

September 20, 2021

On this the 20th day of September, 2021 at 6:30 p.m., the City Commission of the City of Hereford, Texas, convened in a regular session in the Commission Chamber in 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:

Cathy Bunch, Mayor  
 Reyna Ruiz, Commissioner Place One  
 Clint Savoini, Commissioner Place Three  
 James Stow, Commissioner, Place Five  
 Rocky Bhakta, Commissioner Place Six  
 Steve Bartels, City Manager  
 Suzanne Finch, City Secretary  
 Audie Sciumbato, City Attorney

Absent: Angie Alonzo, Commissioner Place Two  
 Mark Collier, Commissioner, Place Four

Jim Steiert was in attendance from the Hereford Brand to witness the proceedings.

Also, in attendance were Fire Marshal Dean Turney, Public Works Director Johnny Torres, HEDC Executive Director Wade Hawkins, B. J. Gililand, Officer Edwards, Zane Edwards with Parkhill, and Herb Vogel.

Mayor Bunch voiced the invocation and then called upon Commissioner Savoini to lead the Pledge of Allegiance to the United States flag. She 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 16th, 2021 Work Session and the August 16th, 2021 Regular Meeting.**

Commissioner Savoini made the motion to approve the minutes as presented. Commissioner Bhakta seconded the motion and it passed with the unanimous vote of the Commission.

*(Mayor Bunch opened the public hearing at 6:35 p.m.)*

**PUBLIC HEARINGS:**

**ITEM 2 – Hear public comments regarding the proposed budget for 10/01/2021 – 09/30/2022.**

There were no public comments regarding the proposed budget.

**ITEM 3 – Hear public comments regarding the proposed tax rate for 2021.**

There were no public comments regarding the proposed tax rate.

*(Mayor Bunch closed the public hearing at 6:36 p.m.)*

**REGULAR HEARINGS:****ITEM 4 – Hear report from Hereford Economic Development Corporation.**

HEDC Executive Director Hawkins reported on the following:

- Thanked outgoing board members, Keith Bridwell and Sally Noyce, for their service
- Businesses considering expansion, including
  - Production company
  - Manufacturing company
  - Animal Health company
- Welcomed two new board members, Stacie Lloyd and Chris Grotegut, if the Commission approves their appointment

**ITEM 5 - Consider approval of appointment of two new board members to the Hereford Economic Development Corporation Board and re-appointment of one board member.**

Commissioner Savoini made the motion to re-appoint Phillip Kahlich and to appoint Stacie Lloyd and Chris Grotegut to serve on the Hereford Economic Development Corporation Board. Commissioner Stow seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 6 - Consider Resolution No. 09.20.21 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 2021 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.**

City Manager Bartels gave a brief explanation of the resolution noting the amount had been negotiated down from \$1.2 Million to \$152,000.00.

**RESOLUTION NO. 09.20.21**

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 2021 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 April 1, 2021, Atmos West Texas filed its 2021 RRM rate request with Cities based on a test year ending December 31, 2020; and

WHEREAS, Cities coordinated its review of the Atmos West Texas 2021 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 \$152,000 with an Effective Date of December 1, 2021; 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 \$152,000 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' 2021 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 \$152,000 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 2021 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, 2021.

**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 Thomas Brocato, General Counsel to Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED this 20<sup>th</sup> day of September 2021.

/s/ Cathy Bunch  
Cathy Bunch, Mayor

ATTEST:

/s/ Suzanne Finch  
Suzanne Finch, City Secretary

Commissioner Bhakta made the motion to approve Resolution No. 09.20.21. Commissioner Reyna seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 7 - Consider approval of award of bid for Hereford US Hwy 60 Utility Relocation.**

City Manager Bartels went over the bids received August 19<sup>th</sup> for the relocation of water and sewer lines for the U. S. Hwy 60 project; noting Tx Dot will pay for the majority of the cost.

Zane Edwards of Parkhill stated the bids were reviewed; the lowest bidder was unable to demonstrate qualifications (experience) for this project; their firm recommends Commission approval of the second lowest bid, Amarillo Utility Contractors, in the amount of \$6,847,939.00.

Commissioner Savoini made the motion to approve the bid of \$6,847,939.00 from the lowest responsible bidder, Amarillo Utility Contractors. Commissioner Bhakta seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 8 - Consider approval of award of bid for group health insurance.**

B. J. Gililand gave a brief history of the Affordable Care Act and fully insured versus partially self-funded plans. Mr. Gililand went over the current renewal information for I. M. S. including deductible, total out-of-pocket, co-pay, and drug co-pay amounts.

City Manager Bartels noted the customer service we receive from Mr. Gililand and his staff is outstanding and the same goes for I. M. S.

Commissioner Bhakta made the motion to approve the renewal from I. M. S. Commissioner Savoini seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 9 - Consider Ordinance No. 09.20.21 amending the Schedule of Rates for the furnishing of water by the City of Hereford, Texas, amending Subsection (1)(B), Subsection (1)(C), and Subsection (1)(D) of 13.02.122 of the Code of Ordinances and establishing new rates for such water services effective October 1, 2021.**

ORDINANCE NO. 09.20.21

AN ORDINANCE OF THE CITY OF HEREFORD, TEXAS, AMENDING THE SCHEDULE OF RATES FOR THE FURNISHING OF WATER BY THE CITY OF HEREFORD, TEXAS, AMENDING SUBSECTION (1) (B), SUBSECTION (1) (C), AND SUBSECTION (1) (D) OF 13.02.122 OF THE CODE OF ORDINANCES AND

ESTABLISHING NEW RATES FOR SUCH WATER SERVICES EFFECTIVE OCTOBER 1, 2021

City Manager Bartels stated he would address Agenda Items 9, 10, & 11. He noted within the current budget is a proposed five percent increase to water, sewer, and trash; the base rates are not affected.

Commissioner Ruiz made the motion to approve Ordinance No. 09.20.21. Commissioner Savoini seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 10 - Consider Ordinance No. 09.20.21A amending the Schedule of Rates for the furnishing of wastewater service by the City of Hereford, Texas, amending Subsection (1)(B) and Subsection (2)(A) of Sec. 13.02.124 of the Code of Ordinances, and establishing new rates for such wastewater service effective October 1, 2021.**

ORDINANCE NO. 09.20.21A

AN ORDINANCE OF THE CITY OF HEREFORD, TEXAS, AMENDING THE SCHEDULE OF RATES FOR THE FURNISHING OF WASTEWATER SERVICE BY THE CITY OF HEREFORD, TEXAS, AMENDING SUBSECTION (1) (B) AND SUBSECTION (2) (A) OF SEC. 13.02.124 OF THE CODE OF ORDINANCES, AND ESTABLISHING NEW RATES FOR SUCH WASTEWATER SERVICE EFFECTIVE OCTOBER 1, 2021

Commissioner Savoini made the motion to approve Ordinance No. 09.20.21A. Commissioner Ruiz seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 11 - Consider Ordinance No. 09.20.21B amending the Schedule of Service Fees for the collection and disposal of municipal solid waste, amending Subsection (1)(A), Subsection (1)(B), and Subsection (2) of Sec. 13.03.005 of the Code of Ordinances and establishing new fees for such collection and disposal services effective October 1, 2021.**

ORDINANCE NO. 09.20.21B

AN ORDINANCE OF THE CITY OF HEREFORD, TEXAS, AMENDING THE SCHEDULE OF SERVICE FEES FOR THE COLLECTION AND DISPOSAL OF MUNICIPAL SOLID WASTE, AMENDING SUBSECTION (1) (A), SUBSECTION (1) (B), AND SUBSECTION (2) OF SEC. 13.03.005 OF THE CODE OF ORDINANCES AND ESTABLISHING NEW FEES FOR SUCH COLLECTION AND DISPOSAL SERVICES EFFECTIVE OCTOBER 1, 2021

Commissioner Ruiz made the motion to approve Ordinance No. 09.20.21B. Commissioner Savoini seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 12 - Consider approval of 2022 Recommended Budget for Deaf Smith County Appraisal District.**

City Manager Bartels noted a copy of the proposed budget is in the agenda packet and as one of the taxing entities, the Commission is asked to approve our portion which is equal to 5.92% or \$38,752.00 of their total budget.

Commissioner Bhakta made the motion to approve the City's portion of the 2022 Budget for the Deaf Smith County Appraisal District. Commissioner Stow seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 13 - Consider and adopt budget Ordinance No. 09.20.21C 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, 2021, and ending September 30, 2022.**

ORDINANCE NO. 09.20.21C

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, 2021, AND ENDING SEPTEMBER 30, 2022

Commissioner Ruiz made the motion to approve Ordinance No. 09.20.21C approving the budget. Commissioner Savoini seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 14 – Consider and adopt Ordinance No. 09.20.21D setting the 2021 tax rate.**

ORDINANCE NO. 09.20.21D

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

Commissioner Stow made the motion to approve Ordinance No. 09.20.21D setting the 2021 tax rate at thirty-one cents per one-hundred-dollar valuation. Commissioner Savoini seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 15 – Consider approval of by-laws adopted by the Hereford Beautification Advisory Board.**

Commissioner Savoini made the motion to approve the by-laws adopted by the Hereford Beautification Advisory Board. Commissioner Ruiz seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 16 - Consider approval of Resolution No. 09.20.21A denying Southwestern Public Service Company's proposed rate increase request in connection with its Statement of Intent submitted on about February 8, 2021; requiring reimbursement of reasonable legal and consultant expenses; finding that the meeting complies with the Open Meetings Act; making other findings and provisions related to the subject.**

City Manager Bartels gave a brief overview of the process noting this resolution denies the proposed rate increase so it can go back to the group of West Texas cities to be negotiated and then the negotiated rates will come back to the City Commission for approval.

RESOLUTION NO. 09.20.21A

A RESOLUTION BY THE CITY OF HEREFORD, TEXAS ("CITY") DENYING SOUTHWESTERN PUBLIC SERVICE COMPANY'S PROPOSED RATE INCREASE REQUEST IN CONNECTION WITH ITS STATEMENT OF INTENT SUBMITTED ON ABOUT FEBRUARY 8, 2021; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

**WHEREAS**, Southwestern Public Service Company ("SPS" or the "Company") filed a Statement of Intent with the City and with the Public Utility Commission of Texas ("PUCT") on or about February 8, 2021, to increase its base revenues for its Texas retail service area by approximately \$143.3 million, which is an increase in base revenue of about 23%; and

**WHEREAS**, SPS proposed to implement its proposed increase in rates effective on March 15, 2021; and

**WHEREAS**, on about March 25, 2021, SPS updated its Statement of Intent to increase rates, modifying its proposed increase from about \$143.3 million to about \$143.0 million; and

**WHEREAS**, the City previously suspended implementation of SPS's proposed increase in rates and its proposed effective date by 135 days to July 28, 2021; and

**WHEREAS**, by agreement between AXM and SPS, SPS extended the suspension period to September 30, 2021; 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's rates, operations, and services within the municipality; and

**WHEREAS**, under PURA § 33.025(a), the City has standing in each case before the Public Utility Commission of Texas that relates to an electric utility providing service in the City; and

**WHEREAS**, SPS failed to establish that its overall revenue request resulted in no more than an amount that will permit SPS a reasonable opportunity to earn a reasonable return on the utility's invested capital used and useful in providing service to the public in excess of the utility's reasonable and necessary operating expenses; and

**WHEREAS**, SPS failed to establish that its proposed rates are just and reasonable; and

**WHEREAS**, SPS may exercise its statutory right to appeal a City decision regarding SPS's request to increase rates to the Public Utility Commission of Texas;

**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 failed to show that its proposed rates are just and reasonable.

**Section 3.** The City hereby **DENIES** SPS's request to increase rates and in support thereof finds that:

- a) The Statement of Intent fails to provide sufficient information to justify the requested increase in revenue or to justify the changes set forth in SPS's proposed tariffs;
- b) The Statement of Intent fails to provide sufficient information to justify the adoption of the rate base, expenses, investment, return on equity, and other rate issues.



**Section 4.** SPS is hereby directed to continue to reimburse the City on a monthly basis, through AXM's coordinating city, the City of Amarillo, Texas, rate-case expenses for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Amarillo.

**Section 5.** The City Secretary or other appropriate city official shall provide a copy of this Resolution to **Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756**, and as a courtesy, provide SPS a copy of this Resolution by **sending a copy of the Resolution to William A. Grant, Regional Vice President, Regulatory and Strategic Planning, and Jeremiah W. Cunningham, Rate Case Manager, Southwestern Public Service Company, 790 S. Buchanan St. Amarillo, Texas 79101.**

**Section 6.** 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 7.** To the extent any Resolution previously adopted by the City Commission is inconsistent with this Resolution, it is hereby superseded.

**Section 8.** The findings set out in the preamble are in all things hereby approved.

**Section 9.** This Resolution shall become effective from and after its passage.

**PASSED AND APPROVED** this 20<sup>th</sup> day of September 2021.

/s/ Cathy Bunch  
Cathy Bunch, Mayor

ATTEST:

/s/ Suzanne Finch  
Suzanne Finch, City Secretary

Commissioner Ruiz made the motion to approve Resolution No. 09.20.21A. Commissioner Stow seconded the motion and it passed with the unanimous vote of the Commission.

**ITEM 17 – Announcements and comments from Mayor and City Commissioners.**

Commissioner Stow thanked Wade Hawkins and B. J. Gililand for all the work they do.

Mayor Bunch asked City Manager Bartels to check on the status of the airport mechanic shop lease to see how the transition is progressing.

She also inquired as to how identifying and getting junk vehicles removed was going. City Manager Bartels stated the rules have changed; but he is working with the chief of police to address the situation.

**ITEM 18 – Announcements and comments from City Staff.**

City Manager Bartels stated an area on BNSF property has been identified as dangerous and we will begin condemnation proceedings on it.

City Manager Bartels thanked the Commission for approving the budget and for approving the I. M. S. renewal. He complimented B. J. Gililand and his staff on their excellent customer service.

Fire Marshal Turney thanked the Commission for approving the budget and the health insurance.

HEDC Executive Director Hawkins thanked the Commission for the benefit package and for the new appointments to the Hereford Economic Development Corporation Board.

**ITEM 19 – Public Comments.**

Jim Steiert commented on the recent Texas Junior Anglers event – good participation and a very worthwhile program.

City Manager Bartels agreed stating like Mayor Josseland always said “it is the best money the city ever spends.”

There being no further business before the Commission, the meeting was adjourned at approximately 7:19 p. m.