the purpose of a Regular Business Meeting, with the meeting being open to the public and notice of said meeting, giving the date, time, place and subject thereof, having been posted as prescribed by Chapter 551, Government Code, Vernon's Texas Codes Annotated, with the following members present, to wit:

Mayor	:	Rusty Jergins
Mayor Pro-Tem	:	Todd McEvoy
Council members	:	Cyndi Godwin
		Malcolm L. Cross
		Nancy Hunter
		Andrew Johnson
		Alan Nash
		Mark Murphy
Absent	:	Barry Ratliff
Others Attending	:	Mark A. Kaiser, City Administrator
		Randy Thomas, City Attorney
		Cindy L. Stafford, City Secretary

**I. CALL TO ORDER**

The meeting of the Stephenville City Council was called to order at 5:31 p.m. on Tuesday, January 3, 2006, by Mayor Rusty Jergins who declared a quorum present.

Jergins recognized various departments in the city for their efforts during recent weather events. He specifically thanked members of the Street Department and Public Safety Departments for their work during the ice storm on December 7. He commended the Stephenville Fire Department for their hard work during the wildfires, which struck Erath County on January 1. Jergins noted that over 10,000 acres burned in the north part of the county, and he praised the firefighters for their many hours of service helping to protect lives and property.

**II. CITIZENS' GENERAL DISCUSSION**

Russ McDanel, 109 Byron Nelson, Stephenville, addressed the council on the subject of the recent wildfires. He suggested that the city initiate a program to aid citizens in the removal of brush and debris which pose a fire hazard.

Jergins thanked McDanel for his comments and reminded the audience that the city provides each residential water customer with an annual free pass to the landfill which is a means to help citizens dispose of this type of waste.

### III. PLANNING AND ZONING COMMISSION

#### A. PUBLIC HEARING to Consider Request to Rezone from B-3 “Central Business District” to B-4 “Private Club District”, Lot A, Block 2, City Addition, known as 104 East College Street.

Betty Chew, Director of Community Development, reported that there is a vacant building located on this property and the owner has indicated he would like to establish a restaurant at this location. The Planning and Zoning Commission recommends approval of this rezoning.

In answer to questions about parking requirements for this facility, Chew explained that the properties served by parking meters were built to the property line, and therefore, no parking is available.

Applicant, Boyd Waggoner, 3194 PR 1135, Stephenville, said that subject property is the oldest commercial building in the county and that he plans to open a restaurant at this location. Waggoner offered for the record letters from the Stephenville Chamber of Commerce and owners of The Emporium Clothing Company in support of this application for rezoning. Waggoner said that his plans would be good for the city, good for the square and the businesses on the square. He said that he has studied the parking habits of those using the lot south of subject property and that he does not foresee a problem in their being ample parking space.

Mayor Jergins opened a public hearing.

#### Speaking in Favor of Rezoning:

Mayor Jergins asked that remarks made by Boyd Waggoner be reported as being in favor of this rezoning request.

Dell Burdick, 1429 West Jones, Stephenville, said that Waggoner’s plan will be a great benefit for the downtown area.

#### Speaking in Opposition to Rezoning: No One

Mayor Jergins closed the public hearing.

#### B. Consider Adopting Ordinance (No. 2006-01) Rezoning from B-3 “Central Business District” to B-4 “Private Club District”, Lot A, Block 2, City Addition, known as 104 East College Street.

MOTION by Malcolm Cross, second by Nancy Hunter, to adopt Ordinance 2006-01. MOTION CARRIED by the following vote:

Ayes: Council members Godwin, Cross, Hunter, Nash, McEvoy, and Murphy.

Noes: Council member Johnson.

### **C. PUBLIC HEARING to the Zoning Ordinance of the City of Stephenville**

Betty Chew reminded the council has reviewed Chapters 6-23, which cover business, industrial, agricultural, planned development, parking regulations, signs, landscaping, enforcement and penalty, P&Z Rules of Procedure and Board of Adjustment Rules of Procedure. The Planning and Zoning Commission recommends adoption of these chapters.

Mayor Jergins opened a public hearing.

Speaking in Favor of the Proposed Ordinance: No one.

Speaking in Opposition to the Proposed Ordinance:

James Bachus, POB 552, Stephenville, said he was speaking as a real estate broker and developer and that he thinks these sections need further review. He specifically addressed the landscape section of the ordinance. He said that two former councils had denied these landscape requirements in the past. He said that they are “overbearing to the business public to have as many regulations put on them for the landscape ordinance”. He said that the ordinance is too restrictive. Another section he addressed was in the B-1 category which requires all structures to have a pitched roof. He said that this crosses the line for style. Bachus said that because there are four new members on the Planning and Zoning Commission, they should be given the opportunity to look at this.

Betty Chew clarified that if there is less than one acre of land, 3% of total lot acre is to be landscaped; one to five acres, 5%; larger than five acres, 10%. She also stated that the landscape section requires irrigation.

Mayor Jergins gave the Planning and Development Committee Chairperson, Todd McEvoy, an opportunity to speak. McEvoy stated that if this ordinance is sent back to Planning and Development Committee, he would like to have a definition of what the committee is to review.

Mark Murphy expressed concern that the residential sections of the Zoning Ordinance were approved by a prior council, and the sitting members did not

have the opportunity to vote on that portion. He specifically expressed concern that there is not a “true R-1” zoning classification.

MOTION by Todd McEvoy that “we approve the business and industrial section and continue with the 1985 landscape established and review the landscape in committee”. MOTION DIED for lack of a second.

Mayor Jergins noted that the public hearing had not been concluded.

David Dickerson, United Country Texas Choice Real Estate agent, expressed concern that the landscape ordinance limits parking and economical use of the property. Dickerson began discussion of the land use plan of Comprehensive Plan. Mayor Jergins acknowledged that discussion of the Comprehensive Plan had not yet been reached on the agenda.

Mayor Jergins closed the public hearing.

MOTION by Todd McEvoy, second by Andrew Johnson, to “approve the business and industrial sections of the Zoning Ordinance, continue with the 1985 landscape plan, send this current landscape back to Planning and Development for further research.” MOTION FAILED by the following vote:

Ayes: Council members Hunter, Johnson, McEvoy.

Noes: Council members Godwin, Cross, Nash, Murphy.

MOTION by Mark Murphy, second by Cyndi Godwin, “that we send this document back to Planning and Development Committee for further review.” MOTION CARRIED by the following vote:

Ayes: Council members Godwin, Cross, Nash, Murphy.

Noes: Council members Hunter, Johnson, McEvoy.

#### **D. Consider Adoption of Ordinance No. 2006-02 Zoning Ordinance of the City of Stephenville**

No action was taken on this ordinance as the matter will be sent back to Planning and Development Committee.

#### **E. PUBLIC HEARING on the 2030 Comprehensive Plan**

Betty Chew stated that council has received the proposed copy of the Comprehensive Plan as developed by the Steering Committee. This project has been ongoing for about two and one-half years. The committee has held numerous, information-sharing meetings with civic clubs and organizations, independent school districts, Tarleton, and others. The Planning and Zoning Commission has conducted its public hearing on

the plan, which is now presented to the council. Chew introduced Ann Bagley with Wilbur Smith & Associates, consultant for the plan.

Ann Bagley gave a brief synopsis of the plan. Forty-one Steering Committee members met in fifteen meetings. She stressed that a comprehensive plan is just a guide. It is a tool for the council to use based on current conditions and using input from the committee as well as Planning and Zoning Commission. The plan has twelve sections and is a guide for development, capital improvement programs, etc. in directing the growth of the community over the next 30 years.

Mayor Jergins asked Bagley to explain the distinction between the future land use plan in the Comprehensive Plan and the city's zoning map. She explained that first of all, they are two separate maps. She said that some areas look at future land use map as being a pre-zoning map or what you would like the city to move toward. The future land use map is not looking at how the existing property is zoned. Future land use maps are only used as a guide.

Malcolm Cross spoke as the city council's representative to the Steering Committee and said that he had attended all the meetings as well as participated in the town hall meetings. He said that throughout the entire process that he was favorably impressed by the quality of work performed by the consultants, Betty Chew, and his fellow committee members.

Mark Murphy said that he would like to second that, and although he was not involved with the process, he said he could tell that a lot of work was put into by city staff, the citizens committee, and consultants. He said, "All in all, it's a good document."

Mayor Jergins opened a public hearing.

Speaking in Favor of the Comprehensive Plan: No one.

Speaking in Opposition to the Comprehensive Plan:

Dave Dickerson, United Country Texas Choice Real Estate agent, 801 South Harbin, who said that although the committee and staff have done a lot of work on the plan, that "we already have a conflict on the comprehensive plan of one of the locations on a major thoroughfare; we have several issues that need to be addressed. Again, we're trying to find commercial locations for several folks and we're having a hard time."

James Bachus, 1467 CR 434, Stephenville. He said that he was speaking because this comprehensive plan is something he's got to deal with. He said it is a very important document. He said there are a couple of things he would like for the council to look at. First, he mentioned that there is not an overlay map, where you can compare the comprehensive plan to the P&Z map. He said "that is a technical thing that you should

be able to have.” Secondly, he told the council to “look at the land use plan, look at your home, look where you’re living and draw a little circle around it and see if things are zoned the same way you thought they were.” Next, he asked council to consider the Northwest Loop where most of the contention exists. For example, he said that TexasBank is not on the land use plan as used today.

Mayor Jergins closed the public hearing.

MOTION by Todd McEvoy, second by Andrew Johnson, as follows: “I would agree with this land use map as both Mr. Dickerson and Mr. Bachus pointed out, and in light of that I would like to move that we send this back to Planning and Development to further look at the details and make sure that we’ve got this thing right.” MOTION FAILED by the following vote:

Ayes: Council members Johnson, Nash, and McEvoy

Noes: Council members Godwin, Cross, Hunter, Murphy.

Mayor Jergins called a recess at 7:08 p.m. Council reconvened at 7:16 p.m.

#### **F. Consider Approval of the 2030 Comprehensive Plan**

Malcolm Cross reiterated that the process for formulating the comprehensive plan has been a long one. He stated that all the meetings were open and that those people with questions and concerns have had ample time to attend the meetings, voice their concern and advocate their own suggestions.

Todd McEvoy said, “We just tabled the Zoning Ordinance for the exact same reason that I was saying we shouldn’t table it. Y’all are now saying we should be tabling this and I served on P&Z and I have heard every single person say, ‘the comprehensive plan says it should be R-1 when everything around it is B-2’, but yet we keep it R-1 for a reason because we use the comprehensive plan as a lesson and as a guide. Well, if the guide’s wrong and we’re getting ready to adopt it being wrong, then future Planning and Zoning Commissions that are not here and not part of it five years from now will not know, ‘Oh, well, that’s why it says it on there.’ O.K. they don’t understand we were gonna change it. They won’t know this from that. It gets thrown in business owner’s faces or whoever else because we didn’t take the time to look at it and say, ‘Wow, why isn’t this B-2?’ or ‘Why isn’t all the way going to Dublin B-2?’ Right now, it’s zoned residential. I’m not saying go verbatim with the property. I’m talking about a general guide that a major thoroughfare should have B-2. It doesn’t say that in here. It just doesn’t do it. Well, we say it’s a guide. It gets thrown in P&Z’s face when it says the comprehensive plan says this. Well, if the P&Z goes against it, then there nailed to the cross so to speak, and if they go with, it’s not used properly as a guide—it’s used as law. Despite what anybody wants to believe, it’s used as law.”

Mark Murphy said that the comprehensive plan is a general guide document, and the zoning ordinance is the law.

MOTION by Malcolm Cross, second by Cyndi Godwin, to adopt the 2030 Comprehensive Plan. MOTION FAILED by the following vote:

Ayes: Council members Cross and Murphy.

Noes: Council members Godwin, Hunter, Johnson, Nash, and McEvoy.

MOTION by Alan Nash, second by Todd McEvoy, to “refer the 2030 Comprehensive Plan to Planning and Development Committee specifically to look at Section 4, Future Land Use Plan.” MOTION CARRIED by the following vote:

Ayes: Council members Godwin, Hunter, Johnson, Nash, McEvoy, and Murphy.

Noes: Council member Cross

#### **IV. NOMINATIONS COMMITTEE REPORT**

##### **A. Consider Appointments to the Airport Advisory Board**

MOTION by Malcolm Cross, second by Cyndi Godwin, to appoint Dana Brinkley to Place 2, Rick Tennyson to Place 4, and Hardy Hampton to Place 6 of the Airport Advisory Board. MOTION CARRIED by unanimous vote.

##### **B. Consider Amending the Rules of Procedure to Include the Pledge of Allegiance**

Malcolm Cross reported that the committee recommends approval of this matter.

Todd McEvoy stated that “No one is going to question our patriotism either way on what we’re doing. I have no problems with it. I don’t like the way it’s been brought up and comes back four hundred times. I’m tired of talking about it, so I move that we say the pledge of allegiance prior to every council meeting.” Cyndi Godwin seconded the motion.

Mark Murphy offered a friendly amendment to provide that “The pledge be led by a person or persons chosen at the mayor’s discretion.”

McEvoy replied, “I guess by definition we would have to do something. Again, that’s the mayor’s discretion.

Randy Thomas: “Yes it is. It is already at the mayor’s discretion. You may designate that it you want to.”

Cross: “As on several previous occasions, I was planning to speak against this and also to vote against this. I should like to begin my remarks by saying that I have nothing against the

pledge of allegiance per se. I believe in every word in the pledge of allegiance. I have said it many, many times as a free individual and in assembly with other free individuals. The last time I said it was before a civic group with which I was meeting. I was the senior Eagle Scout present at the group meeting, so it fell on me to lead the group in the pledge. The question arises, 'Why am I speaking against this and why shall I vote against this?'

"I'm speaking against this in order to publicize various concerns I've had about the way the issue has been brought up—concerns which I think undermine, will undermine the long-range ability of the Stephenville City Council to discharge its mandated duties.

"Let me begin by discussing very, very briefly exactly what the city is. A city is an administrative subdivision of a state. According to the state constitution, it is believed that heavily populated and more densely populated urban areas should have more services concerning public works, public safety, public health and this, that and the other thing. The Texas State Constitution authorized the State Legislature to create cities which would elect councils to deal with these particular issues.

"The problem with how this pledge of allegiance issue has been handled is, as I say, the fact that the way we've been going about it we have run the risk of undermining our ability to deal with a constitutional mandated issue as presented to us by the State Constitution and the State Legislature. We've done so in two ways. First of all, the pledge of allegiance is, or this issue at least, is a distraction. The pledge of allegiance as we've handled it in Stephenville has, in my opinion at least, become a symbol for these trends which are going to undermine our effectiveness. Whatever time we have devoted to the pledge has been time taken away from discussing these other issues. I think that if we adopt this we are setting a rather dangerous precedent whereby we will feel encouraged to deal with more distractions in the future. I believe that if we say, 'No' to this issue tonight, we will reduce our chances of having to deal with any more inane issues in the future.

"Secondly, and I think more importantly, is this. Prior to the May 2005 election, the city council was in the habit of meeting either in committee or in general sessions every week. We came together, and at times we had very contentious issues before us. We discussed these issues vigorously; but in the end, we made decisions; and in the end, we dispersed. During these meetings, nobody's patriotism was ever questioned. Nobody's piety was ever questioned. We never got into these personal issues. It's an unfortunate fact of life, and this is easily verified if you go back and look at email correspondence among members of the city council, if you look at email correspondence between members of the city council and members of the community, if you go back and look at some of the minutes of our committee sessions, that these issues of piety and patriotism never have been raised by each other or by members of the community. Not only have these questions of piety and patriotism of council members been a distraction to begin with; but if we continue to ask these questions of each other we run the risk of creating animosities on the council which will erode our long-term ability to deal with the constitutionally mandated issues that the Texas Constitution requires us to address.

“I believe that by voting against this resolution we are, in effect, saying that we will no longer question people’s piety, we will no longer question people’s patriotism. We recognize it is wrong for us to question each other piety and patriotism and we are not going to do this. For these reasons—whether or not they are good or bad, whether or not they make sense—I am going to vote against the recitation of the pledge of allegiance. Not because I don’t believe in the pledge of allegiance, but because I believe that to spend our time on issues like this rather than on the issues that the State Constitution requires us to address is wrong.”

Godwin: “I am patriotic and always have been. I was immediately going to vote for this, and then we had the public hearing and had very few people, but all the ones who came up wanted us to do it. I thought, ‘Oh, boy, OK. My citizens want this and I’m gonna vote yes.’ And it doesn’t take fifteen seconds to say it. It’s not going to take up our time. But I’ve also spoken with even more citizens than are here tonight that came up and spoke and the majority of them say they don’t care—they could care less. Well, I’m looking behind me. We have the flag. I know for a fact every one of these council members are patriotic or they would not be serving on this council. I think we show our patriotism working for the city and serving our country. I don’t think there’s necessarily a need to say the pledge before every meeting. So, I’m up in the air about it.”

Murphy: “I’ve spoken a lot about this in the past. I’m sorry that some think it is a distraction. I certainly didn’t mean for it to be. I have never questioned the patriotism of any member of this council. As far as I know, you are all good Christian Americans and I’ve never thought otherwise. I have a comment here that I would like to make:

“As elected officials, the members of this council are sworn to uphold the Constitution of the United States. With the simple, solemn exercise of opening our meetings with the Pledge of Allegiance, we will be reminded of this oath each time we make decisions for the citizens of Stephenville. I believe the people want us to do this. There is no good reason not to open with the Pledge. It does not prove or disprove patriotism, nor is it a distraction. We should be thrilled to say it every time. We should get goose bumps just thinking about all those who have sacrificed greatly to give us the right to say it. If it cannot be recited in a public forum such as this, then where is it appropriate to do it? The U.S. Congress, the Texas Legislature, the SIDS School board and a large number, if not a majority, of other city councils in Texas open with the Pledge. I honestly wish we could also open with an invocation like these other government bodies do, but I won’t be pursuing that for now due to the intense negative reaction I’ve seen.

“It is high time we, as elected officials and citizens, stop cowering down to the fringe and patronizing every small political minority group that exists. People need to stand up and be activists for traditions. We are a patriotic and religious community. Let’s recognize that tradition with this small, but important step.”

Nash:

“First of all, I would like to publicly commend the political courage of Dr. Cross and Cyndi. Dr. Cross is a man of tremendous integrity whose intellectual honesty, his political courage, and his consistency of conviction inspire me. I feel lacking when I hear such an eloquent and effective presentation of principle that I heard from Professor Cross. Past leaders who have served on the council have elected not to have the pledge of allegiance. This has been presented to us as if it had been a tradition. It’s not a tradition of the Stephenville City Council to do this. That brings me to a great concern. You’ve seen tonight already why I am very cautious about major changes to how we do business in the city because people come to rely on what we implement and what we do also reflects on leaders of the past. I tell you right now, I’m going to vote for Todd’s motion but the reason I have great concern about doing it and I don’t feel 100% confident that this is the right thing to do but the balance is barely tipped in favor of supporting Todd’s motion for this reason. We’ve had great patriots serve on council as recently as the last term. Mayor John Moser served in combat in Vietnam, and I’m just telling a few that I know. There are others who have served nobly and with great courage and personal sacrifice, but these are three individuals that I personally know. John Moser served in combat in artillery units in Vietnam. Robert Burns has served in combat. Richard Petronis gave much of his adult life to the military service. These outstanding citizens did not see fit (and I haven’t spoken with them about this) and were not compelled to change the long-standing tradition of the Stephenville City Council. What gives me great concern about major changes in our procedures is when we go and make a major change like this, is it implicitly a message to the public and to these great patriots that what they were doing was somehow inadequate. Is what they were doing somehow ineffective, somehow not a show of patriotism. I hope these outstanding patriots and the public know as I support Mr. McEvoy’s motion that I do not intend that as a reflection upon their patriotism or their service. It is a big change to our procedure. I don’t have a great problem with the pledge of allegiance as a rote recitation. I would point out that over history, the most vigorous proponent of purely overt symbolic gestures of patriotism have been forces of tyranny. Rote recitations to the flag from the heart is a wonderful thing, but it can be just as easily abused as it can be an effective expression of love of country. If it is believed that us somehow standing up and doing the pledge prior to our meeting is going to show the world that we are more patriotic, I think we’re barking up the wrong tree. What is going to show our patriotism is our level of service, our level of commitment to doing justice as members of this council, and treating every individual fairly who comes before this council, passing ordinances and rules and regulations that are fair to all, and complying with the laws and constitutions of the state and of the United States. That’s how we show our patriotism. Rote recitations are fine, but let me tell you, the most scandalous, scoundrels in Washington and the most scandalous, scoundrels in Austin stand up before every meeting and say the pledge of allegiance and say a prayer. They basically bastardize those two sacred institutions by getting up and doing those rote recitations every

meeting and then doing crookedness. I hope that this council will never allow ourselves to say, 'I said the pledge of allegiance' or 'I said a prayer' and then do scandalous, treacherous things. I will support this motion, but I will not support the upcoming proposal of Mr. Murphy where we start forcing religious expression onto this council."

McEvoy: "Mayor, I'm not sure if I want to vote for my own motion. These are very strong-hearted feelings that are correct in many, many ways. Dr. Cross, Cyndi, and Alan have, I mean, that is, Alan is exactly correct when he talks about reciting the pledge just to recite it. You're giving into grandstanding, you're giving into 'Look how good I am. I'm better than you.' And I don't think we're better than anybody."

"My motion is to say the pledge of allegiance prior to regular council meetings, to amend the Rules of Procedure at the Mayor's discretion. Prior needs to be in there."

Cross: "First of all, I'd like to thank Mr. Nash for his extraordinarily generous comments about me. Another comment Mr. Murphy had mentioned that it's time to 'stop cowering down to the fringe and patronizing every small political minority group that exists'. I think we should also not cower to those who also say, 'If you don't support the pledge, you're un-American.' I'm not questioning the motives of anyone else. I just want to make that comment. I had the opportunity to serve with those council members mentioned by Mr. Nash, and I would like to assure whoever is listening that not one of these council members ever cowered before anyone. In fact, there were times when a majority of the members of the Stephenville City Council that were retired military, some of whom had combat experience. My final comment, Mr. Murphy asked, 'If we can't say the pledge here, when and where can we.' I'd like to remind you that there is no prohibition against saying the pledge right now. I have been early to every single council meeting since May 2000 when I was sworn in (one time I was not early was when I was attending a Leadership Stephenville banquet I was graduating from). I have been early to every single council meeting, and I have never seen anyone prohibited from saying the pledge of allegiance, and yet I have never seen anyone try to say the pledge of allegiance. This raises in my mind another question, and I'm not making any accusations against anyone, but I think those of you who are planning to vote for the pledge of allegiance really ought to ask themselves this question, 'Are you really interested in saying the pledge of allegiance?', because if you are, you can already do so. You can come a couple of minutes early and say the pledge or are you interested in being seen saying the pledge of allegiance on local cable access television. In my mind, there is a difference between wanting to say the pledge and wanting to be seen saying the pledge."

Godwin: "After Mr. Murphy's statement about bringing up an invocation also, that

reminded me of my feelings toward that too. I, like Mr. Nash, will definitely be voting against that because I am No. 1 a Christian and my God is the God in heaven, who has a Son, Jesus Christ, who is my Savior and whose Holy Spirit lives within me. If anyone wants to doubt that, they may. As Mr. Ratliff, who is not here tonight, but at one of our meetings he brought up how if we start this, we're going to bring in where anyone on the council can also bring in their different religion and say a prayer and I'm not one to be disrespectful of other's religion, but I will not bow to another god and pray to another god. I will step off the council before I do that. I will pray to my God which I can do before any meeting, and I do ask God to lead me in what I do. But I will not pray to false gods."

Mayor Jergins reminded the council that the issue before them is the pledge of allegiance and not a prayer or invocation.

McEvoy: "Dr. Cross, you point out a very good point, that you can say the pledge at any time, and to make sure we're voting for it the right way et cetera. You're exactly correct, and the reason why I made my motion the way I did, my motion states 'prior' to a council meeting. The meeting won't be called to order. Prior means prior. That means before a council meeting. If I show up late and I don't want to say the pledge, then I don't have to say the pledge. We're not going to be on TV. We're not going to be anything. There's nobody except in this audience who knows who's saying the pledge and who's not saying the pledge. I don't want to discourage any future council or anybody else from having to say that and so therefore, if we show at 5:29, the camera won't be on, you say the pledge, the mayor's gonna have somebody at his discretion. If not, he'll call on a council member whose gonna say the pledge and if I'm not here, I'm not here. If I'm here and I don't want to say the pledge, I don't have to say the pledge, but it's not gonna be on camera."

Murphy: "That sounds like a great idea to me. I'm not grandstanding and I don't want to be seen on TV. I'd just as soon turn the TV off. I'm gonna talk the same way in the backroom committee meetings as I am to y'all here on TV. I've never questioned anybody's patriotism. It was just an idea that I had, and I'm sorry I said the word 'invocation', I shouldn't have said that. I don't think previous council members had thought of it before is the only reason we didn't have it. I have never seen it brought up in any meetings, any minutes, and I don't think it was ever thought of. It was a simple idea. I wish I was as vehemently for this as some of you are against it. If the council doesn't want to say it, it's not going to hurt my feelings. I just thought it was a good idea to do and some citizens agreed with me and they urged me to go ahead and do it and I'm sorry if anyone has taken offense to it and gotten riled up about it. I certainly did not mean to do that. It's something I've done in school ever since I was a little kid. It's no big deal, you can vote against it."

Godwin: “We’re not riled up about it. We’re not offended and it’s not that we don’t want to say it. There’s just good reasons that it doesn’t need to be said like right at the meeting.”

Lee Oliver, 584 North Belknap, Stephenville, said that he was here tonight to say the pledge of allegiance. I don’t think that everybody in the world ought to say the pledge of allegiance. I think people who don’t want to say it shouldn’t have to. Usually, it’s customary to rise to say, but I was going to stand here and use my citizen’s time and probably will in the future. Try that one on for size. I will probably come to every council meeting that I can make to say the pledge of allegiance during my three minutes. He recalled his military service and said that we should remember the rights of others that were surrendered so that we have the privilege of saying the pledge.

Nash: “First of all, thank you for your service to our country and we do value the freedoms that you fought for. I did not serve in the military, and therefore I feel inadequate because I don’t ever want to be in a position of taking for granted the freedoms and the prosperity that you and other soldiers have delivered to us. That was my point about past leaders on this council. Who can question the patriotism of great men who have put their lives on the line for this country. We need to take action. I’m a firm believer in the idea that you do more harm by taking action without thinking than we do by doing nothing. I don’t ever want what we do to be perceived by great men, three of whom I’ve mentioned and two others were pointed out to me, like Bill Corbin and Joe Cude, who have served their country in uniform. I don’t ever want them to perceive that when you were on council you weren’t as patriotic as I am cause I say the pledge. The scriptures say, ‘Forget not the ancient landmarks.’ I can tell you honestly if it had been a 25-year tradition of saying the pledge, I would be just as cautious if not more cautious about someone coming and saying, ‘Let’s take it away.’ We need to honor traditions and the people who have preceded us by not saying, ‘You guys had it all wrong.’ So I hope you haven’t interpreted our concern and deliberation on this as flippant and not liking the pledge.”

Murphy: “I didn’t serve in the military. I served in the Peace Corps for two and one-half years. Some of the gentlemen that y’all have mentioned from previous councils emailed me and told me they support us saying the pledge of allegiance. Former council members and two former mayors, and I have the emails. Again, I just don’t think they ever thought of it before.”

Alan Nash offered a friendly amendment, “When we adopt the—in the form that we adopt the modification to the rules of procedure that we essentially set aside two minutes prior to each council meeting at 5:28 p.m. the floor of chambers be opened up for the limited purpose of reciting the pledge of allegiance.”

Todd McEvoy said, “My original motion stays in tact with all the other stuff, it’s just 5:28 is gonna be set as the time.”

Mayor Jergins clarified that Todd McEvoy accepted the friendly amendment and clarified that Cyndi

Godwin seconded the motion. Mayor Jergins stated the motion as follows: “The council consider setting aside 5:28 as the time that the chamber will be made available for the recitation of the pledge of allegiance led by a person designated by the mayor prior to the state of the council meeting.”

MOTION CARRIED by the following vote:

Ayes: Council members Godwin, Hunter, Johnson, Nash, McEvoy, and Murphy.  
Noes: Council member Cross.

## **V. PUBLIC WORKS COMMITTEE REPORT**

### **A. Well Rehabilitation Program**

Committee Chairman Johnson reported that the Pack well has been scheduled for inspection and refurbishing. This is an ongoing maintenance item and no action is required by the council.

### **B. Consider Approval of 2006 Street Reconstruction Program**

The project area includes Reta, Barker, Denman, Brenda, Rowland, Phelps, Holly, and Jasmine. The probable cost estimate for this section of streets is \$252,000.

MOTION by Andrew Johnson, second by Todd McEvoy, “that the council consider approval of the plans and specifications for the 2006 Street Reconstruction Program as outlined.” MOTION CARRIED by unanimous vote.

### **C. Consider Approval of Annual Water Line Replacement Program**

The replacement program consists of 1,750 linear feet of six-inch water line to replace an existing two-inch line. The parameters of the project will be Reta Street from West Washington to Barker Street. The probably cost is estimated at \$176,250, and the engineering fee, including surveying and easement preparation, is for an amount not to exceed \$23,000.

MOTION by Andrew Johnson, second by Todd McEvoy, “that the council proceed with the development of plans and specifications for the bidding of this project.” Mayor Jergins offered a friendly amendment, “approving the water line replacement project as well as the bidding.” Mayor Jergins restated the motion as follows: “Consider adopting or approving the 2006 water line replacement project and approving staff to proceed with the development of plans and specifications for the bidding.” MOTION CARRIED by unanimous vote

## **VI. PERSONNEL COMMITTEE REPORT—Consider Approval of the Nepotism**

## **Policy**

MOTION by Nancy Hunter, second by Todd McEvoy, to amend the Nepotism Policy as follows:

No applicant, who has a member of his/her immediate family employed by the City of Stephenville can be employed as a full-time regular employee without prior approval of the City Administrator, but in no instance can that individual be employed within the same department with a relative holding a regular status position.

Immediate family (including spouse) is defined as a person related within the third degree of consanguinity (blood)—Exhibit A or the second degree of affinity (related by marriage)—Exhibit B.

No one shall be eligible for a position, office, or appointment which by city charter, state law, or federal law is filled by appointment or confirmation by the City Council while any member of his/her immediate family is serving as a member of the City Council or Mayor of Stephenville and for a period of three months thereafter. No immediate family member of the city administrator may be considered for full-time employment with the city.

In the case of a marriage of two employees—or other situation giving rise to a relationship prohibited by this policy—one or both of the affected employees may be required to terminate employment.

MOTION CARRIED by unanimous vote. Council member Alan Nash abstained from voting.

Committee Chairperson Nancy Hunter reported that the committee has begun discussion concerning the pay plan and will continue its deliberation in future committee meetings.

## **VII. FINANCE COMMITTEE REPORT**

### **A. Consider Adopting Resolution No. 2006-01 Approving Investment Policy, Approving Broker/Dealers, and Investment Strategies**

MOTION by Alan Nash, second by Mark Murphy, to adopt Resolution No. 2006-01.  
MOTION CARRIED by unanimous vote.

### **B. Consider Amending the Purchasing Procedures**

MOTION by Todd McEvoy, second by Mark Murphy, to change the purchasing procedures to require all employees to get three verbal quotes only if making a purchase of \$1,000 to \$1,500 and to get written quotes for purchases of \$1,501 to \$10,000. MOTION CARRIED by a 5-2 vote.

### **C. Consider Authorizing City Administrator to Execute a Contract for the**

## **Purchase of Electricity for the City**

MOTION by Alan Nash, second by Nancy Hunter, “to authorize the city administrator to enter into such contract should it be in the best interest of the city.” Mayor Jergins stated the motion as follows: “that the city council authorize the city administrator the authority to execute a contract to purchase electricity for the city accounts at such time long-term fixed rates become the best alternative for the city.” MOTION CARRIED by unanimous vote.

Committee Chairman Nash reported that the committee reviewed seven proposals for skate park equipment and that the bid from The Playwell Group in the amount of \$35,792 be awarded. City Attorney Randy Thomas stated that this item for skate park equipment was not listed on the posted agenda; therefore, no action may be taken by the council.

## **VIII. CONSENT AGENDA**

Todd McEvoy requested Item A. be removed from the Consent Agenda. MOTION by Todd McEvoy, second by Andrew Johnson, to approve Item B. of the Consent Agenda. MOTION CARRIED by unanimous roll call vote.

### **A. Approval of Minutes of Regular Council Meeting on December 6, 2005**

Todd McEvoy stated that the reason he asked Item A. to be removed is that Mark Murphy had requested his statements be included in the minutes, and at another time, Alan Nash had requested his statements be included in the minutes. McEvoy stated, “My question gets into how long are we going to make our minutes? Minutes are actually a discussion of the business meeting. They are not a diary of what I decided to say that day. I have a tape recorder at home. Andrew records every one of them. That’s what that’s for. So my question is how would we go about limiting, and I’m not saying his comments can’t go in as far as a paraphrase of what goes on and then attach the whole dialogue to the minutes, but to be part of our actual minutes so that it’s 47 pages long. Right now, it’s not because Mr. Murphy is the only one doing it or Mr. Nash is the only one doing it. If we all nine did it, we’d have a book of minutes. My question is, maybe it’s for you, Mr. Thomas, how do we actually go about, do we have to make that a rule of procedure change?”

Randy Thomas replied, “I think the way you suggested would be the way to do it. If somebody’s got some things that they want to type up and have added, that would just be ‘Exhibit A’.”

McEvoy: “So we need some kind of policy because if not, John Smith who’s on council 2011 is gonna want his essay put in word for word, and we don’t have a problem doing that but if there’s a policy somewhere in the record books that says, ‘see exhibit A’ and it paraphrases, ‘Mr. Murphy gave an explanation of political correctness’, and we summarize that and say that in 50 words and then exhibit A would be attached to the minutes, the full deal. I would like to see that in the policy. My question is, how to get that done so that when we have minutes, it’s basically two or three pages that says ‘such and such happened’, even if we get a

citizen who wants to come in and give us a 17-page paper, we'll enter it into the minutes but it's only gonna be a summarization of what he said and then the rest will be on exhibits.”

Murphy: “I understand your concerns. I got that idea from previous council members posted on the website over the years. It's been done for years and years and that's the only reason I wanted it put in there so it would say exactly what I said. It's not a bad idea if you want to put it as an appendix. Maybe we need to refer this to the Nominations Committee for rules of procedure. I don't know. Would that be the appropriate committee?”

Jergins: “I don't have a problem with that if that's the pleasure of the council.”

MOTION by Andrew Johnson, second by Cyndi Godwin “to approve pages 21 through 28 as the minutes of the regular business meeting of December 6, 2005”.

Murphy: “Did that include the amendment that Cindy sent us in the email?”

Johnson: “Pages 21 through 28 in the packet.”

Murphy: “So that's without the comments that I had presented?”

Jergins: “Yes.”

Murphy: “O.K. I don't think that's right.”

Jergins: “You can vote against it.”

MOTION CARRIED by the following roll call vote:

Ayes: Council members Godwin, Cross, Hunter, Johnson.

Noes: Council members Nash, and Murphy.

Abstentions: Council member McEvoy.

## **B. Approval of Lone Star Grant for Library Resources**

### **IX. COMMENTS BY CITY ADMINISTRATOR**

City Administrator Kaiser updated the council as follows:

- Saturday, January 7, Christmas Tree Recycling at the Optimist Jaycee Park.
- Saturday, January 7, Parade welcoming home Texas National Guard, Bravo Company. Kaiser specifically mentioned that Stephenville Police Officer Brandon West had returned home from his tour of duty in Iraq and would be part of the celebration.
- The City of Stephenville's participation in the recent wildfires in north Erath County: Stephenville Fire Department—rotation of paid and volunteer firefighters to fight the

fire.

Police Department is lending assistance with traffic control.

Stephenville Water Department is furnishing water from two metered fire hydrants.

- Texas Department of Transportation is initiating a study of traffic controls in the downtown area to determine the best course of action.

## **X. COMMENTS BY COUNCIL MEMBERS**

Mayor Jergins acknowledged that Fire Chief Jimmy Chew had come to the council chambers from fighting the wildfires. Mayor Jergins advised him that recognition had been noted at the beginning of the meeting of the hard work, dedication, and sacrifice of the Stephenville firefighters. Jergins thanked Chief Chew for his leadership.

## **XI. EXECUTIVE SESSION. At 9:15 p.m., Mayor Jergins recessed the open portion of the meeting, and council went into executive session in compliance with the provisions of the Texas Open Meetings Law, Subchapter D, Government Code, Vernon's Texas Codes, Annotated, in accordance with, Sec. 551.072 Deliberations about Real Property, and Sec. 551.074 Personnel Matters (a)(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.**

### **A. Consider Approval of Oil and Gas Lease on the following tracts of land:**

Tract 1: 5.20 acres, A. Briscoe Survey, Erath County, Texas

Tract 2: 2.067 acres, F. Hunt Survey, Erath County, Texas

Tract 3: 2.067 acres, F. Hunt Survey, Erath County, Texas

Tract 4: 2.066 acres, M. F. Hernandez Survey, Erath County, Texas

Tract 5: 2.068 acres, M. F. Hernandez Survey, Erath County, Texas

Tract 6: 12.369 acres, M. F. Hernandez Survey, Erath County, Texas

Tract 7: 2.076 acres, M. F. Hernandez Survey, Erath County, Texas

### **B. Consider Approval of Access Easement to J. B. Garrett Real Estate L.P.**

The council reconvened in open session at 9:40 p.m.

## **XII. ACTION TAKEN ON MATTERS DISCUSSED IN EXECUTIVE SESSION (if necessary)**

MOTION by Todd McEvoy, second by Cyndi Godwin, "to approve the contract. with the addition of there will be a minimum amount of pavement, gravelling surface if you will, minimum road improvements." Mayor Jergins restated the motion as follows: "to authorize the execution of the contract with agreement for access easement and agreement with J. B. Garrett Real Estate." MOTION CARRIED by unanimous vote.

## **XIII. ADJOURN**

MOTION by Todd McEvoy, second by Andrew Johnson, to adjourn the meeting.  
MOTION CARRIED by unanimous vote at 9:41 p.m.

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Russell E. Jergins, Mayor

ATTEST:

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Cindy L. Stafford, City Secretary