



REGULAR CITY COUNCIL MEETING AGENDA
FEBRUARY 27, 2018
5:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET

I. ROLL CALL AND CALL TO ORDER BY MAYOR

City Council:

- ✓ Scott Cain, Mayor
- ✓ Dr. Bob Kelly, Mayor Pro Tem
- ✓ Gayle White, SMD 2
- ✓ Dale Sturgeon, SMD 3
- ✓ John Warren, SMD 4

Administration:

- ✓ Steve Polasek, City Manager
- ✓ Shelly Doty, City Secretary
- ✓ Fritz Quast, City Attorney

II. INVOCATION by Rev. Brooks Monk, Calvary Baptist Church

III. PLEDGE OF ALLEGIANCE

IV. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

☆ Presentation – 2017 Super STAR Award – Paul Tatum, Sanitation Department

V. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL

VI. CITIZENS COMMENTS

An opportunity for the public to make comments or address concerns not posted on the agenda.

CONSENT ITEMS

All of the following items on the Consent Agenda are considered to be routine and self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary prior to the beginning of the meeting.

M1. APPROVAL OF MINUTES FOR THE FEBRUARY 13, 2018 REGULAR COUNCIL MEETING.**M2. APPROVAL OF MINUTES FOR THE FEBRUARY 20, 2018 SPECIAL COUNCIL MEETING.****BQ1. AUTHORIZE PURCHASE OF A MOBILE COMMAND VEHICLE FROM CHASTANG FORD, A HGAC BUY COOPERATIVE PURCHASING VENDOR, TO BE USED BY THE POLICE DEPARTMENT FOR AN AMOUNT NOT TO EXCEED \$79,975.**

Person presenting this item: Rob Severance, Chief of Police

BRIEF: In an effort to strengthen the department's geographic policing strategy and community presence, CPD is requesting approval for the purchase of a mobile command vehicle to use as a base of operations for major crime and traffic accident scene investigations, critical incident/disaster response, and community event management. This comprehensive asset will be deployed at a number of community events, including frequent use at The Depot. The purchase is funded through a Criminal Justice Division Grant (\$79,810) and the Abandoned Vehicle Fund (\$165) for a total of \$79,975. Chastang Ford is a HGACBuy cooperative purchasing vendor, and therefore all bidding requirements have been met.

RS1. A RESOLUTION AUTHORIZING A SIX-YEAR SERVICE PLAN AGREEMENT WITH LONGHORN INC FOR A RAIN BIRD IRRIGATION SYSTEM TO BE USED AT CLEBURNE GOLF LINKS FOR AN AMOUNT NOT TO EXCEED \$17,065.

Person presenting this item: Burton Barr, Director of Parks & Recreation

BRIEF: This agreement with Longhorn Inc. will provide a server, irrigation software, and irrigation software maintenance and support for the irrigation system at the golf course for the next 6 years. The total cost of the agreement will not exceed \$17,065, and will be paid out in five annual payments of \$3,413 per year. At the term of the agreement, the server and most current software will be owned by Cleburne Golf Links. Rain Bird is offering a promotion through March 1, 2018, that will give an extra year of software and support at no additional cost. The golf course irrigation system software has not been updated since the course was renovated in 2009, and this agreement will provide service and support until March 15, 2024. This purchase was not included in this year's budget, but can be expensed utilizing funds in the 0155-8431 M&R- Grounds line item (\$3,413). The remaining four payments will be funded through the future four fiscal years' budget process. This agreement has been competitively bid per BuyBoard contract #529-17, so all competitive purchasing requirements have been met.

OC1. APPROVE ACCOUNTS PAYABLE FOR THE MONTH OF JANUARY 2018.

Person presenting this item: Terry Leake, Director of Finance

RESOLUTIONS

RS2. A RESOLUTION AUTHORIZING FAÇADE IMPROVEMENT GRANT AGREEMENT WITH GARZA GROUP, LLC FOR PROPERTY LOCATED AT 114 E CHAMBERS ST (DBA YAYA’S MEXICAN RESTAURANT) FOR AN AMOUNT NOT TO EXCEED \$5,000.00.

Person presenting this item: Grady Easdon, Economic Development Manager

BRIEF: Garza Group, LLC has submitted an application under the terms of the City’s Façade Improvement program seeking to perform upgrades and enhancements to exterior street-facing facades on their property located at 114 E. Chambers St., which houses Yaya’s Mexican Restaurant. Upgrades include replacement of eight windows with custom-built frames to match current architectural elements, repairing woodwork, and repainting the ground floor façade. Under the terms of the Façade Improvement Incentive Program, up to 50% of eligible project costs are reimbursable up to a maximum of \$5,000. Total cost of this project for improvements is \$13,430.00; therefore, \$5,000 would be the maximum match by the City.

ORDINANCES

OR1. *PUBLIC HEARING* AN ORDINANCE REZONING 227 FEATHERSTON ST FROM C0 (NON-RETAIL DISTRICT) AND MF (MULTIPLE-FAMILY HOUSING DISTRICT) TO SF4 (SINGLE-FAMILY DWELLING DISTRICT), AS REQUESTED BY KH2 PROPERTIES LLC, REPRESENTED BY CINDY PECK.

Person presenting this item: Shane Pace, Community Development Director

BRIEF: The applicant has requested to rezone approximately 0.2904 acres for an existing residential home on the subject property. The Comprehensive Land Use Plan designates the subject property as Preservation District. The proposed land use is listed as an appropriate use in this district. The Planning and Zoning Commission considered this request at their February 12, 2018 meeting and recommended approval by a vote of 4-0.

OR2. AN ORDINANCE CORRECTING OR02-2018-11 APPROVED ON FEBRUARY 13, 2018 CHANGING THE WORDING OF “DEED WITHOUT WARRANTY” TO “SPECIAL WARRANTY DEED” AS PROVIDED IN THE BID SPECIFICATIONS.

Person presenting this item: Shelly Doty, City Secretary

BRIEF: At the Regular Council Meeting of February 13, 2018 the City Council approved a bid for the sale of real property by OR02-2018-11. The ordinance incorrectly called for a ‘Deed Without Warranty’ to be issued upon completion of the sale. However, the bid specifications provide that a ‘Special Warranty Deed’ to be issued. This is a housekeeping ordinance correcting that wording with no other changes.

OR3. AN ORDINANCE ACCEPTING AN UNSOLICITED BID AND APPROVING SALE OF REAL PROPERTY LOCATED AT 605 WILLIAMS AVE, ACQUIRED AT A DELINQUENT TAX SALE, AUTHORIZING MAYOR TO EXECUTE A DEED AND RELEASING ALL LIENS AND ENCUMBRANCES.

Person presenting this item: Shelly Doty, City Secretary

BRIEF: City of Cleburne, for itself and the use and benefit of Johnson County, Hill College and the Cleburne ISD acquired title to a certain tract of real property known as 605 Williams Ave. (aka Lots 6B & 7B Block 597, Original Cleburne) at a Sheriffs sale held of the 2nd day of June, 2015, in Cause No. T201300292, Cleburne ISD vs. Lorretta F. Paradise. Section 34.05(a), of the Texas Property Tax Code, authorizes the City of Cleburne by and through its governing body, to conduct a resale of property. It is in the best interest of the City of Cleburne and its taxpayers to return this property to a productive use. Katherine Simmerman-Morgan, with Morgan Acres, LLC has made an offer to purchase the property for the sum of thirteen thousand dollars and no cents (\$13,000.00) with plans to build a house on the property which is currently zoned SF4. The city will receive \$3,057.60 for maintenance costs as well as \$2,146.71 being the city's share of the property taxes that will be distributed among the taxing entities.

OR4. AN ORDINANCE ACCEPTING AN UNSOLICITED BID AND APPROVING SALE OF REAL PROPERTY LOCATED AT 909 TURNER ST, ACQUIRED AT A DELINQUENT TAX SALE AUTHORIZING MAYOR TO EXECUTE A DEED AND RELEASING ALL LIENS AND ENCUMBRANCES.

Person presenting this item: Shelly Doty, City Secretary

BRIEF: City of Cleburne, for itself and the use and benefit of Johnson County, Hill College and the Cleburne ISD acquired title to a certain tract of real estate known as 909 Turner Street, (aka Lot 10, Block 1 A&S) at a Sheriffs sale held of the 4th day of April, 2017, in Cause No. T200900030, City of Cleburne vs. Terry Jane Mayse. Section 34.05(a) of the Texas Property Tax Code, authorizes the City of Cleburne by and through its governing body, to conduct a resale of property. It is in the best interest of the City of Cleburne and its taxpayers to return this property to a productive use. Katherine Simmerman-Morgan, with Morgan Acres, LLC has made an offer to purchase the property for the sum of thirteen thousand dollars and no cents (\$13,000.00) with plans to build a house on the property which is currently zoned SF4. The city will receive \$1,189.30 for maintenance costs as well as \$5,009.24 being the city's share of the property taxes that will be distributed among the taxing entities.

OR5. AN ORDINANCE APPROVING A TARIFF AUTHORIZING AN ANNUAL RATE REVIEW MECHANISM (RRM) AS SUBSTITUTION FOR THE ANNUAL INTERIM RATE ADJUSTMENT PROCESS DEFINED BY THE TEXAS UTILITIES CODE, AND AS NEGOTIATED BETWEEN ATMOS ENERGY CORP AND THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS.

Person presenting this item: Steve Polasek, City Manager

BRIEF: BACKGROUND AND SUMMARY

The City, along with 171 other Mid-Texas Cities Served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Steering Committee of Cities Served by Atmos ("Cities"). In 2007, the Cities and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process,

referred to as Rate Review Mechanism (“RRM”), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The Ordinance that resolved the Company’s application under the RRM Tariff in 2017 also terminated the existing RRM Tariff and required a renegotiation of the terms of that tariff. Negotiations have taken place over the past several months, and have resulted in a revised RRM Tariff that has been agreed to by the Company. The Cities’ Executive Committee has recommended acceptance of the revised RRM Tariff, which is attached to the Ordinance.

CITIES’ OBJECTION TO THE SECTION 104.301 GRIP PROCESS

Cities strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues and rewarding the Company for increasing capital investment. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission’s review of annual GRIP filings or recover their rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In the Steering Committee’s view, the GRIP process unfairly raises customers’ rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

CHANGES TO THE RRM TARIFF

The RRM Tariff on which the 2017 rates were based allowed a rate of return on equity of 10.50%. The revised RRM Tariff reduces that to 9.8%. The revised RRM Tariff also captures the reduction in federal income tax rates from 35% to 21%, and should result in a rate reduction effective by mid-March, 2018. Prior RRM tariffs allowed Cities only three months to review the Company’s filing. The new revised Tariff expands that time period by two months. New applications by the Company should be made on or about April 1 of each year, with new rates effective October 1. A rate order from the Railroad Commission in an Atmos Texas Pipeline rate case adopted the position of Cities with regard to incentive compensation related to Atmos’ Shared Services Unit that reduced allowed expenses, and that reduced level of expenses will be applicable under the new RRM Tariff.

EXPLANATION OF “BE IT ORDAINED” PARAGRAPHS

1. This section approves all findings in the Ordinance.
2. This section adopts the attached RRM Tariff and finds the adoption of the Tariff to be just, reasonable, and in the public interest. The prior tariff expired by its own terms.
3. This section requires the Company to reimburse the City for expenses associated with adoption of the Ordinance and RRM Tariff and in processing future applications pursuant to the Ordinance.
4. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
5. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
6. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
7. This section provides for an effective date upon passage.

8. This section directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for the Steering Committee.

OR6. 1ST CONSIDERATION AN ORDINANCE GRANTING A FRANCHISE AGREEMENT TO ATMOS ENERGY CORPORATION TO MAINTAIN AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF CLEBURNE FOR THE TRANSPORTATION, DELIVERY, SALE AND DISTRIBUTION OF GAS; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR USE OF PUBLIC RIGHTS-OF-WAY; PROVIDING SUCH FEE SHALL BE IN LIEU OF CERTAIN OTHER FEES AND CHARGES.

Person presenting this item: Steve Polasek, City Manager

BRIEF: Atmos Energy currently provides natural gas service to residential and commercial customers within the City of Cleburne. The most current franchise agreement allowing Atmos to utilize city rights-of-way in the provision of such service was approved on July 10, 2007. The agreement expired on December 31, 2016; however, the City and Atmos have continued to operate under the terms of the agreement until such time as a new franchise is adopted. Please note, this proposed franchise agreement does not cover portions of our industrial area that is governed under a separate agreement approved by the City in April of 2009 and set to expire on December 31, 2019.

The proposed ordinance is modeled after recent franchise agreements from area cities and has been updated to contain conditions that are more favorable to the City, where available. The initial term of this Franchise shall expire at midnight on December 31, 2027. Unless written notice of its intent to renegotiate is provided by either the City or Atmos at least ninety (90) days prior to the expiration of the term, the Franchise shall be extended for up to two (2) additional terms of five (5) years each on the same terms and conditions. The proposed franchise fee is adjusted from four (4) to five (5) percent of gross revenues in line with the majority of our benchmark communities and cities in the north Texas region (see Backup). This revision will result in an increase of approximately 0.50¢ per month for the average residential customer and generate an estimated \$45,000 annually.

Per our City Charter, Section 10.3 FRANCHISES AND SPECIAL PRIVILEGES (B) - *No franchise shall ever be granted until it has been approved by a majority of the City Council, after having been considered at three (3) regular meetings of the City Council, nor shall any such franchise, grant or privilege ever be made unless it provides for adequate compensation or consideration therefore to be paid to the City.* This shall be the first of three readings, with the second and third readings planned for consideration at the regular City Council meetings scheduled in March 2018.

EXECUTIVE SESSION

Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Sec. 551.071, Sec. 551.072, Sec. 551.073, Sec. 551.074, Sec. 551.076, Sec. 551.087 and Sec. 418.0183(f) of the Texas Government Code (Texas Disaster Act). Refer to posted list attached hereto and incorporated herein. **Executive Session may be held, under these exceptions, at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council Meeting.**

Reconvene into open session for possible action resulting from any items posted and legally discussed in Executive Session.

ADJOURNMENT

ADJOURNED AT: