



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, JANUARY 17, 2008**

The regular meeting of the Benbrook City Council was held on Thursday, January 17, 2008 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
James Schull
Dan Tully
Larry Stowe
Keith Bailey
Ron Sauma
Rickie Allison, arriving late

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
Dave Gattis, Deputy City Manager
David Ragsdale, Comptroller

Others Present:

Dorcas Neuman, Benbrook News
Ed Gallagher, Planner
Walter Shumac, Public Service Director
Bob Rowley, Engineer
Bill Smith
And 5 other citizens

I. CALL TO ORDER

Meeting called to order at 7:30 p. m. by Mayor Dittrich.

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation given by Pastor Todd Pylant with First Baptist Church of Benbrook
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held December 20, 2008

Motion by Mr. Sauma, seconded by Mr. Stowe to approve the minutes of the regular meeting held December 20, 2008.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

2. Minutes of the regular meeting held January 3, 2008

Motion by Mr. Tully, seconded by Mr. Stowe to approve the minutes of the regular meeting held January 3, 2008.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mayor Dittrich, Mr. Tully, Mr. Stowe

Noes: None

Abstain: Mr. Sauma

Motion carries 5-0-1.

IV. CITIZEN PRESENTATION

1. Judy Perrigo – Gas drilling issues

Ms. Perrigo was not in attendance.

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

VI. REPORTS OF CITY MANAGER

A. GENERAL

G-1756 Financial report for month of December 2007

David Ragsdale gave the following report: General Fund revenues for the month of December totaled \$1,771,804. Year-to-date collections are \$134,797 ahead of last year. General Fund Expenditures for the month of December totaled \$1,086,182. At December 31, expenditures exceeded revenues by \$26,422.

Debt Service revenues were \$333,520 through the end of December. There have been no debt payments made.

EDC revenues were \$58,498 while expenditures were \$410,675. Through the end of the calendar year, total revenues were \$152,125 while expenditures amounted to \$548,027.

Capital Projects revenues were \$1,112,369, with \$1,000,000 coming from the sale of Storm Water CO's and \$112,369 coming from storm water fee collections. Capital Projects expenditures have been \$301,374, with almost this entire amount going toward Plantation West Creek.

Investments were \$11,162,332 at December 31. 2007.

Motion by Mr. Bailey, seconded by Mr. Schull to accept the financial report for the month of December 2007.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

G-1757 Hotel/Motel Bed Tax report

David Ragsdale gave the following report: Total Hotel Motel Tax collected for the period ending December 31, 2007 totaled \$36,489. Bed tax made up \$34,063 of this amount and interest provided \$2,425.

The Benbrook Chamber of Commerce submitted \$9,437 in salary and shared overhead expenses.

VSA did not submit expenses for the last reporting period. However, VSA has now submitted \$1,294 in expenses from last year. City Council can either accept the expenses and charge them to the current year budget or decline to reimburse the expenses.

Motion by Mr. Sauma, seconded by Mr. Schull to approve the \$1,294 from VAS to be charged to the 2007-2008 Hotel/Motel Tax Fund and approve the Benbrook Chamber expenses.

Mr. Sauma went on record to state that from now on bills must be submitted on time in order to be considered.

Vote on the motion:

Ayes: Mr. Schull, Mr. Bailey, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

G-1758 Adopt Ordinance ratifying the Atmos Energy Mid-Tex Settlement Agreement and Tariffs

David Ragsdale gave the following report: The purpose of the proposed Ordinance is to endorse the Settlement Agreement between Atmos Cities Steering Committee (ACSC) and Atmos Energy Mid-Tex Division regarding the Company's Statement of Intent to increase rates and to approve tariffs that implement the terms of the Settlement Agreement

Approval of the Ordinance will result in a \$10 million increase in Atmos' revenues. This is an 80 percent reduction of the \$52 million requested by Atmos in its Statement of Intent. In addition, the tariffs approved by the Ordinance will replace the current piecemeal ratemaking GRIP surcharge system with an expedited rate review process that ensures that cities can review all components of future Company rate change requests. The Settlement Agreement also resolves all outstanding issues between ACSC and Atmos, including six appeals currently pending in Texas courts.

This Settlement Agreement achieves several desirable outcomes, including:

- Reverses rate design decisions that unfairly impact residential ratepayers
- Does away with piecemeal ratemaking problems inherent to the GRIP surcharge process
- Eliminates exposure to potential court reversal of the multi-million dollar Poly-1 Pipe disallowance (Atmos' issue on appeal in Docket No. 9400)
- Avoids uncertainty and potential negative consequences of Railroad Commission rate review
- Implements an expedited rate review process that includes the cities and allows review of all aspects of Atmos' cost of service
- Requires Atmos to reimburse ACSC for more than \$500,000 paid to litigate GRIP surcharge cases
- Protects ACSC members and their citizens from the remote possibility that a litigated outcome or settlement with other parties produces a result more favorable than the ordinance passed by ACSC members by including a Most Favored Nations provision in the Settlement Agreement.

Motion by Mr. Bailey, seconded by Mr. Sauma to adopt Ordinance No. 1253 ratifying the Atmos Energy Mid-Tex Settlement Agreement and Tariffs.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1253 being “**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS (“CITY”) APPROVING A SETTLEMENT AGREEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX” OR “THE COMPANY”) REGARDING THE COMPANY’S STATEMENT OF INTENT TO CHANGE GAS RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFF THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE SETTLEMENT AGREEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL.”**

G-1759 Adopt amended Storm Water Management Plan and authorize Staff to submit TCEQ permit application

Mr. Allison arrived at the meeting.

Dave Gattis gave the following report: The EPA requires that cities obtain discharge permits for the Municipal Separate Storm Sewer System (MS4). Cities under 100,000 population are covered under the Phase 2 program General Permit. Permit applications were originally due in 2003. The Texas Commission on Environmental Quality issued General Permit in August 2007 with applications due by February 11, 2008.

Permits cover five years with annual reports. Failure to comply could result in \$10,000/day penalty.

The permit requires adoption of:

- Storm Water ordinance with enforcement powers (adopted July 2002)
- Storm Water Management Plan that addresses six minimum measures:
 - Public Involvement and Participation
 - Public Education
 - Illicit Discharge Detection and Elimination
 - Construction Site Runoff
 - Post-Construction Site Runoff
 - Municipal Good Housekeeping
 - Municipal construction activities (optional) which allows cities to take responsibility for erosion protection and permitting for City constructions sites

Public Education and Outreach

- Existing Activities
 - Smartscape

- Storm Drain Markers
- Bookmarks
- Proposed Activities
 - Articles
 - Brochure to residents
 - Web Page
 - No Dumping signs
 - Speaker's bureau
 - Info sheet to contractors
 - Info sheet for commercial/industrial facilities

Public Involvement

- Existing Activities
 - Storm Water Advisory Committee
 - Boy Scout installation of drain markers
 - Trinity Trash Bash
 - Keep Texas Beautiful (Adopt a Street)
- Proposed Activities
 - Annual review by Storm Water Advisory Committee & City Council
 - Volunteer assistance in storm drain monitoring

Illicit Discharge Detection and Elimination

- Existing Activities
 - Storm Drain mapping
 - Household Hazardous Waste
 - Storm Drain markers
- Proposed Activities
 - Complete map and field inspect outfalls
 - Dry weather screening

Construction Site Runoff

- Existing Activities
 - Storm Water Quality Ordinance
 - Construction inspection
- Proposed Activities
 - Develop brochure for builders
 - Cross-train City employees to identify violations

Post Construction Site Runoff

- Existing Activities
 - Adoption of iSWM Manual for site development, requiring detention ponds
 - Parkland dedication
- Proposed Activities
 - Revise and update ordinances

Municipal Good Housekeeping

- Existing Activities
 - Street sweeping
 - Stream inspections and clearing
 - Environmental audit of Maintenance Facility
- Proposed Activities
 - Employee training
 - Leak detection for City vehicles, runoff control
 - Reduce fertilizer and pesticide use
 - Improvements to Maintenance Facility
 - Stream and detention pond maintenance, including floatables

Rather than start from scratch, the staff has simply amended and updated the 2003 Storm Water Management Plan. The Storm Water Management Plan is an unfunded mandate. The current plan is to absorb activities within current budgeted manpower and resources. The plan may require additional resources in the future. Failure to submit the permit application, or to meet the annual goals, could result in a permit violation and administrative penalties of up to \$10,000 per day.

Mr. Sauma went on record to state that it has come to his attention that a rumor is spreading that the Storm Water Fee was put into place because the City froze the Senior and Disabled Taxes in 2003. He stated that the Storm Water Fee had nothing to do with the freeze and wishes the person would stop because it is doing a disservice to the City and to the City Council.

Motion by Mr. Schull, seconded by Mr. Bailey to approve the amended Storm Water Management Plan, authorize the Mayor to sign Notice of Intent, and to authorize payment of \$100 to TCEQ.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

G-1760 Resolution authorizing offer to sell City-owned real property at 913 Timberline Drive

Mr. Gattis gave the following report: The City purchased the property at 913 Timberline Drive in January 2006. The house was a National Flood Insurance Program repetitive loss property. The property also had a retaining wall that encroached illegally into the Dry Branch creek bed. In addition, the City's drainage plan identified the need to enlarge the inlet at the front of the property to adequately drain water from the street. This was one of only two houses that would not be removed from the 100-year floodplain by the Timber Creek Channel project.

The City demolished the house, made the drainage improvements and raised the building pad above the new 100-year floodplain during 2006. FEMA approved the Letter of Map Revision based on Fill (LOMR-F) in June 2007.

In August 2007, City Council authorized the sale of the property. Bids were advertised for opening on October 21, but no bids were received.

Staff recommends attempting the sale of the vacant lot again in coming months. Staff recommends that the minimum bid be reduced from \$20,000 to \$15,000 and that the staff be authorized to expend additional funds to advertise the sale in other publications and directly to selected real estate companies.

Following discussion, motion by Mr. Stowe to not adopt the resolution at this time. When asked if the intent of the motion was to table the item, Mr. Stowe stated it was not and removed his motion.

Motion by Mr. Schull, seconded by Mr. Allison to table the item to give staff time to further investigate options.

Vote on the motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe. Mr. Sauma

Noes: None

Motion carries unanimously.

VII. OTHER MATTERS OF BUSINESS

VIII. INFORMAL CITIZEN COMMENTS

IX. ADJOURNMENT

Meeting adjourned at 8:20 P.M.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary