

Minutes
of
A REGULAR MEETING
of the
DALWORTHINGTON GARDENS
CITY COUNCIL

Regular Session: Thursday, October 18, 2007 7:00 P.M.

EXECUTIVE SESSION

An executive session of the City Council was held at **6:15 o'clock p.m.** on **Thursday, October 18, 2007, in the Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas**, 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. The following item of business was considered, discussed and acted upon, as deemed appropriate by the Council: Review of lease of public property for purpose of gas exploration.

REGULAR SESSION

A regular meeting was held at **7:00 o'clock p.m.** on **Thursday, October 18, 2007 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
Ken Wallace, Councilman
Steve Loe, Councilman
Jim Piland, Councilman

STAFF PRESENT:

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

STAFF ABSENT:

Melinda Brittain, City Administrator/City Secretary

CALL TO ORDER- The meeting was called to order at 7:25 p.m. by Mayor Tedder presiding.

1. Citizen comments

Students of the Montessori school made a presentation to the City Council on water quality.

Kathy Price, chairman of the Park Board, gave an oral report on the most recent meeting of the Park Board.

2. Mayor and Council comments. There were no Mayor and Council comments.

3. **Resolution 07-93**, Departmental Reports and September Financial Report.

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

RESOLVED, that the Departmental Reports and September Financial Reports be approved and placed in the records of the city.

4. **Resolution 07-94**, Minutes of September 20, 2007, Meeting.

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

RESOLVED, that the minutes of the regular meeting of the City Council held on September 20, 2007 be approved and placed in the records of the city.

5. **Resolution 07-98**, The Council next took up agenda item #11, being the action item related to the matter discussed in Executive Session: Award contract from bid proposals for gas drilling on City property.

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

WHEREAS, the City has heretofore given public notice of its request for bids on a proposal for gas exploration on certain city-owned property; and

WHEREAS, several bids have been received in response to the City's request therefor; and

WHEREAS, the City Council has evaluated the received bids and is prepared to enter into a gas drilling lease pursuant to the highest and best bid; NOW THEREFOR IT IS:

RESOLVED, that the bid proposal of XTO Energy, Inc. is hereby determined to be the highest and best bid, subject only to the review and approval of the city's specially retained oil and gas legal counsel; and

RESOLVED FURTHER, that the Mayor is hereby authorized to execute on behalf of the City a gas drilling lease and such other documents as may be reasonably required for an agreement with XTO Energy, Inc. consistent with the bid specifications, the bid proposal, and the review and comment of City legal counsel, subject to applicable ordinances of the City pertaining to gas drilling.

RESOLVED FURTHER, that an original counterpart of the bid proposal, lease and other required documents shall be placed and maintained on file in the office of the City Secretary.

6. (Agenda item 5). Application for Plat Revision:

Applicant: Glen Fick, JMA Inc.

Location: South side of Arkansas Lane, between the DWG water tower and the Montessori School

Property Description: Lots 1R, 1R1 and 1R2, Block 1, Dalworthington Gardens Addition, Being a replat of Lot 1R, Block 1

Present Zoning: B-2 – Commercial

Mayor Tedder opened the public hearing at 7:33 p.m. and asked for public comments. There being no public comments, Mayor Tedder closed the public hearing at 7:33 p.m.

Mayor pro tem Snodgrass made a motion to approve the plat, subject to applicant's compliance with the conditions contained in the letter to the City from Dick Perkins, city engineer, dated October 12, 2007. The motion was seconded by Councilman Loe. After discussion, the motion and second were withdrawn.

On motion by Councilman Pettke, seconded by Mayor Pro tem Snodgrass, by a vote of 5 ayes and 0 nays, the application was tabled.

7. (Agenda item 6). **Resolution 07-95**, Application for Plat Revision.

Applicant: John and Kathleen Brennan

Location: 3614 Sunset Lane

Property Description: Lot 1R, Block 7, Dalworthington Gardens Addition

Present Zoning: SF1 – Single Family Residential

Mayor Tedder opened the public hearing at 7:36 p.m. and asked for public comments. There being no public comments, Mayor Tedder closed the public hearing at 7:36 pm.

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

RESOLVED, that the application for plat revision located at 3614 Sunset Lane be approved and placed in the records of the city.

The agenda contained no items 7 and 8.

8. (Agenda item 9). Resolution 07-96, Atmos Mid-Tex Rate Increase.

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

RESOLUTION OF THE CITY OF DALWORTHINGTON GARDENS SUSPENDING THE OCTOBER 25, 2007 EFFECTIVE DATE OF THE REQUESTED RATE CHANGE OF ATMOS ENERGY CORP., MID-TEX DIVISION (THE COMPANY), TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE ATMOS CITIES STEERING COMMITTEE AND OTHER CITIES IN THE COMPANY'S SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND, PROVIDING FOR NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

WHEREAS, on or about September 20, 2007, Atmos Energy Corp., Mid-Tex Division (Atmos or the Company), pursuant to Gas Regulatory Act Sec. 104.102, filed with the City a Statement of Intent to change gas rates in all municipalities exercising original jurisdiction within its Mid-Tex Division service area effective October 25, 2007; and

WHEREAS, it is reasonable for the City to maintain its involvement in the Atmos Cities Steering Committee (ACSC) and to cooperate with 141 similarly situated city members and other city participants of ACSC in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, the Gas Utility Regulatory Act Sec. 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days; and

WHEREAS, the Gas Utility Regulatory Act Sec. 103.022 provides that costs incurred by cities in ratemaking activities are to be reimbursed by the regulated utility;

NOW THEREFORE BE IT RESOLVED:

1. That the October 25, 2007 effective date of the rate request submitted by Atmos on or about September 20, 2007, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

2. That the City is authorized to cooperate with ACSC and its member cities in the Mid-Tex service area to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations to the City regarding reasonable rates and to direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Railroad Commission.

3. That the City's reasonable rate case expenses shall be reimbursed by Atmos.

4. That it is hereby found and determined that the meeting at which this resolution is passed is open to the public as required by law and that the public notice of the time, place and purpose of the said meeting was given as required by law.

5. A copy of this resolution shall be sent to Atmos, c/o Joe T. Christian, Director of Rates, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, TX 75240; and, to Geoffrey Gay, general counsel to SCSC, at Lloyd Gosselink Blevins Rochelle & Townsend, P.C., P.O. Box 1725, Austin, TX 778767-1725.

9. *(Agenda item 10)* Resolution, 07-97, Application for water well permit

Applicant: Joe Chan

Location: 2811 Katherine Court

On motion by Councilman Wallace, seconded by Councilman Loe, by a vote of 4 ayes and 1 nay from Councilman Pettke, it was:

RESOLVED, that the application for water well permit for property located at 2811 Katherine Court be approved and placed in the records of the city.

10. *(Agenda item 12)*. Resolution 07-99, Amendment to Automated Signal Enforcement Contract

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

WHEREAS, the City has heretofore entered into an agreement with Redflex Traffic Systems, Inc. (the Contractor) for the installation and implementation of a photo red light enforcement system; and

WHEREAS, the agreement provided for compensation of the Contractor and the collection of system revenues for the City based upon a percentage of civil penalties paid through the operation of the system; and

WHEREAS, the agreement further provided that it could be terminated for cause if the Texas Legislature should enact legislation contrary to the agreement; and

WHEREAS, The Texas Legislature, in its 2007 session, enacted S. B. No. 1119, adding to the Texas Transportation Code a new Chapter 707, providing in part (at Section 707.003 [b]): “A local authority that contracts for the administration and enforcement of a photographic traffic signal enforcement system may not agree to pay the contractor a specific percentage of, or dollar amount from, each civil penalty collected.” NOW THEREFORE, IT IS:

RESOLVED, that the agreement with Redflex Traffic Systems, Inc. for the installation and implementation of a photo red light enforcement system be terminated for cause, effective immediately;

RESOLVED FURTHER, that Redflex be given prompt notice of such termination; and

RESOLVED FURTHER, that the City staff engage in good faith negotiation with Redflex for the purpose of achieving an agreement that conforms to state law and substantially achieves for the City the reasonable objectives of a photo red light enforcement system.

11. FUTURE AGENDA ITEMS- Council members requested that the following items be placed on a future City Council agenda:

- a. An engineer’s report on the condition of Twin Springs Drive;
- b. A report from the City of Arlington on the status of Pleasant Ridge Road improvements.
- c. Discussion of the master plan for street improvements.
- d. December meeting date

12. ADJOURNMENT On motion by Councilman Wallace, seconded by Councilman Pettke, by unanimous vote the meeting was adjourned at 7:48 p.m.