

**MINUTES**  
**A REGULAR MEETING**  
**of the**

**DALWORTHINGTON GARDENS**

**Regular Session: Thursday, August 21, 2008 7:00 P.M.**

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**REGULAR SESSION**

A regular meeting was held at **7:00 o'clock p.m.** on **Thursday, August 21, 2008** 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  
Ken Wallace, 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- Mayor Tedder called the meeting to order at 7:10 p.m.**

1. Presentation by Judge Roy Kurban  
Judge Kurban gave a presentation for a Tae Kwon Do Hall of Fame
2. Citizen comments  
Cathy Stein, 2622 Clover Lane, encouraged the acceptance of the donation of the building on Lot 7B, Block 2, Dalworthington Gardens Addition, for historic purposes.
3. Mayor and Council comments.  
None
4. Proclamation: Constitution Week (September 17 -23)  
No action
5. Resolution 08-67, Departmental Reports, July 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 and financial reports for July be approved and placed in the records of the city.

6. Resolution 08-68, Minutes of July 10, July 17, July 31, 2008 Meetings.  
On motion by Councilman Pettke, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that the minutes of July 10, July 17, July 31, 2008 meetings be approved and placed in the records of the city, with the following correction to the July 17 minutes, that the word “HAS” be changed to “HSA” in the last paragraph of the second page

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**Public Hearing:** None.

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**Tabled Item from Previous Meetings**

7. Board and Commission Appointments  
No action

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**Action Items:**

8. Donation of Building for Historical Purposes  
On motion by Mayor Pro tem Snodgrass, seconded by Councilman Pettke, by a vote of 5 ayes and 0 nays, the donation of a building for historical purposes on Lot 7B, Block 2, Dalworthington Gardens Addition was tabled.
9. **Ordinance 08-09:** Amending Atmos Energy Corp. Gas Franchise Agreement  
On motion by Councilman Wallace, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays, the following ordinance was adopted:

**AN ORDINANCE AMENDING CHAPTER 13.3 OF THE CITY CODE, BEING THE EXISTING GAS FRANCHISE BETWEEN THE CITY AND ATMOS ENERGY CORPORATION TO PROVIDE FOR A DIFFERENT CONSIDERATION; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ACCEPTANCE BY ATMOS ENERGY CORPORATION; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

WHEREAS, Atmos Energy Corporation (“Company”) is engaged in the business of furnishing and supplying gas to the general public in the City, including the transportation, delivery, sale, and distribution of gas in, out of, and through the City for all purposes, and is using the public streets, alleys, grounds and rights-of-ways within the City for that purpose under the terms of a franchise ordinance duly passed by the governing body of the City and duly accepted by Company or its predecessor in interest; and

WHEREAS, the City and Company desire to amend said franchise

ordinance to provide for a different consideration; and

WHEREAS, the City Council has heretofore adopted its Ordinance #08-07 amending the franchise; and

WHEREAS, Ordinance #08-07 contained certain language that does not correctly state the intent of either the Company or the City and the City Council now desires to adopt a franchise amendment that correctly states its intent, NOW, THEREFORE

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

1.

That Chapter 13.3 – GAS, of the Code of the City is hereby amended so that all references in Chapter 13.3 to Lone Star Gas Company, TXU Gas or “The Company” shall hereafter be deemed to refer to the franchisee in its present form, Atmos Energy Corporation.

2.

That Chapter 13.3 – GAS, of the Code of the City is further amended as follows:

SECTION 1: The consideration payable by Company for the rights and privileges granted to Company by the franchise ordinance duly passed by the governing body of this City and accepted by Company or its predecessor in interest is hereby changed to be five percent (5%) of the Gross Revenues, as defined in the franchise ordinance. Section 13.3.09A is hereby amended to read as follows:

A. Effective May 1, 2008, the consideration payable by the Company for the rights and privileges granted to it by this chapter (being the gas franchise ordinance of the City) heretofore duly passed by the governing body of this City and duly accepted by the Company is hereby changed to be five percent (5%) of the Gross Revenues received by the Company, as defined in this chapter.

SECTION 2: Franchise payments shall be made on the dates prescribed in the existing franchise and shall be for the rights and privileges of the respective period during which the payment is made.

SECTION 3: This ordinance shall take effect as of May 1, 2008. Company shall, within thirty (30) days from the receipt of this ordinance,

file its written acceptance of this ordinance with the Office of the City Secretary in substantially the following form:

To the Honorable Mayor and City Council:

Atmos Energy Corporation, acting by and through the undersigned authorized officer, hereby accepts in all respects, on this the \_\_\_\_ day of \_\_\_\_\_, 2008, Ordinance No. \_\_\_\_\_ amending the current gas franchise between the City and Atmos Energy Corporation.  
Atmos Energy Corporation

By \_\_\_\_\_

Vice President, Mid-Tex Division

SECTION 4: In all respects, except as specifically and expressly amended by this ordinance, the existing franchise ordinance heretofore duly passed by the governing body of the City shall remain in full force and effect.

SECTION 5: The City shall provide a copy of this Ordinance to Mr. David Park, VP of Rates and Regulatory Affairs, Atmos Energy Corp., 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, no later than ten (10) business days after its final passage and approval.

SECTION 6 It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

10. Resolution 08-69, Municipal Setting Designation, 1908 South Peyco Drive, Arlington, Texas

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

**A RESOLUTION IN SUPPORT OF THE APPLICATION OF RADIO SHACK CORPORATION TO THE CITY OF ARLINGTON, TEXAS AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR A**

**MUNICIPAL SETTING DESIGNATION ON PROPERTY LOCATED AT 1908 SOUTH PEYCO DRIVE, ARLINGTON, TEXAS.**

WHEREAS, Chapter 361, Subchapter W, of the Texas Solid Waste Disposal Act authorizes the Texas Commission on Environmental Quality (TCEQ) to certify Municipal Setting Designations for properties upon receipt and approval of a properly submitted application to TCEQ; and

WHEREAS, as a part of the application to TCEQ for a Municipal Setting Designation, the applicant is required to provide documentation that the application is supported by: (1) the city council of the municipality in which the Site is located, (2) the city council of each municipality with a boundary located not more than one-half mile from the Site, (3) the city council of each municipality that owns or operates a groundwater supply well located not more than five miles from the Site, and (4) the governing body of each retail public utility, as defined by Section 13.002, Texas Water Code, that owns or operates a groundwater supply well located not more than five miles from the Site; and

WHEREAS, the Applicant has filed or is filing an application with the City of Arlington, Texas, and the TCEQ for the issuance of a Municipal Setting Designation ordinance for the following described property (the Site): a portion of a strip shopping center located at 900-930 East Park Row in the City of Arlington, Tarrant County, and being the same property that is the subject of VCP No. 935, as shown on Exhibit A attached hereto and incorporated herein; and

WHEREAS, the Site is within 5 miles of the boundary of the City of Dalworthington Gardens; and

WHEREAS, following the issuance of an MSD ordinance by the City of Arlington and each additional municipality and retail public utility for which approval is required, Applicant will submit to TCEQ an application for certification of a Municipal Setting Designation for the Site pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W; **NOW THEREFORE**

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

That the City supports Applicant's application to the TCEQ for certification of a Municipal Setting Designation for the Site.

11. Wholesale Inter-local Wastewater Contract

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, the wholesale inter-local wastewater contract was tabled.

12. Ordinance 08-10, Amending City Code Title 5.4.16 – Vendors

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

AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS AMENDING THE CITY CODE, TITLE 5: "BUSINESS LICENSES AND REGULATIONS": CHAPTER 5.4 THEREOF, "VENDORS", BY AMENDING 5.4.16 THEREOF PERTAINING TO THE REGISTRATION OF PERSONS ENGAGED IN VENDING ACTIVITIES IN INTERSTATE COMMERCE; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES ON THE SUBJECT; REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

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

1.

That Section 5.4.16 of Chapter 5.4, VENDORS, of Title 5, BUSINESS LICENSES AND REGULATIONS, of the Code of the City of Dalworthington Gardens, be amended so that hereafter the same shall be and read as follows:

- 5.4.16        Interstate Commerce Compliance with Section 5.4.02 through 5.4.11, both inclusive, of this chapter shall not be required of persons engaged in interstate commerce; provided, however, that it shall be unlawful for persons engaged in interstate commerce to engage in any way of the activities named in Section 1.02 hereof without having first registered with the City Secretary, giving the following information:
- A.    Name, home address, and local address, if any, of the registrant.
  - B.    Name and address of the person, firm, or corporation, if any, that the registrant represents, or for whom or through whom orders are to be solicited or cleared.
  - C.    Nature of the articles or things which are to be sold or for which orders are to be solicited.
  - D.    If the registrant is an individual, a recent color photograph of the registrant..
  - E.    Proof of his identity, which may be in the form of an automobile

operator's license, identification letter, or card issued to the registrant by the person, firm, or corporation for whom or through whom orders are to be solicited or cleared.

Registration is effective for one year and must be presented upon request.

A currently valid permit issued by another city will be accepted in lieu of the registration permit provided for in this section.

2.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith.

3.

That this ordinance 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 or the code provisions hereby amended shall be punished in accordance with the provisions of Section 1.1.26 of the City Code: by a fine not to exceed two thousand dollars. For each day that a violation shall continue or be permitted to exist, there shall be deemed a separate violation.

5.

That if any section, subsection, sentence, clause or phrase of this ordinance or the code provisions hereby amended is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this title and each section, subsection, sentence, clause and phrases hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared or had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

6.

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

7.

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

13. Change Order: Roosevelt Dr. Right Turn Lane Project The Council next took up consideration of a change order that would add a sidewalk to the contract with JLB Contracting for construction of a right-turn lane from Roosevelt Drive onto Bowen Road. On motion by Mayor Pro tem Snodgrass, seconded by Councilman Pettke, by a vote of 5 ayes and 0 nays, the change order was denied.

14. Resolution 08-70, Agreement for Furnishing of Traffic Signal Equipment with TxDot  
On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that the Mayor of the City is hereby authorized to execute on behalf of the City an agreement with the State of Texas acting through the Texas Department of Transportation providing for financial assistance in the installation of traffic signal equipment at the intersection of Arkansas Lane and Roosevelt Drive, public streets in the City, 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.

15. Resolution 08-71, Inmate Telecommunications Vending Services Agreement  
On motion by Councilman Pettke, seconded by Councilman Wallace, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that the Mayor of the City is hereby authorized to execute on behalf of the City an inmate telecommunications vending services agreement with JCW Electronics I Ltd., L.L.P. doing business as JCW Inmate Payphone Systems, 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.

16. Resolution 08-72, Secret Service Task Force Memorandum of Understanding

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

**A RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE UNITED STATES SECRET SERVICE CONCERNING LAW ENFORCEMENT JOINT OPERATIONS.**

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

**1.**

That the Mayor of the City is hereby authorized to execute on behalf of the City for the benefit of its Department of Public Safety a Memorandum of Understanding with the United States Secret Service providing for cost sharing of certain law enforcement joint operations, a copy of the memorandum 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.

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF DALWORTHINGTON GARDENS, TEXAS  
AND  
THE UNITED STATES SECRET SERVICE

The CITY OF DALWORTHINGTON GARDENS, TEXAS, for the benefit of its Department of Public Safety (a Law Enforcement Agency) and the United States Secret Service (USSS) enter into this memorandum of understanding (MOU), which becomes effective with the signatures of both parties and remains in effect until terminated by the mutual agreement of the CITY OF DALWORTHINGTON GARDENS and the USSS or upon 30 day written notice by either party to this agreement.

**1. AUTHORITY**

This MOU is established pursuant to provisions of the Treasury Forfeiture Fund Act of 1992, 31 USC 9703, as amended. This act established the Department of the Treasury Forfeiture Fund and authorized the payment of certain overtime expenditures, travel, fuel, training, equipment and other similar costs of State and Local law enforcement officers, that are involved in joint operations, with a Department of the Treasury law enforcement organization, as prescribed in 31

USC 9703 (a) (1) (I) (hereinafter "overtime costs and other expenses").

## II. PURPOSE

This MOU establishes the procedures and responsibilities of both the City of Dalworthington Gardens and the USSS for the reimbursement of certain overtime costs and other expenses pursuant to 31 USC 9703.

## III. CONDITIONS AND PROCEDURES

The parties agree to the following conditions: a) The City of Dalworthington Gardens may request reimbursement of payment of overtime costs and other expenses directly related to work performed by its officer(s) assigned to assist the U.S. Secret Service's Dallas Field Office Financial Crimes Task Force in conducting official investigations. The City of Dalworthington Gardens will submit all requests for reimbursement payments, together with appropriate documentation, to the U.S. Secret Service's Dallas Field Office Financial Crimes Task Force Supervisor. Request for reimbursement will be based solely upon overtime worked and other expenses performed on behalf of the U.S. Secret Service Dallas Field Office Financial Crimes Task Force.

(b) All reimbursement hours of overtime costs and all other expenses covered under this MOU must be approved and certified by the U.S. Secret Service Task Force supervisor. The reimbursable overtime payments will be based upon the actual hourly overtime rate, exclusive of matching employer contributions for any taxes or benefits.

(c) The U.S. Secret Service Task Force supervisor will forward all approved reimbursement requests through the Special Agent in Charge (SAIC) Criminal Investigative Division, Office of Investigations, to the Treasury Forfeiture Fund's payment agent, the U.S. Customs National Finance Center (NFC).

(d) During the period of assignment to the (Name of) Task Force, the City of Dalworthington Gardens will remain responsible for establishing the salary and benefits, including overtime of the officer(s) assigned to the Task Force and making all payments due them. Reimbursement under this MOU is contingent upon the availability of mandatory funds allocated to the U.S. Secret Service through the Department of the Treasury Forfeiture fund.

(e) The City of Dalworthington Gardens shall permit and have readily available for examination and auditing by the U.S. Secret Service, the Department of Treasury, the Comptroller of the United States, and any of their duly authorized agents and representatives, any and all records, documents, accounts, invoices, receipts or expenditures relating to this agreement. They shall maintain all such records and reports until all audits and examinations are completed and resolved, or for a period of three (3) years, which ever is sooner.

(f) Payments may be made to the extent they are included in the U.S. Secret Service Fiscal Year Plan and the monies are available within the Department of Treasury Forfeiture Fund to satisfy the request(s) for reimbursable expenses. It should also be understood that the total amount(s) made available to the U.S. Secret Service through the Department of the Treasury Forfeiture Fund, for reimbursement to the City of Dalworthington Gardens, could change at any time.

(g) Pursuant to the Treasury Executive Office for Asset Forfeiture (TEOAF) directive number 18, the maximum reimbursement entitlement for overtime costs to any one law enforcement official cannot exceed fifteen-thousand (\$15,000.00) dollars during the fiscal year.

(h) This document does not obligate funds. Funding authority will be provided through other documents.

(i) The City of Dalworthington Gardens shall provide the U.S. Secret Service within 10 days of the signing of this MOU, with their agency's mailing address, contact name, telephone number and tax identification number. Further, this agency must provide the name, account number and ABA routing number of the financial institution where the City of Dalworthington Gardens wants the Electronic Funds Transfer (EFT) payment deposited for the reimbursement of overtime salary costs. Failure to provide this information within the prescribed period of time will nullify this MOU agreement.

#### V. REVISIONS

The terms of this MOU may be amended upon the written approval of both the City of Dalworthington Gardens and the U.S. Secret Service. Such amendment is effective upon the date of approval.

#### 17. Sale of 1968 American LaFrance Fire Truck

On motion by Councilman Loe, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays, the sale of the 1968 American LaFrance Fire Truck was denied.

#### **Future Agenda Items**

#### **Adjourn**

On motion by Councilman Loe, seconded by Councilman Piland, the meeting was adjourned by unanimous vote at 8:47 p.m.

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