

STATE OF TEXAS  
COUNTY OF GILLESPIE  
CITY OF FREDERICKSBURG

REGULAR CITY COUNCIL MEETING  
OCTOBER 7, 2013  
7:00 PM

On this the 7th day of October, 2013, the City Council of the CITY OF FREDERICKSBURG convened in regular session at the Law Enforcement Center, with the following members present to constitute a quorum:

JERYL HOOVER - MAYOR  
TIM DOOLEY - COUNCIL MEMBER  
KATHY SANFORD - COUNCIL MEMBER  
GRAHAM PEARSON - COUNCIL MEMBER  
GARY NEFFENDORF - COUNCIL MEMBER

ABSENT: NONE

ALSO PRESENT: KENT MYERS - CITY MANAGER  
SHELLEY BRITTON - CITY SECRETARY  
PAT McGOWAN - CITY ATTORNEY  
BRIAN JORDAN - DIR DEVELOPMENT SERVICES  
CLINTON BAILEY - D.P.W.U.  
STEVE WETZ - CHIEF OF POLICE

The meeting was called to order at 7:00 PM., followed by the Pledge of Allegiance.

MINUTES – It was moved by Council Member Pearson, seconded by Council Member Neffendorf, to approve the minutes of the August and September 2013 meetings as presented. All voted in favor and the motion carried.

CONSENT AGENDA – It was moved by council Member Dooley, seconded by Council Member Pearson, to approve the Consent Agenda as follows:

A. Taxi Permit – Bluebonnet Taxi & Shuttle, Christopher King.

All voted in favor and the motion carried.

PUBLIC HEARING – It was moved by Council Member Dooley, seconded by Council Member Sanford, to recess the regular session and open a Public Hearing on the proposed Annexation of approx. 15.29 acres out of the Wm. H Anderson Survey No. 197, Abstract No.

2, otherwise known as Stone Ridge Unit 8 (first of two). All voted in favor and the motion carried.

Dir. of Development Services Brian Jordan briefed Council on the annexation. No comments were received from the public.

It was moved by Council Member Dooley, seconded by Council Member Sanford, to adjourn the Public Hearing and reconvene the regular session. The vote was as follows: AYE: Hoover, Pearson, Neffendorf, Dooley, and Sanford; NAY: None. Motion carried.

ORDINANCE RELATING TO PARKING OF VEHICLES - Council was briefed on a proposed ordinance relating to parking of vehicles; no action was taken.

CITY MANAGER'S REPORT - City Manager Kent Myers reported on (1) October 25 City Council Retreat, (2) Employee Recognition - Police Department, and (3) New Fire Truck

PUBLIC COMMENTS - Russ Rose commented on parking.

COUNCIL COMMENTS - No comments.

EXECUTIVE SESSION - It was moved by Council Member Pearson, seconded by Council Member Neffendorf, to recess the regular session and to go into Executive Session at 8:20 PM. All voted in favor and the motion carried. At 8:35, it was moved by Council Member Dooley, seconded by Council Member Pearson, to adjourn the Executive Session and reconvene the regular session. All voted in favor and the motion carried.

The following items were discussed in Executive Session:

CONSULT WITH ATTORNEY - SETTLEMENT AGREEMENT ON BEHALF OF COF VS JAMES WASHBURN CASE - No action.

With no further discussion, Council Member Dooley made a motion to adjourn the meeting at 8:40 PM. Council Member Pearson seconded the motion. Motion carried.

PASSED AND APPROVED this the 18<sup>th</sup> day of November, 2013.

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SHELLEY BRITTON, CITY SECRETARY

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JERYL HOOVER, MAYOR

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STATE OF TEXAS  
COUNTY OF GILLESPIE  
CITY OF FREDERICKSBURG

REGULAR CITY COUNCIL MEETING  
OCTOBER 21, 2013  
7:00 PM

On this the 21<sup>st</sup> day of October, 2013, the City Council of the CITY OF FREDERICKSBURG convened in regular session at the Law Enforcement Center, with the following members present to constitute a quorum:

JERYL HOOVER - MAYOR  
GRAHAM PEARSON - COUNCIL MEMBER  
TIM DOOLEY - COUNCIL MEMBER  
KATHY SANFORD - COUNCIL MEMBER  
GARY NEFFENDORF - COUNCIL MEMBER

ABSENT: NONE

ALSO PRESENT: KENT MYERS - CITY MANAGER  
SHELLEY BRITTON - CITY SECRETARY  
STEVE WETZ - CHIEF OF POLICE  
PAT MCGOWAN - CITY ATTORNEY  
CLINTON BAILEY - D.P.W.U.  
BRIAN JORDAN - DIR OF DEVELOPMENT SERVICES  
BRAD KOTT - DIR OF FINANCE  
JIMMY ALEXANDER - DIR. OF PARKS & RECREATION

The meeting was called to order at 7:00 PM following the Pledge of Allegiance.

**PUBLIC HEARING** – It was moved by Council Member Dooley, seconded by Council Member Sanford, to recess the regular session and open a Public Hearing on the proposed Annexation of approx. 15.29 acres out of the Wm. H Anderson Survey No. 197, Abstract No. 2, otherwise known as Stone Ridge Unit 8 (second of two). All voted in favor and the motion carried.

Owner Levi Ellerbracht was on hand to answer questions; Director of Development Services, Brian Jordan, briefed Council on the annexation. No comments were received from the public.

It was moved by Council Member Dooley, seconded by Council Member Neffendorf, to adjourn the Public Hearing and reconvene the regular session. The vote was as follows: AYE: Hoover, Pearson, Neffendorf, Dooley, and Sanford; NAY: None. Motion carried.

**ORDINANCE ADOPTING 2013-2014 BUDGET** – It was moved by Council Member Sanford, seconded by Council Member Pearson, to adopt the Appropriation Ordinance to complete the 2013-2014 Budget process. The vote was as follows: AYE: Hoover, Pearson, Neffendorf, and Sanford; NAY: Dooley. Motion carried.

## ORDINANCE NO. 23-020

AN ORDINANCE SETTING FORTH AN ITEMIZED ESTIMATE OF THE EXPENSE OF CONDUCTING EACH DEPARTMENT AND FUND OF THE MUNICIPAL GOVERNMENT OF THE CITY OF FREDERICKSBURG FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2013, AND ENDING SEPTEMBER 30, 2014, AND APPROPRIATING MONEY FOR THE VARIOUS FUNDS AND PURPOSES OF SUCH ESTIMATE; PROVIDING FOR RATIFICATION OF OTHER APPROPRIATIONS; PROVIDING FOR UNEXPENDED BALANCES; PROVIDING FOR ALLOCATION OF UNAPPROPRIATED REVENUES; PROVIDING FOR SEVERABILITY/SAVINGS AND FOR THE REPEAL OF ALL ORDINANCES AND APPROPRIATIONS IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

**RESOLUTION APPROVING ATMOS RATE INCREASE** – It was moved by Council Member Dooley, seconded by Council Member Neffendorf, to approve the Resolution approving the Atmos Rate increase as presented in Option 3: To deny Atmos' requested increase of \$22.7 million but approve an increase of \$16.6 million. The vote was as follows: AYE: Hoover, Pearson, Neffendorf, Dooley, and Sanford; NAY: None. Motion carried.

## RESOLUTION

**AN RESOLUTION BY THE CITY OF FREDERICKSBURG, TEXAS (“CITY”), APPROVING A CHANGE IN THE RATES OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION (“ATMOS”) AS A RESULT OF A SETTLEMENT BETWEEN ATMOS AND THE ATMOS TEXAS MUNICIPALITIES (“ATM”) UNDER THE RATE REVIEW MECHANISM; FINDING THE RATES SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; DIRECTING ATMOS ENERGY TO REIMBURSE THE CITY’S RATE-CASE EXPENSES; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THE RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

**WHEREAS**, the City of Fredericksburg, Texas (“City”) is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under § 103.001 of GURA has exclusive original

jurisdiction over Atmos Energy Corporation – Mid-Tex Division’s (“Atmos”) rates, operations, and service of a gas utility within the municipality; and

**WHEREAS**, Section 103.021 of GURA authorizes the City to obtain information from Atmos as necessary to make a determination of the basis for the Atmos’ proposed increase in rates; and

**WHEREAS**, Section 103.022 of GURA provides that Atmos shall reimburse the City its reasonable cost of engaging personnel to assist it in reviewing Atmos’ application; and

**WHEREAS**, the City has participated in prior cases regarding Atmos as part of a coalition of cities known as the Atmos Texas Municipalities (“ATM”); and

**WHEREAS**, the Rate Review Mechanism (“RRM”) for 2013 that Atmos filed with the City Secretary on or around July 15, 2013 proposed a system-wide increase of \$22.7 million; and

**WHEREAS**, experts representing ATM have analyzed data furnished by Atmos and have interviewed Atmos’ management regarding the RRM; and

**WHEREAS**, it is necessary to establish the benchmark cost for Pensions and Other Post Employment Benefits (Pension/OPEB); and

**WHEREAS**, on September 26, 2013, ATM and Atmos entered into a settlement agreement which would provide for a net increase of \$16.6 million. This will cause the rates to increase by \$0.74 per month for a typical residential customer; and

**WHEREAS**, the settlement agreement’s net decrease to Atmos’ previously filed request would be approximately 27% less than such filed RRM; and

**WHEREAS**, the Steering Committee of ATM and its counsel recommend approval of the attached tariffs, set forth as Attachment A.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS THAT:**

**Section 1.** The findings set forth in this Resolution are hereby in all things approved.

**Section 2.** The amended tariffs in Attachment A are hereby adopted to become effective on November 1, 2013.

**Section 3.** The benchmark for Pension and Other Post Employment Benefits shall be as shown in Atmos' RRM 2013 Application at Workpapers F-2.3 and F-2.3.1, for fiscal year 2013, appended to this Resolution as Attachment B.

**Section 4.** Atmos is hereby directed to reimburse the City's costs, as part of the Atmos Texas Municipalities, of engaging counsel, rate consultants, and other personnel in assisting the City in its investigation of Atmos' proposed increase in rates.

**Section 5.** To the extent any Resolution or Ordinance previously adopted by the City Council is inconsistent with this Resolution, it is hereby superseded.

**Section 6.** The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 7.** If any one or more sections or clauses of this Resolution is judged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

**Section 8.** This Resolution shall become effective from and after its passage.

**Section 9.** A copy of this Resolution shall be sent to Atmos Mid-Tex, care of Christopher Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240 and to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

**PASSED AND APPROVED** this 21st day of October , 2013.

/s/ Jeryl Hoover, Mayor

ATTEST:

/s/ Shelley Britton, City Secretary

**2013 TAX LEVY TOTALS** – It was moved by Council Member Dooley, seconded by Council Member Neffendorf, to approve the 2013 Tax Levy Totals as presented. The vote was as follows: AYE: Hoover, Pearson, Neffendorf, Dooley, and Sanford; NAY: None. Motion carried.

**2014 GILLESPIE COUNTY APPRAISAL DISTRICT BUDGET** – Council Member Sanford moved, seconded by Council Member Pearson, to approve the 2014 Gillespie County Appraisal District Budget. The vote was as follows: AYE: Hoover, Pearson, Neffendorf, and Sanford; ABSTAIN: Dooley (Conflict of Interest). Motion carried.

**SETTLEMENT AGREEMENT ON BEHALF OF COF VS JAMES WASHBURN CASE**  
It was moved by Council Member Dooley, seconded by Council Member Pearson, to authorize the City Attorney and City Manager to enter into a Settlement Agreement on behalf of the City of Fredericksburg vs. James Washburn Case. The vote was as follows: AYE: Hoover, Pearson, Neffendorf, Dooley, and Sanford; NAY: None. Motion carried.

**FT. MARTIN SCOTT DONATIONS ACCOUNT** – Council Member Pearson moved, seconded by Council Member Dooley, to approve setting up a separate account to receive donations for Fort Martin Scott as presented. All voted in favor and the motion carried.

CITY MANAGERS REPORT – The City Manager reported on (1) Oct 25 City Council Retreat, (2) City Council/Planning Commission Special Meeting – Review Subdivision Regulations, (3) Employee Recognitions (Stephen Itz and Kelli Olfers).

FUTURE AGENDA ITEMS – Ground Transportation Ordinance, Speed Limits in School Zones, COF Water Supply, Electric Power Purchases, and Complete Streets will appear on future agendas.

PUBLIC COMMENTS – Sonia Rivera, David Stone and Jonathon Baethge commented on parking; Gary Clifton commented on the need for a turn lane into Stone Ridge Subdivision.

COUNCIL COMMENTS – Council Member Pearson encouraged those interested in a turn lane to write to TxDOT and express their concerns.

With no further discussion, Council Member Dooley made a motion to adjourn the meeting at 7:40 PM. Council Member Neffendorf seconded the motion. Motion carried.

PASSED AND APPROVED this the 18<sup>th</sup> day of November, 2013.

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SHELLEY BRITTON, CITY SECRETARY

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JERYL HOOVER, MAYOR

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