

MINUTES
OF A REGULAR MEETING
and
WORKSESSION
of the
DALWORTHINGTON GARDENS
CITY COUNCIL
Thursday, August 20, 2009 7:00 P.M.

REGULAR SESSION

A regular meeting was held at **7:00 o'clock p.m.** on **Thursday, August 20, 2009** in the **Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas.** The following items of business were considered, discussed and acted upon, as deemed appropriate by the Council:

MEMBERS PRESENT:

Michael Tedder, Mayor
Guy Snodgrass, Mayor Pro tem
Mike Pettke, Councilman
Steve Loe, Councilman
Jim Piland, Councilman
Clay Ellis, Councilman

STAFF PRESENT:

Melinda Brittain, City Secretary
Stan Wilkes, City Attorney
Dick Perkins, City Engineer
Bill Waybourn, Chief of Public Safety
Krysten Jeter, Deputy City Secretary

CALL TO ORDER The meeting was called to order at **7:07 p.m., Mayor Tedder presiding.**

- 1. Citizen comments. There were no citizen comments.**
- 2. Mayor and Council comments. There were no Mayor and Council comments.**
- 3. 09-43, Departmental Reports and July Financial Report.** The following reports were presented to the Council in writing and by oral presentation of Chief Waybourn and Ms. Brittain.
DPS Report
Yearly Budget Summary

Trial Balance
TexSTAR Reports
Sales Tax History
Ad Valorem Report
General, Water & Public Works Report
Court Activity Report

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

RESOLVED, that the departmental reports and July financial reports be approved and placed in the records of the city.

4. 09-44, Minutes of July 16, 2009 Meeting.

On motion by Councilman Pettke, seconded by Councilman Ellis, by a vote of 5 ayes and 0 nays, it was:

RESOLVED, that the minutes of the July 16, 2009 Council meeting be approved and placed in the records of the city.

Tabled Items from Previous Meetings:

5. Wastewater Contract Amendments

No action was taken.

6. Contract for the Collection of Delinquent Municipal Court Fines and Fees

No action was taken.

Public Hearings and Action

7. 09-45, Natural Gas Drilling Permit Applications/Chesapeake

Applicant: Chesapeake Operating, Inc.

Location: Near Mini 1H-6H, JW Hale Survey, Abstract 802, Tracts 1B & 1B1

From I-20 north on South Bowen Road for 0.21 miles, west on Pleasant Ridge Road for 0.38 miles, then north to the lease road.

Geologic Formation: Barnett

a. Proposed Well Name and Depth: Near Mini 1H, Depth: 9000

b. Proposed Well Name and Depth: Near Mini 2H, Depth: 9000

c. Proposed Well Name and Depth: Near Mini 3H, Depth: 9000

d. Proposed Well Name and Depth: Near Mini 4H, Depth: 9000

- e. Proposed Well Name and Depth: Near Mini 5H, Depth: 9000
- f. Proposed Well Name and Depth: Near Mini 6H, Depth: 9000

The Mayor declared the hearing open and there was a presentation by Sara Griffis on behalf of the applicant. After discussion, on motion by Mayor Pro tem Snodgrass, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays, the following resolution was adopted:

RESOLUTION 09-45: A RESOLUTION DENYING THE APPLICATION FOR GAS DRILLING PERMIT FOR NEAR MINI 1H THROUGH 6H IN THE J. W. HALE SURVEY, A-802, AND STATING THE CONDITIONS THEREOF

BE IT RESOLVED:

That the Chesapeake Operating, Inc. application for drilling permits for the proposed wells Near Mini 1 H through 6H is hereby DENIED, for the reasons stated as follows:

RESOLVED, that the gas drilling permit application submitted by Chesapeake be denied with the following reasons being noted:

- Well heads are located too close to property lines
- The permit application submitted by Chesapeake does not meet the property line requirements as stated in the ordinance.
- No frac pond will be allowed on the property, not by the city nor by property owner, which should be stated in the permit application
- In concurrence with the reasons for denial stated in the comments made by the Planning and Zoning Commission in its review of the application.

Action Items:

8. Resolution 09-46: Grant Application from the Criminal Justice Division of the Governor's Office for Law Enforcement Equipment and Crime Prevention Equipment

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays it was:

RESOLVED, that the Mayor and City Secretary are hereby authorized to execute on behalf of the City a Grant Application to the Criminal Justice Division of the Governor's Office for Law Enforcement Equipment and Crime Prevention Equipment be approved and placed in the records of the city.

9. Resolution 09-47, Texas Department of Public Safety Inter-local Cooperation Contract

On motion by Councilman Ellis, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays it was:

RESOLVED, that the Mayor and City Secretary are hereby authorized to execute on behalf of the City a contract with the Texas Department of Public Safety providing for the ordering of DPS supplies.

RESOLVED FURTHER that a copy of the contract be appended to the minutes of this meeting.

10. ORDINANCE NO. 09-08: Approving Settlement of Atmos RRM filing

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays the following ordinance was adopted:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("Steering Committee") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES AND TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE. REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

WHEREAS, the City of Dalworthington Gardens, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"), a coalition of more than 150 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area (such participating cities are referred to herein as "ACSC Cities"); and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC Cities and the Company worked collaboratively to develop the Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three year experiment by ACSC Cities as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM Tariff; and

WHEREAS, the 2008 Settlement Agreement contemplates reimbursement of ACSC Cities' reasonable expenses associated with RRM applications; and

WHEREAS, on or about March 6, 2009, Atmos Mid-Tex filed with the City its second application pursuant to the RRM tariff to increase natural gas rates by approximately \$20.2 million, such increase to be effective in every municipality that has adopted the RRM tariff within its Mid-Tex Division; and

WHEREAS, ACSC Cities coordinated its review of Atmos' RRM filing and designated a Settlement Committee made up of ACSC representatives and assisted by ACSC attorneys and consultants to resolve issues identified by ACSC in the Company's RRM filing; and

WHEREAS, the Company has filed evidence that existing rates are unreasonable and should be changed; and

WHEREAS, independent analysis by ACSC's rate expert concluded that Atmos Mid-Tex is able to justify a slight rate increase over current rates; and

WHEREAS, the Steering Committee has advocated in other proceedings that Atmos Mid-Tex hedge natural gas futures in order to mitigate the volatility of natural gas prices, which are a flow through to customers; and

WHEREAS, the ACSC Executive Committee, as well as ACSC lawyers and consultants, recommend that ACSC members approve the attached rate tariffs ("Attachment A" to this Ordinance), which will increase the Company's revenue requirement by \$2.6 million; and

WHEREAS, the attached tariffs implementing new rates and Atmos' Proof of Revenues ("Attachment B" to this Ordinance) are consistent with the negotiated resolution reached by ACSC Cities and are just, reasonable, and in the public interest; and

WHEREAS, it is the intention of the parties that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent

negotiated settlement approved in any proceeding addressing the issues raised in the Company's RRM filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City; and

WHEREAS, the negotiated resolution of the Company's RRM filing and the resulting rates are, as a whole, in the public interest.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. That the findings set forth in this Ordinance are hereby in all things approved.

Section 2. That the City Council finds that the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs and Atmos' Proof of Revenues, which are attached hereto and incorporated herein as Attachments A and B, are just and reasonable and are hereby adopted.

Section 3. That Atmos Mid-Tex shall reimburse the reasonable rate making expenses of the ACSC Cities in processing the Company's rate application.

Section 4. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 5. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 7. That if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's RRM filing would be more

beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.

Section 8. That the Company's Gas Cost Recovery tariff is revised to permit recovery of certain costs associated with hedging natural gas futures.

Section 9. That this Ordinance shall become effective from and after its passage with rates authorized by attached Tariffs to be effective for bills rendered on or after August 1, 2009.

Section 10. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

11. Resolution 09-48, Elkins Lake Sanitary Sewer Improvements

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays it was:

RESOLVED, that the City Engineer be authorized to reevaluate options for Elkins sanitary sewer improvements.

12. Resolution 09-49, City Hall Roof Repair

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Loe, it was:

RESOLVED, that city staff is authorized to prepare specifications for the repair of the city hall roof and to request bids thereon.

13. ORDINANCE 09-09: Parks and Recreation Facilities Development Corporation 2009-2010 Budget

On motion by Councilman Pettke, seconded by Councilman Ellis, by a vote of 5 ayes and 0 nays it was:

RESOLVED, that the City Council does hereby acknowledge receipt of the Parks and Recreation Facilities Development Corporation 2009-2010 Budget approves the same.

14. Resolution 09-50, Disposal of Equipment

On motion by Councilman Pettke, seconded by Councilman Ellis, by a vote of 5 ayes and 0 nays it was:

RESOLVED, that certain equipment of the City, as more fully described in an attachment to this resolution, is hereby declared to be surplus to the needs of the City.

RESOLVED FURTHER, that the City Administrator is hereby authorized to dispose of the surplus property by whatever means is determined to bring to City the most revenue.

Worksession:

15. Resolution 09-51, 2009 – 2010 Budget Worksession

On motion by Councilman Loe, seconded by Councilman Pettke, by a vote of 5 ayes and 0 nays, it was

RESOLVED, that the 2009-2010 budget worksession be set for 6:30 p.m. Monday, August 31, 2009 with a follow up worksession if needed at 6:30 p.m. Tuesday, September 1, 2009.

16. City Hall Needs Assessment Worksession

No action was taken. It was stated that this worksession would be included in the scheduled budget worksession.

FUTURE AGENDA ITEMS

ADJOURN

On motion by Councilman Loe, seconded by Councilman Pettke, the meeting was adjourned by unanimous vote at 8:10 p.m.