

March 21, 2016

On this the 21st day of March 6:30 P.M., the City Commission of the City of Hereford, Texas, convened in a regular session in the Commission Chamber, in the City Hall, the meeting being open to the public and notice of said meeting having been given as prescribed by Chapter 551 of the Government Code, with the following members being present and in attendance, to-wit:

Tom Simons, Mayor
 Jose A. Garza, Commissioner Place One
 Charlie Kerr, Commissioner Place Three
 Linda Cumpston, Commissioner, Place Four
 Cathy Bunch, Commissioner Place Five
 Sam Metcalf, Commissioner Place Six
 Rick L. Hanna, City Manager
 Suzanne Finch, City Secretary

Absent: Angie Alonzo, Commissioner Place Two
 Slater C. Elza, City Attorney

Jessica Gallardo from the Hereford Brand was in attendance to witness the proceedings. Also in attendance were Assistant City Manager Steve Bartels, Attorney Audie Sciumbato, Sergeant Landon Swan and Officer M'Chele Wright.

Mayor Simons called upon Commissioner Cumpston to voice the invocation and then he led the Pledge of Allegiance to the United States flag. He called the meeting to order, welcomed those in attendance, and introduced each item on the agenda.

REGULAR HEARINGS:

ITEM 1 – Consider approval of minutes for the February 15th, 2016 Regular Meeting.

Commissioner Garza made the motion to approve the minutes. Commissioner Cumpston seconded the motion and it passed with the unanimous vote of the Commission.

PUBLIC HEARINGS:

(Mayor Simons opened the public hearing at 6:32 p.m.)

ITEM 2 – Consider zoning change request for property located at approximately 918 S. Julian. (Requested by Paul Drerup)

City Manager Hanna stated he looked at the properties located in the 900 block of Julian; the trailer house would be situated between two existing trailer houses. He noted the Planning & Zoning Commission voted unanimously to approve the rezoning for property located at approximately 918 S. Julian and it must now come before the City Commission for their approval.

ORDINANCE NO. 03.21.16

AN ORDINANCE AMENDING ORDINANCE NO. 1193, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF HEREFORD REZONING CERTAIN DESCRIBED PROPERTY FROM "R-1" SINGLE FAMILY DISTRICT TO "MH" MOBILE HOME DISTRICT.

Commissioner Metcalf made the motion to uphold the Planning & Zoning Commission's approval of the rezoning request. Commissioner Garza seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 3 – Hear public comments regarding renewal of juvenile curfew ordinance.

Sergeant Swan stated it is written into the Local Government Code to review the juvenile curfew every three years.

To illustrate his point, he told a story of two children, ages five and eight, playing at 4:00 a.m. by themselves; the mother was found at home in bed asleep and when questioned about her children's whereabouts she responded she knew where they were and for the officers to leave them alone. Sergeant Swan noted the officers had no recourse but to leave the children there. He stated there are lots of dangers to children at night and this ordinance holds the parents accountable.

He went over statistics showing a direct correlation between the enactment of the juvenile curfew ordinance and the decrease in criminal mischief cases; noting the juvenile curfew is an excellent tool for law enforcement officers.

(Mayor Simons concluded the public hearings at 6:38 p.m.)

REGULAR HEARINGS:**ITEM 4 - Consider abolishing, continuing, or modifying Juvenile Curfew Ordinance No. 1415.**

Commissioner Metcalf made the motion to continue the juvenile curfew ordinance. Commissioner Kerr seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 5 – Consider Resolution No. 03.21.16 suspending Southwestern Public Service Company's proposed effective date in connection with its Statement of Intent submitted on about February 16, 2016; authorizing the City to join with other cities in the Alliance of Xcel Municipalities ("AXM") to direct the activities of lawyers and consultants; authorizing the hiring of attorneys and consultants; requiring reimbursement of reasonable legal and consultant expenses; requiring proof of notice; finding that the meeting complies with the Open Meetings Act; making other findings and provisions related to the subject; and declaring an effective date.

City Manager Hanna stated this is a re-filing of the rate case from last year; they started at around \$80 million, it went to PUC, it was rejected and then reformatted to \$72 million. He

noted the AXM recommends passing a resolution to suspend in order to allow our consultants adequate time to go over it.

Commissioner Kerr inquired as to how often the utility companies could request a rate increase. City Manager Hanna noted they do so fairly often; but, it is very expensive. Mayor Simons agreed noting the legal fees can be substantial. City Manager Hanna stated those legal fees are passed along to the consumers.

RESOLUTION NO. 03.21.16

A RESOLUTION BY THE CITY OF HEREFORD, TEXAS ("CITY") SUSPENDING SOUTHWESTERN PUBLIC SERVICE COMPANY'S PROPOSED EFFECTIVE DATE IN CONNECTION WITH ITS STATEMENT OF INTENT SUBMITTED ON ABOUT FEBRUARY 16, 2016; AUTHORIZING THE CITY TO JOIN WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES ("AXM") TO DIRECT THE ACTIVITIES OF LAWYERS AND CONSULTANTS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; REQUIRING PROOF OF NOTICE; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Southwestern Public Service Company ("SPS") filed a Statement of Intent with the City of Hereford, Texas ("City") to increase its base-rate revenue requirement for its Texas retail service area by approximately \$71.9 million, which is an increase in base revenue of about 14.41%; and

WHEREAS, the City is a regulatory authority under the Public Utility Regulatory Act ("PURA") and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over SPS' rates, operations, and services within the municipality; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating SPS' rate request and its changes in tariffs it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by SPS to change rates, has in the past joined with other local regulatory authorities to form the Alliance of Xcel Municipalities ("AXM") and hereby continues its participation in AXM; and

WHEREAS, SPS' rate request, which was filed on about February 16, 2016, consists of a voluminous amount of information including SPS' rate-filing package, pre-filed direct testimony, exhibits, schedules, and workpapers; and

WHEREAS, SPS proposed March 22, 2016 as the effective date for its requested increase in rates, which is the 35th day after the date SPS submitted its application; and

WHEREAS, it is not possible for the City to complete its review of SPS' filing within 35 days; and

WHEREAS, the City will need an adequate amount of time to review and evaluate SPS' rate application to enable the City to adopt a final decision as a local regulatory authority with regard to SPS' requested rate increase.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION FOR THE CITY OF HEREFORD, TEXAS THAT:

Section 1. The findings set out in the preamble are in all things hereby approved.

Section 2. SPS's proposed effective date of March 22, 2016 for its filing of February 16, 2016, is hereby suspended for an additional ninety (90) days, or at least until June 20, 2016.

Section 3. The statutory suspension period will be extended automatically day for day should SPS extend its proposed effective date, and may be further extended if SPS does not provide timely, meaningful, and proper public notice of its request to increase rates, or if its rate-filing package is materially deficient.

Section 4. The City continues its participation with other cities in a coalition of cities known as the Alliance of Xcel Municipalities ("AXM") with the understanding that the Steering Committee of AXM is to provide direction and guidance to Special Counsel representing said cities.

Section 5. The City hereby retains Herrera & Boyle, PLLC as Special Counsel to represent the City with regard to SPS' requested increase in rates and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such rate experts as may be necessary for review and evaluation of SPS' rate application.

Section 6. The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SPS for reimbursement.

Section 7. SPS shall reimburse the City on a monthly basis, through AXM's coordinating city, the City of Amarillo, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Amarillo.

Section 8. Not later than seven days after SPS has completed publication of notice of its proposed increase in rates, SPS shall notify AXM that it has completed notice by providing proof of notice to AXM's Special Counsel, Herrera & Boyle, and such proof shall be in the form of an affidavit from a representative from SPS that has personal knowledge that SPS has published notice; such affidavit shall include a copy of notice SPS published.

Section 9. The City Secretary or other appropriate city official shall notify SPS of this Resolution by sending a copy of the Resolution to Evan Evans, Regional Vice President, Rates and Regulatory Affairs, and Brooke Trammell, Rate Case Manager, Southwestern Public Service Company, P.O. Box 1261 Amarillo, Texas 79105-1261 and also Stephen Fogel and Matthew Loftus, Xcel Energy Services, Inc., 816 Congress Ave., Suite 1650, Austin, Texas 78701-2471; and AXM shall be notified by sending a copy of this Resolution to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Ave., Suite 1250, Austin, Texas 78701.

Section 10. 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 11. This Resolution shall become effective from and after its passage.

Section 12. This Resolution supersedes any other resolution in conflict with this Resolution regarding SPS' Statement of Intent and application to increase rates submitted to the City on about February 16, 2016.

PASSED AND APPROVED this 21st day of March 2016.

/s/ Tom Simons
TOM SIMONS, MAYOR

ATTEST:

/s/ Suzanne Finch
SUZANNE FINCH, CITY SECRETARY

Commissioner Bunch made the motion to approve Resolution No. 03.21.16 to suspend. Commissioner Kerr seconded and it passed with the unanimous vote of the Commission.

ITEM 6 - Consider Resolution No. 03.21.16A approving a Negotiated Resolution between the Atmos West Texas Cities Steering Committee ("WTX Cities") and Atmos Energy Corp., West Texas Division regarding the Company's 2015 Rate Review Mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the Negotiated Settlement; finding the rates to be set by the attached tariffs to be just and reasonable and in the public interest; requiring the Company to reimburse Cities' reasonable ratemaking expenses; determining that this Resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this Resolution to the Company and the WTX Cities' legal counsel.

City Manager Hanna stated there are approximately twenty-eight cities that have joined together from the Midland-Odessa area north to the Panhandle to hire consultants to look at this; originally started at \$4.2 million and it was negotiated down to \$3.2 million; which system wide only amounts to approximately ten to fourteen cents per family.

Mayor Simons read the pertinent parts of the following resolution.

RESOLUTION NO. 03.21.16A

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HEREFORD, TEXAS, APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS WEST TEXAS CITIES STEERING COMMITTEE ("WTX CITIES") AND ATMOS ENERGY CORP., WEST TEXAS DIVISION REGARDING THE COMPANY'S 2015 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE WTX CITIES' LEGAL COUNSEL.

WHEREAS, the City of Hereford, Texas ("City") is a gas utility customer of Atmos Energy Corp., West Texas Division ("Atmos West Texas" or "Company"), and a regulatory authority with an interest in the rates and charges of Atmos West Texas; and

WHEREAS, the City is a member of the West Texas Cities Steering Committee ("WTX Cities"), a coalition of similarly-situated cities served by Atmos West Texas that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos West Texas service area; and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2013 Statement of Intent to increase rates, WTX Cities and the Company worked collaboratively to develop a new Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process by WTX Cities as a substitute to the current Gas Reliability Infrastructure Program ("GRIP") process instituted by the Legislature, and that will establish rates for the WTX Cities based on the system-wide cost of serving the West Texas Division, which includes the Amarillo, Lubbock, and WTX Cities rate jurisdictions; and

WHEREAS, the City passed an ordinance renewing the RRM tariff process for the City to govern rate setting in 2015 and beyond; and

WHEREAS, the RRM tariff contemplates reimbursement of Cities' reasonable expenses associated with RRM applications; and

WHEREAS, on or about December 1, 2015, the Company filed with the City its first annual RRM filing under the renewed RRM tariff, requesting to increase natural gas base rates system-wide by \$9.6 million, and for WTX Cities by \$4.2 million; and

WHEREAS, WTX Cities coordinated its review of Atmos West Texas' RRM filing through attorneys and consultants used in prior RRM cases, who prepared a report recommending \$1.66 million in adjustments; and

WHEREAS, the Company reached agreement with WTX Cities to adjust its \$4.2 million request by \$1 million; and

WHEREAS, the Executive Committee, as well as WTX Cities' counsel and consultants, recommend that WTX Cities approve the attached rate tariffs ("Attachment A" to this Resolution), which will increase the Company's revenues by \$3.2 million; and

WHEREAS, the attached tariffs implementing new rates are consistent with the negotiated resolution reached by WTX Cities and are just, reasonable, and in the public interest;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HEREFORD, TEXAS:

Section 1. That the findings set forth in this Resolution are hereby in all things approved.

Section 2. That the City Commission finds the existing rates for natural gas service provided by Atmos West Texas are unreasonable, and new tariffs that are attached hereto and incorporated herein as Attachment A, are just and reasonable and are hereby adopted.

Section 3. That Atmos West Texas shall reimburse the reasonable ratemaking expenses of the WTX Cities in processing the Company's RRM application.

Section 4. That to the extent any resolution or ordinance previously adopted by the Commission is inconsistent with this Resolution, it is hereby repealed.

Section 5. That 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 6. That if any one or more sections or clauses of this Resolution is adjudged 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. That consistent with the City Ordinance that established the RRM process, this Resolution shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after March 15, 2016.

Section 8. That a copy of this Resolution shall be sent to Atmos West Texas, care of Becky Palmer, Vice President of Rates and Regulatory Affairs West Texas Division, Atmos Energy Corporation, P.O. Box 1121, Lubbock, Texas 79408-1121, and to Geoffrey Gay, General Counsel to WTX Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED this 21st day of March, 2016.

/s/ Tom Simons
TOM SIMONS, MAYOR

ATTEST:

/s/ Suzanne Finch
Suzanne Finch, City Secretary

Commissioner Kerr made the motion to approve Resolution No. 03.21.16A. Commissioner Cumpton seconded and it passed with the unanimous vote of the Commission.

ITEM 7 – Consider approval of appointment of Julie Butler to the Community Publicity and Promotions Special Committee.

City Manager Hanna and Mayor Simons noted this committee decides where the other half of the hotel/motel tax funds will be used; for example, it has been used in the past to purchase billboards and as event stipends for Spicer Gripp and the Tierra Blanca Classic.

Commissioner Cumpton made the motion to approve Julie Butler to serve on the Community Publicity and Promotions Special Committee. Commissioner Garza seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 8 – Consider approval of Ordinance No. 03.21.16A declaring unopposed candidates in the May 7th, 2016 City Officers' Election elected to office and canceling a portion of the election. (*Considerar aprobacion de Ordenanza No. 03.21.16A que declara a Candidatos sin oposicion en el 7 de mayo de 2016 Oficiales de la Ciudad la eleccion elegido a la oficina y cancelar una parte de la eleccion.*)

City Manager Hanna stated this is a housekeeping item - we have four places up for election – three are uncontested (Place Two, Place Five, and Place Six) and therefore there is no need to have an election for those places; Place Four is contested and will need to have an election.

ORDINANCE NO. 3.21.16A

AN ORDINANCE OF THE CITY OF HEREFORD, TEXAS DECLARING ANGIE ALONZO ELECTED TO THE OFFICE OF COMMISSIONER PLACE TWO OF THE CITY OF HEREFORD, TEXAS, DECLARING CATHY BUNCH ELECTED TO THE OFFICE OF COMMISSIONER PLACE FIVE (AT-LARGE) OF THE CITY OF HEREFORD, TEXAS AND DECLARING SAM METCALF ELECTED TO THE OFFICE OF COMMISSIONER PLACE SIX (AT-LARGE) OF THE CITY OF HEREFORD, TEXAS AND CANCELING THE MAY 7, 2016 CITY OF HEREFORD, TEXAS OFFICERS' ELECTION ONLY AS TO THESE THREE OFFICES

Commissioner Garza made the motion to approve Ordinance No. 03.21.16A. Commissioner Kerr seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 9 – Consider approval of airport improvement bids.

Mayor Simons stated this item has been tabled.

EXECUTIVE SESSION:

(Mayor Simons began the Executive Session at 6:47 p.m.)

ITEM 10 – Discuss 15th Street Lawsuit. (Provided by Title 5, Chapter 551 Government Code 551.071 Consultation with Attorney.)

(Mayor Simons ended the Executive Session at 7:12 p.m.)

REGULAR HEARINGS:

ITEM 11 - Consider authorizing the City Manager to reach a Settlement Agreement with Parkhill, Smith, & Cooper, Inc. and L. A. Fuller & Sons Construction, LTD.

Commissioner Metcalf made the motion to authorize the City Manager to reach a Settlement Agreement with Parkhill, Smith, & Cooper, Inc. and L. A. Fuller & Sons Construction, LTD. Commissioner Garza seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 12 – Announcements and comments from Mayor and City Commissioners.

Commissioner Garza stated the juvenile curfew is a really good ordinance and he is glad everyone wanted to keep it in effect.

Commissioner Cumpston congratulated City Manager Hanna and his staff on a great job; stating she continues to be amazed.

ITEM 13 – Announcements and comments from City Staff.

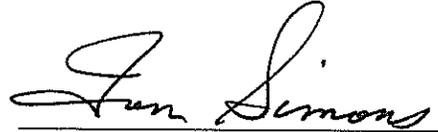
Assistant City Manager Steve Bartels wished everyone a Happy Easter.

ITEM 14 – Public Comments.

There were no public comments.

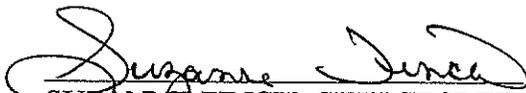
There being no further business before the Commission, the meeting was adjourned at 7:15 p.m.

APPROVED:



TOM SIMONS, MAYOR
CITY OF HEREFORD, TEXAS

ATTEST:



SUZANNE FINCH, CITY SECRETARY