

September 21, 2020

On this the 21st day of September, 2020 at 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  
 Angie Alonzo, Commissioner Place Two  
 Clint Savoini, Commissioner Place Three  
 Linda Cumpton, Commissioner, Place Four  
 Cathy Bunch, Commissioner Place Five  
 Rocky Bhakta, Commissioner Place Six  
 Steve Bartels, Interim City Manager  
 Suzanne Finch, City Secretary  
 Audie Sciumbato, City Attorney

Jeff Blackmon from the Hereford Brand was in attendance to witness the proceedings.

Also, in attendance were HEDC Executive Director Wade Hawkins and Officer Sky Holcomb.

Mayor Simons called upon Commissioner Cumpston to voice the invocation and then called upon Commissioner Alonzo to lead 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 HEARING:**

**ITEM 1 – Consider approval of minutes for the August 31st, 2020 Special Meeting.**

Commissioner Savoini made the motion to approve the minutes for the August 31<sup>st</sup>, 2020 Special Meeting as presented. Commissioner Bhakta seconded the motion and it passed with the unanimous vote of the Commission.

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

**PUBLIC HEARINGS:**

**ITEM 2 – Hear public comments regarding the proposed budget for FY 2020-2021.**

There were no comments on this item.

**ITEM 3 - Hear public comments regarding the proposed tax rate for 2020.**

There were no comments on this item.

**ITEM 4 - Consider zoning change request (Ordinance No. 09.21.20) for property located at 305 Brevard. (Requested by Andrea Reinert)**

Interim City Manager Bartels stated the Planning & Zoning Board unanimously approved this request to rezone to Mobile Home; the property is fairly narrow and a mobile home is about the only thing that would work well. He also noted there are ten existing mobile homes within a two-block radius of the property.

**ORDINANCE NO. 09.21.20**

**AN ORDINANCE AMENDING ORDINANCE NO. 1193, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF HEREFORD REZONING CERTAIN DESCRIBED PROPERTY FROM "R-2" TWO-FAMILY DISTRICT TO "MH" MOBILE HOME DISTRICT**

Commissioner Savoini made the motion to approve the zoning change request. Commissioner Cumpton seconded the motion and it was approved by the unanimous vote of the Commission.

**ITEM 5 - Consider zoning change request (Ordinance No. 09.21.20A) for property located at 526 Ave G. (Requested by Mike Nguyen)**

Interim City Manager Bartels noted there was a lot of discussion at the Planning and Zoning Commission meeting on this item; but it was ultimately unanimously approved. He stated the next day one of the board members called him with some concerns.

Mayor Simons stated the same board member called him with some reservations about this item.

Commissioner Alonzo stated she had been contacted by the board member. Commissioner Alonzo expressed concern regarding this rezoning because the owner had not specified what type of business he wanted to open and 15<sup>th</sup> Street is one of the main roads visitors use, especially in route to sporting events.

Commissioner Savoini stated the Planning and Zoning board member with concerns was not here tonight. Commissioner Savoini stated he trusts the decision of the board.

Mayor Simons noted in order to overturn the recommendation of the Planning and Zoning Board it requires six of the seven members of the City Commission to vote in favor of overturning their decision.

**ORDINANCE NO. 09.21.20A**

**AN ORDINANCE AMENDING ORDINANCE NO. 1193, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF HEREFORD REZONING CERTAIN DESCRIBED PROPERTY FROM "C-1" COMMERCIAL RETAIL DISTRICT TO "CB" CENTRAL BUSINESS DISTRICT**

Commissioner Cumpston made a motion to table this item. Commissioner Alonzo seconded. The motion failed four to three with the following vote of the Commission: Mayor Simons - aye, Commissioner Garza - nay, Commissioner Alonzo - aye, Commissioner Savoini - nay, Commissioner Cumpston - aye, Commissioner Bunch - nay, and Commissioner Bhakta - nay.

Commissioner Bhakta made the motion to approve the recommendation of the Planning and Zoning Commission. Commissioner Garza seconded and the motion passed four to three with the following vote of the Commission: Mayor Simons - nay, Commissioner Garza - aye, Commissioner Alonzo - nay, Commissioner Savoini - aye, Commissioner Cumpston - nay, Commissioner Bunch - aye, and Commissioner Bhakta - aye.

**ITEM 6 - Consider zoning change request (Ordinance No. 09.21.20B) for property located at 911 S Schley. (Requested by Henry Dominguez, Jr. and Benita Dominquez)**

Interim City Manager Bartels stated no one came to voice an opinion for or against this item at the meeting of the Planning & Zoning Board; the board approved unanimously.

ORDINANCE NO. 09.21.20B

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 Bunch made the motion to approve the zoning change. Commissioner Cumpston seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 7 - Consider zoning change request (Ordinance No. 09.21.20C) for property located at 921 S Ave K. (Requested by Freddie Martinez and Esperanza Martinez)**

Interim City Manager Bartels stated there was only one question on this property at the Planning and Zoning Commission board meeting; one of the neighboring property owners wanted to know the effect on her property. He advised her it would not affect how her property was zoned.

Interim City Manager Bartels noted the board approved the zoning change request unanimously.

ORDINANCE NO. 09.21.20C

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 Bhakta made the motion to approve the zoning change. Commissioner Savoini seconded the motion and it passed with the unanimous vote of the Commission.

*(Mayor Simons concluded the public hearing at 6:39 p.m.)*

**REGULAR HEARINGS:**

**ITEM 8 – Consider Resolution No. 09.21.20 approving a negotiated settlement between the Executive Committee of Cities served by Atmos West Texas (“Cities”) and Atmos Energy Corp., West Texas Division regarding the Company’s 2020 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 settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; 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 Cities’ legal counsel.**

Interim City Manager Bartels summarized the settlement.

RESOLUTION NO. 09.21.20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HEREFORD, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE EXECUTIVE COMMITTEE OF CITIES SERVED BY ATMOS WEST TEXAS (“CITIES”) AND ATMOS ENERGY CORP., WEST TEXAS DIVISION REGARDING THE COMPANY’S 2020 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 SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; 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 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 Cities Served by Atmos West Texas (“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, Cities and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review

process by Cities as a substitute to the Gas Reliability Infrastructure Program ("GRIP") process instituted by the Legislature, and that will establish rates for Cities based on the system-wide cost of serving the Atmos West Texas service area; and

WHEREAS, the RRM tariff was adopted by the City in a rate ordinance in 2018; and

WHEREAS, on about March 31, 2020, Atmos West Texas filed its 2020 RRM rate request with Cities based on a test year ending December 31, 2019; and

WHEREAS, Cities coordinated its review of the Atmos West Texas 2020 RRM filing through its Executive Committee, assisted by Cities' attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as Cities' counsel and consultants, recommends that Cities approve an increase in base rates for Atmos West Texas of \$5.9 million with an Effective Date of December 1, 2020; and

WHEREAS, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the Cities' Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Exhibit B) and

WHEREAS, the settlement agreement establishes an amortization schedule for regulatory liability (Exhibit C); and

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

NOW, THEREFORE, BE IT RESOLVED 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, without prejudice to future litigation of any issue identified by Cities, the City Commission finds that the settled amount of an increase in revenues of \$5.9 million for Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos West Texas within the municipal limits arising from Atmos West Texas' 2020 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

**Section 3.** That the existing rates for natural gas service provided by Atmos West Texas are unreasonable. The new tariffs, attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos West Texas to recover annually an additional \$5.9 million in revenue from customers in Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

**Section 4.** That the ratemaking treatment for pensions and retiree medical benefits in Atmos West Texas' next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

**Section 5.** That subject to any future settlement or decision regarding the balance of Excess Deferred Income Tax to be refunded to ratepayers, the amortization of regulatory liability shall be consistent with the schedule found in Exhibit C, attached hereto and incorporated herein.

**Section 6.** That Atmos West Texas shall reimburse the reasonable ratemaking expenses of the Cities in processing the Company's 2020 RRM filing.

**Section 7.** That to the extent any resolution or ordinance previously adopted by the Commission is inconsistent with this Resolution, it is hereby repealed.

**Section 8.** 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 9.** 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 10.** 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 December 1, 2020.

**Section 11.** That a copy of this Resolution shall be sent to Atmos West Texas, care of Philip Littlejohn, Vice President of Rates and Regulatory Affairs, West Texas Division, 6606 66th Street, Lubbock, Texas 79424, and Geoffrey Gay, General Counsel to Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED this 21st day of September, 2020.

/s/ Tom Simons  
Tom Simons, Mayor

ATTEST:

/s/ Suzanne Finch  
Suzanne Finch, City Secretary

Commissioner Cumpton made the motion to approve Resolution No. 09.21.20 approving the negotiated settlement. Commissioner Bunch seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 9 - Consider approval of bid for Water System Improvements; Hereford Well Field Electrical Package and award Construction Contract.**

Interim City Manager Bartels stated this is the final piece of the new water well. He stated this is for the electrical and we only received one bid. He noted Johnny Veazey of Ag Electric was the only bidder and he knows our water system and will do it right.

Commissioner Savoini made the motion to approve the bid from Ag Electric. Commissioner Garza seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 10 - Hear report from Hereford Economic Development Corporation.**

HEDC Executive Director Hawkins reported on the following:

- Board members (terms of John Perrin & Jerry O’Rear are expiring)
- Caviness staffing update
- Conveyor Video / Expio update
- L2L Development / Bureau Veritas update
- Solar Farm
- Reinert
- Leadership Hereford
- Plastic recycling

**ITEM 11 - Consider approval of appointment of two new board members to the Hereford Economic Development Corporation Board.**

Mayor Simons noted he has only one of the two appointments tonight for consideration due to some complications. He stated he will have the other appointment at the next meeting. Mayor Simons stated Tim Laws would be a great addition to the board and that is his recommendation.

Commissioner Bhakta made the motion that Tim Laws be appointed to the Hereford Economic Development Corporation board. Commissioner Alonzo seconded and the motion passed with the unanimous vote of the Commission.

**ITEM 12 - Consider approval of 2021 Recommended Budget for Deaf Smith County Appraisal District.**

Mayor Simons stated the budget for the Deaf Smith County Appraisal District is in the Commission agenda packet.

Commissioner Bunch made the motion to approve the City’s portion of the proposed Deaf Smith County Appraisal District budget. Commissioner Savoini seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 13 - Consider and adopt budget Ordinance No. 09.21.20D approving the budget and making appropriation for support of the City Government and approving the budget for the Hereford Economic Development Corporation for the fiscal year beginning October 1, 2020, and ending September 30, 2021.**

Mayor Simons stated that nothing has changed on the proposed budget since the last time the Commission met.

Interim City Manager Bartels stated it is a good budget – conservative but still meets the needs of both the citizens and the employees.

**ORDINANCE NO. 09.21.20D**

**AN ORDINANCE OF THE CITY OF HEREFORD, TEXAS APPROVING THE BUDGET AND MAKING APPROPRIATION FOR SUPPORT OF THE CITY GOVERNMENT AND APPROVING THE BUDGET FOR THE HEREFORD ECONOMIC DEVELOPMENT CORPORATION FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020, AND ENDING SEPTEMBER 30, 2021**

Commissioner Bhakta made the motion to approve the budget. Commissioner Cumpton seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 14 - Consider and adopt Ordinance No. 09.21.20E setting the 2020 tax rate.**

Mayor Simons stated the proposed tax rate is still 32 cents.

**ORDINANCE NO. 09.21.20E**

**AN ORDINANCE OF THE CITY OF HEREFORD, TEXAS SETTING THE TAX RATE FOR THE YEAR**

Commissioner Savoini made the motion to approve the proposed tax rate of 32 cents per \$100 valuation. Commissioner Bunch seconded and the motion passed with the following vote of the Commission: Mayor Simons - aye, Commissioner Garza - aye, Commissioner Alonzo – aye, Commissioner Savoini – aye, Commissioner Cumpton – aye, Commissioner Bunch – aye, and Commissioner Bhakta - aye.

**ITEM 15 – Announcements and comments from Mayor and City Commissioners.**

Commissioner Bunch thanked Interim City Manager Bartels for responding to her calls and getting things done.

Commissioner Bhakta stated the golf course is looking good; he thanked Interim City Manager Bartels; and also, thanked the guys for their work cleaning up the dead trees.

Mayor Simons stated we are doing more on the cart paths.

Commissioner Savoini thanked Interim City Manager Bartels for his work on moving forward on some ideas to make the airport even better.

Mayor Simons urged the commissioners to call him or Steve anytime with questions, concerns, ideas to make things better. He stated he appreciates Interim City Manager Bartels, the department heads, and City staff.



**ITEM 16 – Announcements and comments from City Staff.**

Interim City Manager Bartels discussed changes to the placement of STOP signs at the intersection of 3<sup>rd</sup> Street and Schley.

Interim City Manager Bartels stated he has been compiling the COVID numbers while Fire Marshal Turney was off and asked commissioners to let him know if they have questions or see any discrepancies.

**ITEM 17 – Public Comments.**

There were no public comments.

There being no further business before the Commission, the meeting was adjourned at approximately 7:02 p. m.