

**MINUTES  
FOR A  
REGULAR COUNCIL MEETING  
OF THE  
CITY OF DALWORTHINGTON GARDENS  
CITY COUNCIL**

**THURSDAY, JANUARY 20, 2005**

An executive session of the City Council was held at 6:30 P.M. at City Hall, 2600 Roosevelt Drive. A regular meeting of the City Council was held at 7:00 P.M. in the Council Chambers of City Hall, 2600 Roosevelt Drive. The following items of business were considered, discussed and acted upon as appropriate:

**Officials Present:**

Guy Snodgrass- Mayor Pro Tem  
Mike Pettke- Councilman  
Ken Wallace- Councilman  
Michael Tedder- Councilman  
Max Stewart- Councilman

**Officials Absent:**

Al Taub- Mayor

**Staff Present:**

Melinda Brittain- City Administrator  
Stan Wilkes- City Attorney  
Bill Waybourn- Chief of Public Safety  
Greg Saunders- City Engineer

**I. EXECUTIVE SESSION**

The City Council met in closed, executive session pursuant to the provision of the Open Meetings Law, Chapter 551 of the Government Code, in accordance with the authority contained in Section 551.071 for consultation with the City Attorney regarding possible litigation and personnel.

**CALL TO ORDER**

**I. CITIZEN COMMENTS**

Kathy Price gave the Park Board Report.  
Bill VanHoosier requested sewer improvements be changed to protect the environment from undue impact.  
Frank Lawrence questioned the length of time it has taken to get the comprehensive plan- it is holding up his project.

**II. MAYOR COUNCIL COMMENTS**

Max Stewart asked that the comprehensive plan be expedited.

**III. ORGANIZATIONAL MATTERS**

**1. Minutes of the December, 2004 City Council Meeting.**

**MOTION:** Councilman Pettke made a motion to approve the minutes of the December City Council Meeting. Councilman Wallace seconded the motion. All voted in favor. Motion carried.

**2. Departmental Reports and December Financial Report.**

**MOTION:** Councilman Tedder made a motion to approve the December Financial Report. Councilman Stewart seconded the motion. All voted in favor. Motion carried.

**3. Teague, Nall & Perkins Reports: Yard Piping Improvements at Roosevelt Tank and Well Site, Sewer System Improvements and Lift Station Abandonment.**

Greg Saunders of Teague, Nall and Perkins gave a report addressing bid openings.

**IV. OLD BUSINESS**

**1. Resolution 05-01: Authorizing execution of contract with Duncan Disposal Company for solid waste collection.**

**MOTION:** Councilman Stewart made a motion to approve Resolution 05-01, authorizing the execution of a contract with Duncan Disposal Company for solid waste collection. Councilman Tedder seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-01**

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH DUNCAN DISPOSAL FOR SOLID WASTE COLLECTION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor is hereby authorized to execute an agreement with Duncan Disposal for solid waste collection, a copy of the agreement being appended to this resolution.

2.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

**2. Ordinance 05-01: Amending City Code Chapter 3.3 setting rates for solid waste collection and Chapter 8.3 prescribing regulations for solid waste collection.**

**MOTION:** Councilman Wallace made a motion to approve the Ordinance amending City Code Chapter 3.3 setting rates for solid waste collection and Chapter 8.3, prescribing regulations for solid waste collection. Councilman Tedder seconded the motion. All voted in favor. Motion carried.

**Ordinance 05-01**

AN ORDINANCE AMENDING SECTION 3.3.05 OF CHAPTER 3, PERMIT AND SERVICE FEES, OF TITLE 3, REVENUE AND FINANCE, OF THE CODE OF THE CITY OF DALWORTHINGTON GARDENS, BY AMENDING E., MISCELLANEOUS, PARAGRAPH (4), SOLID WASTE COLLECTION, PRESCRIBING RATES FOR SOLID WASTE COLLECTION AT RESIDENCES; BY THE ADDITION OF A FEE FOR RESIDENTIAL SUBSCRIPTION RECYCLING; AMENDING SECTION 8.3.03 OF CHAPTER 8, GARBAGE AND TRASH REMOVAL, TO PROVIDE STANDARDS FOR CURBSIDE RECYCLING; REPEALING ORDINANCES IN CONFLICT HERewith; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES OF THE CITY NOT IN CONFLICT HERewith; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the first sub-paragraph of paragraph (4), Solid Waste Collection, of Sub-section C, Miscellaneous, of Section 3.3.05, Schedule of Fees and Charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE AND FINANCE, of the Code of the City of Dalworthington Gardens be amended so that hereafter the same shall be and read as follows:

Residential pickup, per month per dwelling unit	\$6.15
Residential subscription recycling, per month Per dwelling unit	\$3.00

2.

That Section 8.3.03, Duties of Customer, of Chapter 8.3, Garbage and Trash Disposal, of Title 8, HEALTH AND SAFETY, of the Code of the City of Dalworthington Gardens be amended by the addition thereto of a new paragraph, designated as "C", which same shall be and read as follows:

Concerning subscription-based recycling: Each customer using the subscription-based recycling service:

Shall use for such service the recycling bin designated therefor by the City's solid waste collection contractor;

Shall comply with the following standards of acceptability for recycled materials:

Acceptable Materials

Metal cans; aluminum; glass;  
hazardous  
newspapers and magazines  
(including slick or glossy  
glass;  
inserts); junk mail; cardboard;  
cereal boxes; office paper;  
plastic containers.  
fluids,  
hazardous  
sacks.

Unacceptable Materials

Cans containing  
materials; aluminum foil;  
mirrors, window or plate  
pizza boxes or materials  
containing food residue;  
containers for automotive  
pesticides or other  
materials; plastic grocery

3.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith, but is hereby made cumulative of all other ordinances of the City not in conflict herewith.

4.

That any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction, be fined in an amount not more than \$500.00.

5.

That the caption and penalty clause of this ordinance shall be published in the Commercial Recorder, a newspaper of general circulation in the community.

6.

That this ordinance shall be in full force and effect from and after the date of its passage and publication.

**3. Resolution 05-02: Street Sign Topper Proposals.**

**MOTION:** Councilman Wallace made a motion to approve Resolution 05-02, accepting the Street sign topper proposals approving Centerline Supply as the supplier, not to exceed \$2500.00. Councilman Pettke seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-02**

A RESOLUTION AUTHORIZING PURCHASE OF STREET SIGN TOPPERS FROM CENTERLINE SUPPLY.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the purchase from Centerline Supply of street sign toppers in accordance with the proposal therefore is hereby authorized; and that a copy of the proposal be appended to this resolution.

2.

That the City Administrator is further authorized to purchase additional sign toppers from Centerline Supply at the same or lesser unit price; provided, that the total expenditure of such purpose shall not exceed \$2500.00.

**V. NEW BUSINESS**

**1. Resolution 05-03: Appoint Alternate to the Zoning Board of Adjustments to replace John Kasinski.**

**MOTION:** Councilman Pettke made a motion to approve Resolution 05-03, appointing Ken Kiser to the Zoning Board of Adjustments as an alternate to replace John Kasinski. Councilman Stewart seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-03**

A RESOLUTION APPOINTING KEN KISER AS AN ALTERNATE MEMBER OF THE ZONING BOARD OF ADJUSTMENTS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

Ken Kiser is hereby appointed an alternate member of the Zoning Board of Adjustments, to serve a term expiring June 2005.

**2. Resolution 05-04: Approve Natural Resources Conservation Service Prescribed Burning Management Plan for the northeast corner of Elkins Park behind Pappy Elkins Lake.**

**MOTION:**

Councilman Tedder made a motion to approve Resolution 05-04, the Natural Resources Conservation Service Prescribed Burning Management Plan for the northeast corner of Elkins Park behind Pappy Elkins Lake with the stipulation they mow down instead of blading. Councilman Wallace seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-04**

A RESOLUTION ADOPTING A BURN MANAGEMENT PLAN FOR CERTAIN PUBLIC LAND IN THE CITY

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That a burn management plan be adopted for approximately 0.5 acres of parkland in the city in compliance with requirements of the Texas Commission on Environmental Quality, provided, that in lieu of the language of III.B on page one of the plan, the following shall be substituted under the heading **Type and dimensions of fireguards and blacklines**: "In lieu of a strip bladed to bare mineral soil surface, a mowing strip shall be allowed upon the approval of all appropriate authorities."

2.

That a copy of the plan as amended (a document of 9 pages) shall be kept on file in the office of the City Secretary.

**3. Resolution 05-05: Authorize Teague, Nall & Perkins to obtain proposals for street reconstruction of a section of Katherine Court.**

**MOTION:** Councilman Tedder made a motion to approve Resolution 05-05, authorizing Teague, Nall & Perkins to obtain proposals for street reconstruction of a section of Katherine Court. Councilman Pettke seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-05**

A RESOLUTION AUTHORIZING TEAGUE, NALL, AND PERKINS TO OBTAIN PROPOSALS FOR STREET RECONSTRUCTION OF A SECTION OF KAHTERINE COURT.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor is hereby authorized to execute an agreement with Teague, Nall, and Perkins to obtain proposals for street reconstruction of a section of Katherine Court.

2.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

**4. Resolution 05-06: Approve agreement with Teague, Nall & Perkins for the design survey for the City Hall site.**

**MOTION:** Councilman Tedder made a motion to approve Resolution 05-06, approving the agreement with Teague, Nall & Perkins for the design survey for the City Hall site. Councilman Wallace seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-06**

A RESOLUTION AUTHORIZING TEAGUE, NALL, AND PERKINS FOR THE DESIGN SURVEY FOR THE CITY HALL SITE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor is hereby authorized to execute an agreement with Teague, Nall, and Perkins for the design survey for the City Hall site.

2.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

**5. Resolution 05-07: Determination of appropriateness of Atmos Energy Corporation Annual Gas Reliability Infrastructure Program Rate Adjustment.**

**MOTION:**

Councilman Pettke made a motion to suspend Resolution 05-07, determining the appropriateness of Atmos Energy Corporation Annual Gas Reliability Infrastructure Program Rate Adjustment. Councilman Tedder seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-07**

A RESOLUTION BY THE CITY OF DALWORTHINGTON GARDENS, TEXAS SUSPENDING THE PROPOSAL BY ATMOS ENERGY CORP. TO IMPLEMENT INTERIM GRIP RATE ADJUSTMENTS FOR GAS UTILITY INVESTMENT IN 2003; AUTHORIZING PARTICIPATION WITH OTHER CITIES SERVED BY ATMOS ENERGY CORP., MID-TEX DIVISION, IN A REVIEW AND INQUIRY INTO THE BASIS AND REASONABLENESS OF THE PROPOSED RATE ADJUSTMENTS; AUTHORIZING INTERVENTION IN ADMINISTRATIVE AND COURT PROCEEDINGS INVOLVING THE PROPOSED GRIP RATE ADJUSTMENTS; DESIGNATING A REPRESENTATIVE OF THE CITY TO SERVE ON A STEERING COMMITTEE; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES

WHEREAS, the City of Dalworthington Gardens, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division, (“Atmos Mid-Tex” or “the

Company”) and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, Atmos Mid-Tex made filings with the City and the Railroad Commission of Texas (“Railroad Commission”) in December, 2004, proposing to implement interim rate adjustments (“GRIP Rate Increases”) pursuant to Texas Utilities Code § 104.301 on all customers served by Atmos Mid-Tex; and

WHEREAS, Atmos Energy Corporation has reported a twenty percent increase in profits for its fiscal year ended September 30, 2004, and projects further increases in profits in 2005; and

WHEREAS, in May, 2004, the Railroad Commission entered its Final Order in GUD No. 9400 authorizing a rate increase that will produce additional annual revenues of \$11.5 million for Atmos Mid-Tex; and

WHEREAS, Atmos Mid-Tex has projected that it will experience annual cost savings of at least \$40 million over the costs included in rates approved in GUD No. 9400 and said savings are likely to greatly exceed the annual revenue requirement associated with any reasonable increases in invested capital that form the basis of the proposed GRIP rate increases; and

WHEREAS, ratepayers of Atmos Mid-Tex, including the City and its residents, will be adversely impacted by the proposed GRIP Rate Increases; and

WHEREAS, the City and its residents could benefit from coordination with other cities served by Atmos Mid-Tex (“Cities”) in a review of the reasonableness of the proposed GRIP Rate Increases and joint participation in any proceedings at the Railroad Commission related to the proposed GRIP Rate Increases; and

WHEREAS, the reasonable costs associated with the participation of Cities in this rate proceeding are reimbursable from Atmos Mid-Tex.

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS, THAT:

1. The February 15, 2005, effective date of the GRIP Rate Increases proposed by Atmos Mid-Tex is hereby suspended to permit adequate time to review the proposed increases, analyze all necessary information, and take appropriate action related to the proposed increases.

2. The City is authorized to cooperate with other Cities to create and participate in a Steering Committee to hire and direct legal counsel and consultants, to negotiate with the Company, to make recommendations to the City regarding the proposed GRIP Rate Increases, and to direct any administrative proceedings or litigation associated with the proposed GRIP Rate Increases.

3. The City is authorized to intervene in any administrative proceedings or litigation associated with the proposed GRIP Rate Increases, including GUD No. 9560, the Company's proposed GRIP rate increase for its pipeline system filed at the Railroad Commission.

4. The City hereby designates its City Administrator as a representative to a Cities' Steering Committee that shall direct the efforts of counsel and consultants.

5. Atmos Mid-Tex shall promptly reimburse the City's reasonable costs associated with the City's activities related to the proposed GRIP Rate Increases.

**6. Proposal to amend City Code Chapter 17.8 designating auto sales as a special exception.**

**MOTION:** Councilman Tedder made a motion to initiate the code to remove motor vehicle, trailers, rv, and boat sales from B3 Zoning in the City Code Chapter 17.8, which designates auto sales as a special exception. Councilman Wallace seconded the motion. All voted in favor. Motion carried.

**7. Resolution 05-08: Order General Election for three Aldermen, Saturday, May 7, 2005.**

**MOTION:** Councilman Pettke made the motion to approve Resolution 05-08, Ordering a General Election for three Aldermen, Saturday, May 7, 2005. Councilman Stewart seconded the motion. All voted in favor. Motion carried.

**RESOLUTION NO. 05-08**

A RESOLUTION TO APPROVE THE ORDER OF GENERAL ELECTION ON MAY 7, 2005 TO ELECT 3 ALDERMEN

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the proposed resolution to approve the Order of General Election for three Aldermen on Saturday, May 7, 2005 is hereby approved.

**8. Future Agenda Items**

Councilman Pettke – Elections single place at large  
Councilman Wallace- automatic drafts

**VI. ADJOURN**

**MOTION:** Councilman Wallace made a motion to adjourn. Councilman Pettke seconded the motion. All voted in favor. Motion carried.