

August 18, 2014

On this the 18th day of August 2014 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:

Robert D. Josserand, Mayor
 Jose A. Garza, Commissioner Place One
 Angie Alonzo, Commissioner Place Two
 Charlie Kerr, Commissioner Place Three
 Linda Cumpton, Commissioner, Place Four
 Cathy Bunch, Commissioner Place Five
 Sam Metcalf, Commissioner Place Six
 Rick L. Hanna, City Manager
 Suzanne Finch, City Secretary

Absent: Slater C. Elza, City Attorney

Lynda Work was in attendance from the Hereford Brand to witness the proceedings. Also in attendance were Assistant City Manager Steve Bartels, Audie Sciumbato (Attorney Underwood Law Firm), HEDC Executive Director Michael Kitten, Ramey Rice, Leona Tohm, Rosie Tohm, Lawrence Brorman, and Eva Herrera.

Mayor Josserand called upon Commissioner Bunch to voice the invocation and then called upon Commissioner Garza to lead the Pledge of Allegiance to the United States flag. He then 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 July 21st, 2014 Regular Meeting.

Commissioner Kerr made the motion for the acceptance of the minutes as presented. Commissioner Bunch seconded the motion and it passed with the unanimous vote of the City Commission.

ITEM 2 - Consider appointment of Keith Bridwell to fill the unexpired term of Mike Schouten on the Hereford Economic Development Corporation Board.

Mayor Josserand stated Keith Bridwell has been contacted and he has agreed to serve the remainder of Mike Schouten's unexpired term on the Hereford Economic Development Corporation Board. Mayor Josserand noted Sally Noyce's and Cody Chandler's terms also expire September 2015; the terms of Mike Mauldin and John Perrin end September 2014. He stated John Perrin is eligible for re-appointment; however, Mike Mauldin has served two full terms and is not eligible to serve again. Mayor Josserand noted he would be asking for the Commissions' approval for a replacement for Mr. Mauldin in September.

Commissioner Alonzo made the motion to appoint Keith Bridwell. Commissioner Metcalf seconded the motion and it passed with the unanimous vote of the City Commission.

ITEM 3 - Hear report from Hereford Economic Development Corporation.

HEDC Executive Director Michael Kitten reported on the following:

- Windmills going up southeast of town (25 already in place)
- Fremantle (Canadian Breaks)
- Tejas

- United Amigos
- Meetings with two locals considering starting new businesses

Commissioner Kerr inquired whether or not a ground-breaking date had been set for the Tejas project. HEDC Executive Director Kitten stated it had not been set at this point.

ITEM 4 - Consider approval of Resolution No. 08.06.14, a resolution adopting Hereford Economic Development Corporation regulations for receiving and approving applications for financial participation in development projects.

Mayor Josserand called upon Attorney Sciumbato to read the pertinent parts of Hereford Economic Development Corporation's Resolution No. 08.06.14.

Attorney Sciumbato read the pertinent parts for ratification by the City Commission.

(HEDC) RESOLUTION NO. 08.06.14

RESOLUTION ADOPTING HEREFORD ECONOMIC DEVELOPMENT CORPORATION REGULATIONS FOR RECEIVING & APPROVING APPLICATIONS FOR FINANCIAL PARTICIPATION IN DEVELOPMENT PROJECTS

Commissioner Cumpston made the motion to accept Resolution No. 08.06.14. Commissioner Kerr seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 5 - Consider third reading of Ordinance/Franchise Agreement with Southwestern Public Service (d/b/a Xcel Energy).

Mayor Josserand called upon Attorney Audie Sciumbato to read the pertinent parts of Ordinance No. 08.04.14 noting this is the third of the three required readings.

ORDINANCE NO. 08.04.14

FRANCHISE AGREEMENT

AN ORDINANCE GRANTING TO SOUTHWESTERN PUBLIC SERVICE COMPANY ("SPS") D/B/A XCEL ENERGY THE RIGHT, PRIVILEGE AND FRANCHISE TO CONDUCT WITHIN THE CITY OF HEREFORD, TEXAS, AN ELECTRICAL LIGHTING AND POWER BUSINESS AND TO ENTER UPON, ERECT, CONSTRUCT, MAINTAIN, EXTEND, REPAIR, REPLACE AND REMOVE IN, UNDER UPON, WITHIN, OVER, ABOVE, ACROSS AND ALONG ANY AND ALL OF THE PRESENT AND FUTURE PUBLIC ROADS, HIGHWAYS, STREETS, LANES, AND ALLEYS OF THE CITY OF HEREFORD, A SYSTEM OF POLES, POLE LINES, TOWERS, DISTRIBUTION LINES, TRANSMISSION LINES, WIRES, GUYS, CABLES, CONDUITS, TRANSFORMERS, AND OTHER DISTRIBUTION AND TRANSMISSION EQUIPMENT, FACILITIES AND APPURTENANCES NECESSARY OR PROPER FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY INTO, IN, WITHIN, FROM, ACROSS, AND THROUGH THE CITY OF HEREFORD AS NOW EXISTING, OR AS SAID CITY LIMITS MAY HEREAFTER BE EXTENDED; AND GRANTING SPS, ITS SUCCESSORS AND ASSIGNS, THE AUTHORITY TO USE SUCH FOR THE PURPOSE OF TRANSMISSION, DISTRIBUTION, DELIVERY AND SALE OF ELECTRICITY TO THE CITY, AND TO THE INHABITANTS OF THE CITY, OR ANY OTHER PERSON OR PERSONS, FIRMS OR CORPORATIONS, WHEREVER LOCATED WITHIN OR WITHOUT THE CITY LIMITS OF HEREFORD, FOR USE

BY SUCH PURCHASER OR PURCHASERS FOR ANY PURPOSE AUTHORIZED BY LAW FOR WHICH ELECTRICITY MAY BE USED OR FOR ANY OTHER PURPOSE OR USE WHICH IS OR MAY BECOME NORMAL OR CUSTOMARY IN THE RETAIL ELECTRIC INDUSTRY IN TEXAS; PROVIDING THAT THIS FRANCHISE SHALL BE EFFECTIVE FOR A PERIOD OF TEN (10) YEARS COMMENCING AUGUST 1ST, 2014; PROVIDING FOR THE TEMPORARY REMOVAL, RAISING OR LOWERING BY SPS OF ITS WIRES AND OTHER APPURTENANCES; PROVIDING FOR THE RIGHT TO, AND CONDITION OF, THE OPENING OF PAVEMENTS AND SIDEWALKS BY SPS; RETAINING ALL RIGHTS OF CITY TO REGULATE THE LOCATION OF SPS'S FACILITIES IN, UPON, ALONG, UNDER AND OVER THE STREETS, ALLEYS AND OTHER PUBLIC PLACES OF CITY, AS WELL AS TO REQUIRE THE RELOCATION OF SAME; PROVIDING FOR EFFICIENT ELECTRICAL SERVICE AND THE MAINTAINING OF SPS'S FACILITIES; PROVIDING FOR THE USE BY CITY FOR THE PURPOSES SPECIFIED OF POLES AND CONDUITS OF SPS; PROVIDING COMPENSATION, AND METHOD OF PAYMENT OF SUCH, TO THE CITY FOR THE USE BY SPS OF THE STREETS, ALLEYS AND PUBLIC WAYS OF THE CITY; PROVIDING FOR THE MAINTAINING OF RECORDS BY SPS WITH RIGHT OF INSPECTION BY CITY RESERVING TO CITY ALL POWERS OF REGULATION; PROHIBITING ASSIGNMENT EXCEPT BY CONSENT BY CITY EXCEPT IN CERTAIN CASES; GIVING CITY'S CONSENT TO THE CUTTING AND TRIMMING BY SPS OF CONFLICTING TREES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS FRANCHISE SHALL NOT BE EXCLUSIVE; MAKING MISCELLANEOUS PROVISIONS RELATIVE TO THIS GRANT OF FRANCHISE; REPEALING ALL PREVIOUS ELECTRICAL LIGHTING AND POWER FRANCHISE ORDINANCES; PROVIDING FOR THE ACCEPTANCE OF THIS FRANCHISE ORDINANCE BY SPS

Commissioner Metcalf made the motion for the acceptance of the franchise agreement between SPS and the City. Commissioner Garza seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 6 - Consider approval of bid for the new potable waterline (TxCDBG No. 713220).

Mayor Josserand stated we got some help to put in and start to replace water/sewer lines and this is one of the projects [Texas Community Development Block Grant]. He noted we received three bids:

Allen Doggett Construction Co.	\$191,520.00
Tejas Partner Construction	\$201,000.00
MH Civil Constructors	\$219,836.90

Mayor Josserand noted the city engineers recommend the Allen Doggett bid.

Commissioner Bunch made the motion to accept the bid from Allen Doggett Construction Co. in the amount of \$191,520.00. Commissioner Cumpston seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 7 - Consider approval of bid for the 15th Street Widening/Extension - Mill and Overlay.

Mayor Josserand stated it is the recommendation of Parkhill, Smith, & Cooper to accept the bid of J. Lee Milligan, Inc. in the amount of \$358,793.40. He noted we received only one bid even though initial indications were that several companies were interested in bidding.

Mayor Josserand stated we are looking at laying asphalt in October and will keep at least one lane open during construction for traffic to hospital and Amarillo College.

Commissioner Kerr made the motion to accept the bid from J. Lee Milligan in the amount of \$358,793.40. Commissioner Garza seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 8 - Consideration and action to authorize a joint election agreement and/or election services agreement with Deaf Smith County for the November 4, 2014 uniform election date, and authorize all necessary and further action related thereto.

Mayor Josserand called upon Attorney Sciumbato to read the pertinent parts of the resolution.

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HEREFORD,
TEXAS AUTHORIZING JOINT ELECTION AGREEMENT WITH DEAF SMITH
COUNTY, TEXAS**

The City Commission for the City of Hereford, Texas does hereby make the following Resolution regarding the joint election to be conducted with Deaf Smith County, Texas, as more fully described in the Joint Election Agreement (the "Agreement") attached hereto as Exhibit "A" and fully incorporated as if set forth herein:

WHEREAS, Texas Election Code § 271.002(a) authorizes the governing bodies of political subdivisions to enter into an agreement to hold joint elections and share common polling places; and,

WHEREAS, the City of Hereford, Texas ("City") and Deaf Smith County ("County") are each political subdivisions of the State of Texas; and,

WHEREAS, the County will conduct an election on November 4, 2014; and,

WHEREAS, the City intends to conduct a special bond election on November 4, 2014; and,

WHEREAS, because the County is conducting an election on the November 4, 2014 uniform Election Day, the Texas Election Code requires the City to use the County precincts and common polling places for its special bond election; and,

WHEREAS, the governing bodies of the City and the County desire to hold a joint election as set forth in the Agreement; and,

WHEREAS, the City and the County have agreed to use polling places as permitted by Texas Election Code § 271.003; and,

WHEREAS, the City and County have common voters, and it would be to the benefit of the County, the City, and the resident voters thereof, to share joint polling places, and for the County to provide election services, as set forth in the Agreement and/or the Parties' Election Orders.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HEREFORD that the Commission hereby adopts the above recitals as findings of fact and operative provisions hereof the same as if set out in full; and,

BE IT FURTHER ORDAINED that the City's election shall be held jointly with Deaf Smith County, Texas, as permitted under Texas Election Code Chapter 271, and as set forth in the Agreement attached hereto; and,

BE IT FURTHER ORDAINED that the Commission authorizes the City Manager to enter into the attached Agreement, and that the City Manager is authorized to take such actions and execute such documents as are necessary to implement the actions that are contemplated herein, whether or not expressly authorized herein.

PASSED AND APPROVED, this 18th day of August, 2014, by the City Commission of the City of Hereford, Texas.

By: /s/ Robert D. Josserand
Robert D. Josserand, Mayor

ATTEST:

/s/Suzanne Finch
Suzanne Finch, City Secretary

Mayor Josserand read the suggested motion: "I move that the City approve the Resolution regarding a joint election agreement and/or election services agreement with Deaf Smith County as presented, and to authorize the Mayor and/or City Manager, as appropriate, to execute any and all documents and take all necessary action related thereto" and asked for a motion to accept the resolution. Commissioner Alonzo made the motion, Commissioner Cumpton seconded the motion. It passed with the following vote: Mayor Josserand aye; Commissioner Garza aye; Commissioner Alonzo aye; Commissioner Kerr nay; Commissioner Cumpton aye; Commissioner Bunch aye; and Commissioner Metcalf aye.

ITEM 9 - Consideration and action on an Ordinance calling a Special Election on the issuance General Obligation Bonds and providing for the conduct of the election and other matters incident thereto.

Mayor Josserand called upon Attorney Sciumbato to read the pertinent parts of Ordinance No. 08.18.14.

ORDINANCE NO. 08.18.14

**AN ORDINANCE OF THE CITY COMMISSION
OF THE CITY OF HEREFORD, TEXAS
CALLING AN ELECTION ON THE ISSUANCE OF GENERAL OBLIGATION BONDS AND
PROVIDING FOR THE CONDUCT OF
THE ELECTION AND OTHER MATTERS INCIDENT THERETO**

Mayor Josserand read the suggested motion: "I move that the City adopt an Ordinance, as presented, calling a Special Bond Election, providing for the conduct of the election, and other matters incident thereto; and, authorize the Mayor and/or City Secretary, as appropriate, to execute any and all documents necessary to effectuate the matters contained therein."

Commissioner Kerr stated that as we continue to look for water he commends the mayor and city manager and past mayors and city managers for their work to secure water. He stated he has learned there may be other viable options and he is not willing to obligate the public to pay for water we know is here today when no guarantee it will be there in twenty years.

Commissioner Kerr noted his other concern is the proposed fee per tap as opposed to the ad valorem tax.

Mayor Josserand stated the proposition had to be written this way in order to put it on the ballot; if the citizens approve the purchase, we have option to go certificate of obligation and charge per tap rather than an ad valorem tax. Mayor Josserand noted by going this route, it allows the citizens to make the decision on whether or not to purchase the water and he does not think it is appropriate to deny the voters that opportunity.

Commissioner Kerr stated the proposition language is awfully vague - basically \$36 million is a pile of money to go do something. Mayor Josserand deferred to Attorney Sciumbato to answer the inquiry.

Attorney Sciumbato advised that under the law there is no requirement for specificity; however, the funds are clearly earmarked for the purchase of water rights.

Commissioner Kerr inquired if that was for any water rights. Attorney Sciumbato stated that is correct.

Commissioner Metcalf stated we have held three public hearings to listen to the public. He noted he must have heard the public differently because he thought most of them were opposed to the water acquisition.

Commissioner Alonzo made the motion to accept Ordinance No. 08.18.14. Commissioner Bunch seconded the motion and it passed with the following vote: Mayor Josserand aye; Commissioner Garza nay; Commissioner Alonzo aye; Commissioner Kerr nay; Commissioner Cumpston aye; Commissioner Bunch aye; and Commissioner Metcalf nay.

ITEM 10 - Consideration and action to hire the Underwood Law Firm as bond counsel.

City Manager Hanna stated we need to hire bond counsel to deal with the legal issues and opted to use Underwood Law Firm.

Commissioner Metcalf inquired why bond counsel was needed and about their fees. City Manager Hanna stated bond counsel is needed to structure the bond election in such a way as to receive approval by the Attorney General's Office. Attorney Sciumbato read from Paragraph V. Fees and Records of the engagement letter regarding the fee structure " . . . if financing is not consummated, it is our understanding that we will NOT be paid our fees for preparing and assisting in the Bond election (\$5,000) . . . "

Mayor Josserand read the suggested motion: "I move that the City hire the Underwood Law Firm as bond counsel, and, authorize the Mayor to execute the bond counsel engagement letter on behalf of the City."

Commissioner Bunch made the motion as it was suggested. Commissioner Alonzo seconded the motion and it passed with the following vote: Mayor Josserand aye; Commissioner Garza aye; Commissioner Alonzo aye; Commissioner Kerr nay; Commissioner Cumpston aye; Commissioner Bunch aye; and Commissioner Metcalf nay.

ITEM 11 - Consider cancelling regular City Commission Meeting scheduled for September 1, 2014.

Commissioner Cumpston made the motion that they don't meet on Labor Day. Commissioner Metcalf seconded and the motion passed with the unanimous vote of the Commission.

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

Mayor Josserand thanked the City Commission as this is the first time in quite a while that they have disagreed and he welcomes that and thanked the commissioners for exhibiting courtesy to each other.

He also thanked the Commission for the hour and a half they spent going over the budget earlier today which will be voted on at the September 15th meeting.

Mayor Josserand thanked the City Commission for having had good discussions on the water issue; he appreciated their consideration; and also, Commissioner Kerr for calling him to let him know he could not support the water acquisition. He thanked the Commission for handling these affairs in a very professional manner.

Commissioner Cumpston stated as Americans one of our biggest rights is the vote and she feels we cannot take the vote on this away from the people.

Commissioner Alonzo noted even though they may disagree - everyone is concerned about our community and doing what they feel is right; she will not think differently about those commissioners that are opposed to the water acquisition; we will see where it takes us.

Commissioner Kerr stated it is good to be able to have different opinions.

Commissioner Garza agreed.

Commissioner Bunch stated she had recently watched an episode of China Town that dealt with water issues and their very strong reactions to it.

Commissioner Metcalf asked the Commission to consider a ban on texting while driving. He noted the State will probably pass one eventually, but he would like to be cautious and proactive.

ITEM 13 - Announcements and comments from City Staff.

There were no comments from City Staff.

ITEM 14 - Public Comments.

Rosie Tohm inquired as to whether or not there are any written rules pertaining to quarantining dogs and dogs at-large.

Attorney Sciumbato advised the City takes rules from the Texas Health and Safety Code.

Rosie Tohm stated they have an acre of land, dogs cannot get out, dogs had never bitten anyone before, and she did not understand why they could not be quarantined at home where they would be given good care.

City Manager Hanna stated the quarantine rules are set by the state; cannot pick and choose whose dog is allowed to be quarantined at home; so all are treated the same. He noted we have an excellent facility complete with refrigerated air, a ventilation system, automatic water dispensers, and good food for the animals.

Rosie Tohm insisted she wanted a copy of the rules in writing.

Mayor Josserand stated we would see that she received a copy.

Lawrence Brorman stated rather than requiring other potential sellers to match the criteria of the proposed purchase, he would have preferred to see the water acquisition put up for bid.

Leona Tohm wanted to know why so many dogs and cats are running loose. Mayor Josserand read from the monthly reports noting the number of dogs and cats picked up and how many were euthanized just last month. Mayor Josserand stated the Humane Society is launching a campaign to get animals spayed and neutered and this may help.

Joe Kerr inquired how the deal with Joe Grotegut originated. Mayor Josserand stated it was a deal made between City Manager Hanna, the Grotegut family, their attorneys, and our attorneys and it originated from a conversation that took place two to four years ago.

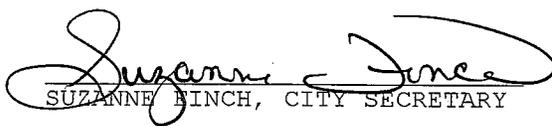
There being no further business before the Commission, the meeting was adjourned at 7:30 p.m.

APPROVED:



ROBERT D. JOSSERAND, MAYOR
CITY OF HEREFORD, TEXAS

ATTEST:



SUZANNE FINCH, CITY SECRETARY