

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

REGULAR CITY COUNCIL MEETING
MAY 5, 2014
7:00 PM

On this the 5th day of May, 2014, City Council of the CITY OF FREDERICKSBURG convened in regular session at the City Hall, with the following members present to constitute a quorum:

PRESENT: JERYL HOOVER - MAYOR
TIM DOOLEY - COUNCIL MEMBER
GRAHAM PEARSON - COUNCIL MEMBER
KATHY SANFORD - 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 OF DEVELOPMENT SERVICES
BRAD KOTT - DIRECTOR OF FINANCE
CLINTON BAILEY - D.P.W.U.
STEVE WETZ - CHIEF OF POLICE
RUSSELL IMMEL - IT

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

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

1. Appoint Joyce Spisak as Associate Judge for one term.

All voted in favor and the motion carried.

LIGHTING ORDINANCE - Council held the 2nd reading of the Lighting Ordinance. No action taken.

GROUND TRANSPORTATION ORDINANCE - Council held the 1st reading of the proposed Ground Transportation Ordinance. No action was taken.

RESOLUTION FOR COMMUNITYWIDE BEAUTIFICATION DAY – It was moved by Council Member Sanford, seconded by Council member Pearson, to approve the Resolution for Communitywide Beautification Day, May 10, 2014. All voted in favor and the motion carried.

RESOLUTION

A Resolution of the City Council of the City of Fredericksburg, Texas, approving the Community Clean-Up Program.

WHEREAS, the appearance of the City of Fredericksburg has been, and continues to be, a source of pride for the community and enjoying a clean appearance is one of the benefits of living in Fredericksburg, Texas, and

WHEREAS, City Staff and the Staff of the Texas Department of Transportation (TxDOT) have held a series of meetings with local citizens and organizations to determine priorities for the cleaning up of the roads leading into the City, and for identification of other areas within the City which could be cleaned up with their help as part of an on-going community-wide effort each Spring, and

WHEREAS, the City Staff and Staff of TxDOT worked together under TxDOT's Adopt-A-Highway program, to obtain adoptions of highways leading into the city by working with local citizens and organizations, and to develop the Community Clean-Up Program, and

WHEREAS, The City Council has reviewed and approves the expansion of the Adopt-a-Highway program and the Community Clean-up Program, and desires to evidence its approval by the passage of this resolution,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, that it hereby approves and adopts as a community project with participation by City of Fredericksburg Staff, the expansion of the Adopt-a-Highway Program and the Fredericksburg Community Clean-Up Program, and hereby directs that the Fredericksburg Community Clean-Up Program become a program within the City.

BE IT FURTHER RESOLVED that the City Council of the City of Fredericksburg urges all citizens to participate in these programs and to help to maintain the appearance of the City at all times.

PASSED AND APPROVED this day the 5th of May, 2014, by vote of the City Council of the City of Fredericksburg, Texas.

/s/ Jeryl Hoover, Mayor

Attest:

/s/ Shelley Britton, City Secretary

BED & BREAKFAST REGULATIONS – Director of Development Services Brian Jordan briefed Council on the Bed & Breakfast Regulations and the B&B Compliance Permit. No action taken.

PUBLIC WORKS ORDER MANAGEMENT SYSTEM – Following a presentation by Director of Public Works & Utilities, Clinton Bailey, it was moved by Council Member Neffendorf, seconded by Council Member Sanford, to authorize the Director of Public Works and Utilities to enter into contract negotiations with VUEWorks to provide a GIS-Centric Work Order and Asset Management System for the City. The vote was as follows: AYE: Hoover, Dooley, Neffendorf, Sanford, and Pearson. Motion carried.

REQUEST FOR QUALIFICATIONS FOR ARCHITECTURAL SERVICES FOR ANIMAL SHELTER – It was moved by Council Member Dooley, seconded by Council Member Neffendorf, to approve \$18,000 for Architectural Services for planning, design and cost estimates of

a new Animal Shelter. The vote was as follows: AYE: Hoover, Dooley, Neffendorf, Sanford, and Pearson. Motion carried.

HISTORICAL REVIEW BOARD ANNUAL REPORT – Sharon Joseph, Chairman of the Historic Review Board, presented the board’s Annual Report. No action was taken.

PARKING CHANGES ALONG ADAMS STREET FROM THE PRIMARY SCHOOL TO BILLIE DRIVE – Council Member Dooley moved, seconded by Council Member Neffendorf, to approve the parking changes along Adams Street from the Primary School to Billie Drive as presented. The vote was as follows: AYE: Hoover, Dooley, Neffendorf, Sanford, and Pearson. Motion carried.

CITY MANAGER’S REPORT – City Manager Kent Myers reported on (1) June City Council Retreat, (2) City Space and Staffing Study, (3) Comprehensive Plan Update, (4) Employee Recognitions (Clinton Bailey, Clem Castillo, Cliff Hirl).

PUBLIC COMMENT – None.

COUNCIL COMMENT – None.

EXECUTIVE SESSION – At 8:52 PM, Council Member Pearson made a motion to recess the regular session and go into Executive Session. Council Member Neffendorf seconded the motion, and the motion carried. At 9:10 PM, Council Member Sanford made a motion to adjourn the Executive Session and reconvene the regular session. Council Member Neffendorf seconded, the motion carried.

Following Executive Session, the following action was taken:

ANIMAL SHELTER DONATION – No action was taken.

With no further business, Council Member Dooley made a motion to adjourn the meeting at 9:12 PM. Council Member Pearson seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of June, 2014.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR

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STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

SPECIAL CITY COUNCIL MEETING
MAY 14, 2014
8:30 AM

On this the 14th day of May, 2014, the City Council of the CITY OF FREDERICKSBURG convened in special 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
GARY NEFFENDORF – COUNCIL MEMBER
GRAHAM PEARSON - COUNCIL MEMBER

ABSENT: NONE

ALSO PRESENT: LINDA LANGERHANS – MAYOR ELECT
SHELLEY BRITTON - CITY SECRETARY

The meeting was called to order at 8:30 AM.

CANVASS AND APPROVE MAY 10, 2014 ELECTION RESULTS – It was moved by Council Member Dooley, seconded by Council Member Sanford, to adopt the following Order declaring the result of the May 10, 2014 City Election; the vote was unanimous:

ORDER DELCARING RESULT OF MAY 10, 2014 CITY ELECTION

On this the 14th day of May 2014, the City Council in special session open to the public at City Hall, 126 W. Main St., with the following members present to wit:

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

With no one being absient, constituding a quorum, and passed the following Order and Resolution:

There came to be considered the returns of a City Election on the 10th of May, 2014, for the purpose of an election to vote for Mayor and two (2) Council Members for said city, and an amendment to the City Charter, as set forth in the Order calling said election, and it appearing that said election was in all respects legally held and that said returns were duly and legally made.

IT THIS THEREFORE FOUND, DECLARED, AND SO ORDERED AND RESOLVED by the City Council of the City of Fredericksburg, Texas, that the legally qualified voters at said election held on the 10th day of May, 2014 cast at said election the following votes:

MAYOR

Langerhans - 687
Hoover - 494

COUNCIL MEMBER

Watson - 657
Luckenbach - 683
Dooley – 513

CHARTER AMENDMENT

Approve - 581
Disapprove – 556

TOTAL VOTES CAST: 1212

As shown in the official election returns submitted to the City Council of the City of Fredericksburg, Texas, on May 14, 2014 by the officers holding said election.

IT IS FURTHER FOUND AND DETERMINED that in accordance with the order of this governing body, the City Secretary posted notice of the date, place, and subject of this meeting on the bulletin board located at City Hall, a place convenient to the public, said notice having so posted and remaining posted for at least 72 hours preceding the time on this meeting.

The Order passed unanimously.

PASSED AND APPROVED this the 14th day of May, 2014.

/s/ Jeryl Hoover, Mayor

Attest: /s/ Shelley Britton, City Secretary

With no further discussion, Council Member Dooley made a motion to adjourn the meeting at 8:33 AM. Council Member Neffendorf seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of June, 2014.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR

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**STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG**

**REGULAR CITY COUNCIL MEETING
MAY 19, 2014
7:00 PM**

On this the 19th day of May, 2014, 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:

- LINDA LANGERHANS – MAYOR
- GARY NEFFENDORF – COUNCIL MEMBER
- GRAHAM PEARSON - COUNCIL MEMBER
- JERRY LUCKENBACH - COUNCIL MEMBER
- BOBBY WATSON - COUNCIL MEMBER

ABSENT: NONE

ALSO PRESENT: KENT MYERS - CITY MANAGER

SHELLEY BRITTON – CITY SECRETARY
PAT McGOWAN - CITY ATTORNEY
STEVE WETZ - CHIEF OF POLICE
BRAD KOTT – DIR OF FINANCE
BRIAN JORDAN - DIR. OF DEVELOPMENT SERVICES
JOHN CULPEPPER – DIR EMERGENCY SERVICES
RUSSELL IMMEL – INFORMATION TECH
KRIS KNEESE – ASST CITY ENGINEER

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

MINUTES – It was moved by Council Member Pearson, seconded by Council Member Neffendorf, to approve the minutes of the March and April 2014 meetings as presented. All voted in favor and the motion carried.

PUBLIC HEARING Z-1403 BY WHATABURGER TO AMEND THEIR CONDITIONAL USE PERMIT TO ALLOW A CHANGE IN THE SIGNAGE ON THE FRONT OF THE BUILDING - It was moved by Council Member Neffendorf, seconded by Council Member Pearson, to recess the regular session and open a Public Hearing on Z-1403 by Whataburger, to amend their Conditional Use Permit to allow a change in the signage on the front of the building. All voted in favor and the motion carried.

Comments were received from Ann Lewis of Lewis Sign, representing Whataburger. There were no other comments from the public. It was moved by Council Member Luckenbach, seconded by Council Member Pearson, to adjourn the Public Hearing and reconvene the regular session. All voted in favor and the motion carried.

REQUEST Z-1403 – It was moved by Council Member Pearson, seconded by Council Member Watson, to deny Request Z-1403 by Whataburger to amend their Conditional Use Permit to allow a change in signage on the front of the building. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

PUBLIC HEARING Z-1404 FOR AN AMENDMENT TO SECTION 7.825 OF THE ZONING ORDINANCE PERTAINING TO SPECIAL PROVISIONS APPLICABLE TO CENTRAL FREDERICKSBURG- It was moved by Council Member Neffendorf, seconded by Council Member Luckenbach, to recess the regular session and open a Public Hearing on Z-1404 by to amend Section 7.825 of the Zoning Ordinance Pertaining to Special Provisions Applicable to Central Fredericksburg. All voted in favor and the motion carried.

Comments were received from Ernie Loeffler of the Convention and Visitor Bureau and Tim Lehmberg of the Economic Development Commission in favor of the amendment. There were no other comments from the public. It was moved by Council Member Pearson, seconded by Council Member Neffendorf, to adjourn the Public Hearing and reconvene the regular session. All voted in favor and the motion carried.

REQUEST Z-1404 – It was moved by Council Member Pearson, seconded by Council Member Watson, to approve the amendment to Section 7.825 of the Zoning Ordinance pertaining to special provisions applicable to central Fredericksburg. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

ORDINANCE NO. 24-005

AN ORDINANCE AMENDING SECTION 7.824 SPECIAL PROVISIONS APPLICABLE TO CENTRAL FREDERICKSBURG OF THE ZONING ORDINANCE OF THE CITY OF FREDERICKSBURG TO ENLARGE THE AREA SUBJECT TO THE SPECIAL PARKING REGULATIONS, REPEALING INCONSISTENT PROVISIONS, PROVIDING FOR PARTIAL INVALIDITY AND ESTABLISHING AN EFFECTIVE DATE. (Recorded in Ordinance Book)

RESOLUTION TO DENY ATMOS ENERGY'S PROPOSED RATE INCREASE – It was moved by Council Member Pearson, seconded by Council Member Luckenbach, to adopt the Resolution to deny Atmos Energy's proposed rate increase as presented. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

RESOLUTION

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS DENYING AN INCREASE IN RATES REQUESTED BY ATMOS ENERGY CORPORATION – MIDTEX DIVISION, SUBMITTED ON OR ABOUT FEBRUARY 28, 2014 UNDER THE RATE REVIEW MECHANISM; FINDING ATMOS' REQUEST UNREASONABLE; DIRECTING ATMOS ENERGY TO REIMBURSE THE CITY'S RATE-CASE EXPENSES; AUTHORIZING THE CITY'S PARTICIPATION IN APPEALS ATMOS MAY TAKE DENYING ITS REQUESTED INCREASE; REQUIRING CITY'S SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Atmos Energy Corporation-MidTex Division ("Atmos" or "Company") filed a request with the City of Fredericksburg, Texas ("City") on or about February 28, 2014, thereby initiating a ratemaking proceeding to increase its revenue and change its rates within the corporate limits of the City, and specifically to increase its system-wide, annual revenue requirement by approximately \$45.7 million, which is an increase in base rates exclusive of the cost of gas of approximately 9.2%; and

WHEREAS, the City is a regulatory authority under Utilities Code § 103.001 (more commonly referred to as the Gas Utility Regulatory Act ("GURA")) and has exclusive original jurisdiction over Atmos' rates, operations, and services within the City; 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 in the City; 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, Atmos submitted its application to increase rates under the Rate Review Mechanism ("RRM"); and

WHEREAS, Special Counsel and experts representing ATM have analyzed the data furnished by Atmos, sought and obtained additional data, and have interviewed Atmos' management regarding Atmos' request to increase rates; and

WHEREAS, the City's Special Counsel and rate experts concluded that Atmos' request to increase rates by \$45.7 million is unreasonably high; and

WHEREAS, the City's Special Counsel and rate experts' conclusion that Atmos' request to increase rates by \$45.7 million is unreasonably high is based on numerous elements in Atmos' request that are inconsistent with sound rate-setting and regulatory principles; and

WHEREAS, the City's Special Counsel and rate experts participated in discussions with Atmos to attempt to resolve Atmos' proposed change in rates and increase in revenue through negotiations but were unable to reach agreement; and

WHEREAS, it is anticipated that Atmos will appeal the City's denial of its request to increase rates to the Railroad Commission of Texas and possibly to the courts, thus requiring the continued assistance of Special Counsel and rate experts in those proceedings.

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. Atmos Energy Corporation-MidTex Division's request to change its rates and to increase its revenue by approximately \$45.7 million is hereby **DENIED**.

Section 3. Pursuant to Utilities Code § 103.022 and under the terms of the Rate Review Mechanism, Atmos is hereby directed to reimburse the City's rate case expenses, as participants in the coalition of cities known as the Atmos Texas Municipalities, for engaging

counsel, rate consultants, and other personnel in assisting the City in its investigation of Atmos' proposed increase in rates, and is further directed to reimburse the City's rate case expenses on a monthly basis for the City's participation in any appeal Atmos seeks of the City's denial of its request to increase rates.

Section 4. This Resolution supersedes any Resolution or Ordinance previously adopted by the City Council to the extent such previously adopted Resolution or Ordinance is inconsistent with this Resolution.

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

Section 6. 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 7. This Resolution shall become effective from and after its passage.

Section 8. A copy of this Resolution shall be sent to Atmos Energy-Mid-Tex Division, care of Christopher Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Special Counsel, Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

PASSED AND APPROVED this 19th day of May, 2014.

/s/ Linda Langerhans, Mayor

ATTEST:

/s/ Shelley Britton, City Secretary

CURFEW REGULATIONS – It was moved by Council Member Pearson seconded by Council Member Neffendorf, to renew the Curfew Regulations as presented. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

ORDINANCE 24-004

AN ORDINANCE RE-ADOPTING SECTION 20-118 THROUGH 20-123 AND AMENDING SECTION 20-123 THEREOF, OF THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG REGARDING JUVENILE CURFEWS, RE-ESTABLISHING THE NECESSITY THEREOF AND ESTABLISHING AN EFFECTIVE DATE. (Recorded in Ordinance Book)

REVISIONS TO CITY PERSONNEL POLICIES – It was moved by Council Member Luckenbach, seconded by Council Member Watson, to approve the revisions to City Personnel Policies as presented. All voted in favor and the motion carried.

PRESENTATION OF MID-YEAR BUDGET REPORT – Director of Finance Brad Kott presented a comprehensive mid-year budget review.

PROFESSIONAL SERVICES CONTRACT – WWTP REHABILITATION PROJECTS - Asst. City Engineer Kris Kneese presented the Professional Services Contract for the Waste Water Treatment Plant (WWTP) Rehabilitation Projects with HDR Engineering, to include preliminary design, final design, bid and negotiation phase services and construction phase services for the City's proposed WWTP improvements projects identified in the WWTP Master Plan for a fee of \$429,680.00. It was moved by Council Member Pearson, seconded by Council Member Luckenbach, to approve the Professional Services Contract as presented. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

COUNCIL APPOINTMENTS – It was moved by Council Member Neffendorf, seconded by Council Member Watson, to appoint Council Member Pearson as Mayor Pro Tem. All voted in favor and the motion carried.

It was then moved by Council Member Luckenbach, seconded by Council Member Neffendorf, to approve the following appointments:

Airport Advisory Board – Jerry Luckenbach

Chamber of Commerce – Graham Pearson

Convention & Visitors Bureau Board – Bobby Watson

Economic Development Commission – Graham Pearson

Relief Route Task Force – Bobby Watson and Linda Langerhans.

All voted in favor and the motion carried.

CITY MANAGER'S REPORT – City Manager Kent Myers reported on (1) June 13 City Council Retreat, (2) Comprehensive Plan Update, (3) Water Conservation Education Program, and (4) Employee Recognitions, including Wynell Herbort for her work on the Personnel Policies, and Matt Townsend for his work on the city wide cleanup project.

FUTURE AGENDA ITEMS – The Ground Transportation Ordinance and the Public Works Department presentation are slated for the next agenda.

PUBLIC COMMENT – Patrick Moore, CPA, commented on the negative consequences relative to the Charter Amendment passed at the May 10 election.

COUNCIL COMMENT – Graham Pearson welcomed the new members to the council.

EXECUTIVE SESSION – At 8:55 PM, Council Member Pearson made a motion to recess the regular session and go into Executive Session. Council Member Neffendorf seconded the motion, and the motion carried. At 9:50 PM, Council Member Luckenbach made a motion to adjourn the Executive Session and reconvene the regular session. Council Member Neffendorf seconded, the motion carried.

Following Executive Session, the following action was taken:

CONSULTATION WITH ATTORNEYS REGARDING POTENTIAL LITIGATION AND ATTORNEY CLIENT PRIVILEGE REGARDING CHARTER AMENDMENT AND BOND COVENANTS – No action was taken.

With no further business, Council Member Neffendorf made a motion to adjourn the meeting at 9:55 PM. Council Member Pearson seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of June, 2014.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR

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