

**AGENDA
BENBROOK CITY COUNCIL
THURSDAY, JANUARY 17, 2008
911 WINSCOTT ROAD, BENBROOK, TEXAS
PRE-COUNCIL WORKSESSION 7:00 P.M.
CENTRAL CONFERENCE ROOM**



1. Review and discuss agenda items for regular meeting.
2. Receive other information from staff and Boards and Commissions.

**REGULAR MEETING 7:30 P.M.
COUNCIL CHAMBERS
ALL AGENDA ITEMS ARE SUBJECT TO FINAL ACTION**

I. CALL TO ORDER

**II. INVOCATION – Pastor Todd Pylant with First Baptist Church of Benbrook
PLEDGE OF ALLEGIANCE**

III. MINUTES

1. Minutes of the regular meeting held December 20, 2007
2. Minutes of the regular meeting held January 3, 2008

IV. CITIZEN PRESENTATION

1. Judy Perrigo – Gas drilling issues

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

VI. REPORTS OF CITY MANAGER

A. GENERAL

- | | |
|--------|---|
| G-1756 | Financial report for month of December 2007 |
| G-1757 | Hotel/Motel Bed Tax report |
| G-1758 | Adopt Ordinance ratifying the Atmos Energy Mid-Tex Settlement Agreement and Tariffs |
| G-1759 | Adopt amended Storm Water Management Plan and authorize Staff to submit TCEQ permit application |
| G-1760 | Resolution authorizing offer to sell City-owned real property at 913 Timberline Drive |

VII. OTHER MATTERS OF BUSINESS

VIII. INFORMAL CITIZEN COMMENTS – State Law prohibits any deliberation of or decisions regarding items presented in information citizen comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff place the item on an agenda for a subsequent meeting.

IX. ADJOURNMENT



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, DECEMBER 20, 2007**

The regular meeting of the Benbrook City Council was held on Thursday, December 20, 2007 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

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

Also Present:

Dave Gattis, Deputy City Manager
Joanna King, City Secretary
Tommy Davis, Fire Chief

Others Present:

Ed Gallagher, Planner
Cathy Morris, Administrative Analyst
James Mills, Police Chief
David Babcock, Mike Ford, Bill Cooper and
Dawn Konieczny with Police Department
Mr. and Mrs. Aubrey "Red" White
Bill Smith
Joel Peel
And 6 members of COPS

I. CALL TO ORDER

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

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation given by Councilmember Larry Stowe
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held December 6, 2007

Motion by Mr. Sauma, seconded by Mr. Tully approve the minutes of the regular meeting held December 6, 2007 as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

IV. PROCLAMATION/AWARDS/RECOGNITION

1. Proclamation Recognizing Service of Aubrey "Red" White

Mayor Dittrich presented Mr. Aubrey "Red" White with proclamation recognizing his dedicated service to the Benbrook Citizens on Patrol (COP) program.

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

VI. REPORTS OF CITY MANAGER

A. GENERAL

G-1750 Financial Report for Month of November 2007

Mr. Gattis gave the following report: General Fund Revenues for the month of November totaled \$796,472. Year to date collections are \$73,090 ahead of last year. General Fund Expenditures totaled \$1,251,244. At November 30, 2007 monthly expenditures exceeded revenues by \$454,772.

Benbrook Economic Development Corporation revenues were \$93,627 while expenditures were \$157,487.

Investments were \$10,164,355 at November 30, 2007. This entire amount is available immediately if needed.

Motion by Mr. Bailey, seconded by Mr. Schull to accept the financial report for the period ending November 30, 2007.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**G-1751 Authorize Agreement with North Texas Tollway Authority (NTTA)
to be 3rd Party Vendor for TollTags**

Mr. Gattis gave the following report: Tolltags are electronic transponders that allow vehicles to use toll facilities without paying cash. The tolls are deducted from a deposit account. Tolltags can be used on NTTA facilities (Dallas North Tollway, President George Bush Turnpike, and future Southwest Parkway). Tolltags can also be used on other toll roads in Texas (TxDOT, Houston, San Antonio) and DFW Airport and Love Field parking.

Tolltags are currently available at the Tolltag Store in Plano and via Internet and U.S. Mail. The current third party vendors are located in the Dallas area.

Currently there are 313 Tolltag users in Benbrook. Many more are expected when the Southwest Parkway (SH121-T) opens in 2010.

The City's obligation as a third party vendor is to market service availability, secure funds and unsold Tolltags, and provide reports. NTTA's obligation is to provide Tolltags and promotional materials and pay the City \$5.00 per tag.

Motion by Mr. Stowe, seconded by Mr. Allison to authorize the City Manager to execute the Nonexclusive Distribution Agreement with North Texas Tollway Authority to become a third party vendor for Tolltags.

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-1752 Consider Projects and Call Public Hearing for 34th Year
Community Development Block Grant (CDBG) Application**

Mr. Gattis gave the following report: The Community Development Block Grant (CDBG) is a federal program to benefit low to moderate income residents. Benbrook has received \$3 million in funding since 1975.

The 33rd Year project is sidewalks on Warden and Wade Hampton Streets. A citizen survey is currently underway. The 34th Year application is due on January 31, 2008.

Eligible activities for the CDBG program include:

- Streets
- Water and sewer lines
- Sidewalks
- Removal of architectural barriers
- Build or expand senior citizens centers

Target areas are now "Service Areas"

- Must show that project serves at least 48.9% of low-moderate income population, or handicapped, or senior citizens.

The project award is approximately \$90,000 to \$100,000. The possible programs for the 34th Year CDBG are new sidewalks on the target area or to pave the alley between Mercedes Street and Cozby North.

Other possibilities include:

- Additional senior and handicapped transit service
- Housing rehabilitation
- Meals on Wheels

Staff is recommending that City Council tentatively designate sidewalks on Bryant and Usher Street as the 34th Year CDBG Project.

Motion by Mr. Sauma, seconded by Mr. Tully to designate Sidewalks on Bryant and Usher Street as the 34th Year CDBG project and schedule a public hearing on January 3, 2008 to receive public comment.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

B. CONTRACT

C-231 Contract for Fire and EMS Service for Tarrant County Emergency Service District #1

Tommy Davis gave the following report: For a number of years, Tarrant County has engaged the Benbrook Fire Department to provide fire and first responder services to portions of unincorporated Tarrant County. Tarrant County's recent efforts to provide third party ambulance service to the southwest corner of Tarrant County has not been successful. As a result, Tarrant County ESD officials requested Benbrook's assistance on a temporary basis pending City Council formal consideration.

Previously, Benbrook responded via ambulance to the County without compensation other than the EMS bill sent to the patient. The bills were difficult to collect and Benbrook eventually stopped providing the service in 1997. Through the proposed contract, Tarrant County ESD has increased the current EMS budget to make it more feasible to Benbrook to provide ambulance service to the County. Staff now believes that Tarrant County ESD would adequately compensate Benbrook for transporting county patients to area hospitals.

The City last renewed the annual fire service agreement with Tarrant County in December 2006 and the last EMS contact was in 1997.

Contract continuation is beneficial to Benbrook for the following reasons:

- The 2007/2008 rate of compensation for fire service (\$82,500) adequately compensates the City for services rendered.
- Provision of the County provided super tanker precludes the purchase of this apparatus by Benbrook citizens.
- Provision of a County provided brush truck precludes the purchase of this apparatus by Benbrook citizens.
- Tarrant County supplies two thermal imaging cameras.
- The 2007/2008 contract includes a grant from the district of \$19,800 for the purchase and replacement of SCBA bottles.
- The 2007/2008 rate of compensation for EMS service (from points) is estimated to be \$45,000, plus the amount the City collects through standard EMS billing.
- The 2007/2008 contract period for EMS includes a \$26,963 grant to purchase a 12 lead cardiac monitor. This precludes the purchase of EMS equipment by Benbrook citizens.
- The total cash reimbursement from the County to the City would be approximately \$130,000.

Staff believes the services rendered through the contract will not adversely impact the City's ability to provide a continued high level of response to Benbrook citizens.

Motion by Mr. Allison, seconded by Mr. Schull to approve the proposed contract for fire and EMS services for the assigned area of Tarrant County Emergency Services District #1 for fiscal year 2007-2008.

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 8:01 P.M.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, JANUARY 3, 2008**

The regular meeting of the Benbrook City Council was held on Thursday, January 3, 2008 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Rickie Allison
James Schull
Dan Tully
Larry Stowe

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
Walter Shumac, Community Service Director
Tommy Davis, Fire Chief

Others Present:

Dorcas Neuman, Benbrook News
Ed Gallagher, Planner
Cathy Morris, Administrative Analyst
Bill Smith
Samantha Spence
James Wilson
Kyle Carr

I. CALL TO ORDER

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

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation given by Elder Valeria Session with Tabernacle of Praise
The Pledge of Allegiance was recited.

III. PRESENTATION BY PLANNING AND ZONING COMMISSION

IV. REPORTS OF CITY MANAGER

A. GENERAL

G-1753 Public Hearing and Determine Project for 34th Year Community Development Block Grant (CDBG)

Walter Shumac gave the following report: The City's application for the 34th Year Community Development Block Grant (CDBG) is due February 5, 2008.

Projects must benefit low or moderate-income residents, either by being located within a service area that has a majority of low or moderate income residents, or benefiting a target population, such as the elderly or handicapped. The maximum income limit for a family of four is \$50,700. The U.S. Department of Housing and Urban Development (HUD) has adopted increasingly stringent regulations regarding eligibility.

Examples of eligible activities include:

- Streets
- Water and sewer lines
- Sidewalks
- Removal of architectural barriers
- Build or expand senior citizens centers

Annual funding levels have stabilized at approximately \$90,000, of which approximately 10 percent is usually allocated to architectural/engineering services. Depending on the complexity of the project, Benbrook staff may be able to design the project in-house. The City has budgeted \$10,000 as matching funds.

The following projects should be given further consideration:

- Construct additional sidewalks and wheelchair ramps within the Target Area
- Pave alley between Mercedes and Cozby North Street
- Contract with Fort Worth Transportation Authority for Elderly and Handicapped Transit Services
- Housing rehabilitation
- Meals on Wheels

Mayor Dittrich opened the public hearing at 7:40 p.m.

Samantha Spence questioned the location of sidewalks on Bryant Street and Usher Street as it pertained to the curb. Mr. Shumac advised that the design had not been completed and that location is still unknown. Ms. Spence raised the concern of losing front yard area to the sidewalks.

With no other speakers, Mayor Dittrich closed the public hearing at 7:43 p.m.

Motion by Mr. Stowe, seconded by Mr. Tully to authorize the staff to prepare an application for the construction of sidewalks along portions of Usher Street and Bryant Street as the 34th Year Community Development Block Grant project.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1754 Consider Appointment to Planning and Zoning Commission and Zoning Board of Adjustment/Appeals Commission

Joanna King gave the following report: City Council made appointments to the various Boards and Commissions on October 18, 2007. At that time, Dian Price was appointed to Place 7 on the Planning and Zoning Commission for a term to expire October 31, 2009. However, due to time restraints, Ms. Price will be unable to fulfill the term.

Upon notification of Ms. Price's inability to serve the two year term, Staff advertised and requested applicants for the Planning and Zoning Commission. The deadline for receiving applications was December 17, 2007. The City received 7 applications for the vacant position on the Planning and Zoning Commission.

Subsequent to receiving applications for the vacant position on the Planning and Zoning Commission, Staff was notified by Mr. Marvin Rhodes that he will be unable to fulfill his term on the Zoning Board of Adjustment/Appeals Commission. Mr. Rhodes currently serves in the Alternate C position with a term to expire October 31, 2008.

Staff is requesting City Council to determine the process for applicant evaluations for both the Planning and Zoning Commission and the Zoning Board of Adjustment/Appeals Commission.

Motion by Mr. Tully, seconded by Mr. Stowe to schedule interviews for January 31, 2008 and to make the appointments at the February 7, 2008 regular City Council meeting.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1755 Interlocal Agreement with City of Fort Worth for Animal Head Shipment

Andy Wayman gave the following report: For a number of years, the City of Benbrook has contracted through an Interlocal agreement with Fort Worth to process potentially rabid animals as mandated by the Texas Rabies Control Act and by regulations promulgated by the Texas Board of Health. Through the Interlocal agreement, Fort Worth processes animals with trained and certified technicians and equipment at a cost of \$80 per animal. The City uses the service an average of two to four times per year.

The current Interlocal agreement with the City of Fort Worth has expired. The term of the agreement is one year.

Motion by Mr. Stowe, seconded by Mr. Schull to enter into the Interlocal agreement with the City of Fort Worth for the processing of potentially rabid animals.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

B. CONTRACT

C-232 Agreement with Luminant for Emergency Use of Benbrook Community Center/YMCA

Tommy Davis gave the following report: In March 2007, Luminant Power (previously TXU) met with City staff to inquire about the use of the Benbrook Community Center/YMCA as a reception center for evacuations in support of the Comanche Peak Nuclear Power Plant Emergency Plan.

The proposed agreement provides Luminant with an additional location for personnel to relocate in the event of an emergency. Presently, the cities of Cleburne and Granbury have identical agreements with Luminant. City personnel would assist with registration, decontamination, radiological monitoring and traffic control.

The agreement provides that Luminant will assist Benbrook Fire Department personnel in radiological training and conduct event exercise. The agreement is for a five year period.

The agreement is beneficial to Benbrook for the following reasons:

- The rate of compensation (\$20,000 annually) adequately compensates the City for services rendered.

- Luminant will provide radiological monitoring equipment (approximately \$25,000) to the City. The City can also utilize the equipment for radiological events not directly related to Comanche Peak.
- Luminant will compensate (\$1,750 annually) for four phone lines should the BCC/YMCA reception center be opened.
- Luminant will provide high value training and supply the trainers.

Staff believes the agreement provides needed additional radiological equipment, outstanding training for fire department personnel, and adequate compensation for City services rendered.

Motion by Mr. Allison, seconded by Mr. Schull to approve the letter of agreement for the use of the Benbrook Community Center/YMCA as a reception center for Luminant.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

V. OTHER MATTERS OF BUSINESS

VI. INFORMAL CITIZEN COMMENTS

Bill Smith and Samantha Spence spoke regarding the sidewalks in the South Benbrook area.

VII. ADJOURNMENT

Meeting adjourned at 8:01 P.M.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary

Joanna King

From: Judy Perrigo [jperrigo@earthlink.net]
Sent: Friday, January 04, 2008 10:12 AM
To: Joanna King
Subject: request

I would like to get on the agenda for the city council on the 17th of January concerning several issues about the gas drilling in our neighborhood.

Judy and John Perrigo
817-249-3371



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 01/17/08	REFERENCE NUMBER: G-1756	SUBJECT: Financial Report for month of December 2007	PAGE: 1 of 1
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Attached for City Council's information and consideration is the monthly financial report for December 2007.

GENERAL FUND REVENUES

Revenues for the month of December totaled \$1,771,804. Almost all of this months collections (\$1,479,854) came from property taxes. The only other significant revenues came from Sales & Other Taxes (\$113,042) and Franchise Taxes (\$89,767). Year-to-date collections are \$134,797 ahead of last year.

GENERAL FUND EXPENDITURES

Expenditures for the month of December totaled \$1,086,182. At December 31, expenditures exceeded revenues by \$26,422.

DEBT SERVICE

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

EDC REPORT

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

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

Investments were \$11,162,332 at December 31, 2007. This entire amount is available immediately if needed.

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY:
CITY MANAGER		CITY SECRETARY
		DATE:

DATE:

01/17/08

REFERENCE
NUMBER:
G-1756

SUBJECT:

Financial report for month of December 2007

PAGE:

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RECOMMENDATION

Staff recommends that City Council accept the monthly financial report for the month of December, 2007.



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 01/17/08	REFERENCE NUMBER: G-1757	SUBJECT: Hotel/Motel Bed Tax report	PAGE: 1 of 1
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Attached for City Council's information and consideration is the Hotel Motel Tax report for the period ending December 31, 2007

REVENUES

Total collections amounted to \$36,489. Bed tax made up \$34,063 of this amount and interest provide \$2,425.

BENBROOK CHAMBER

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

VSA

VSA did not submit expenses for the last reporting period. However, VSA has now submitted \$1,294 in expenses from last year. Because the prior fiscal year is closed (from an accounting perspective), the City cannot legally charge the expenses to FY 2006/2007. Staff informed the VSA that the expenses can be submitted to City Council and that City Council can either accept the expenses and charge them to the current year budget or decline to reimburse the expenses.

RECOMMENDATION

Staff recommends that City Council approve the HMT report for the period ending December 31, 2007 and determine whether to reimburse the VSA from the current budget year or decline to reimburse the expenses.

SUBMITTED BY: CITY MANAGER	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
		DATE:



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 01/17/08	REFERENCE NUMBER: G-1758	SUBJECT: Ordinance ratifying the Atmos Energy Mid-Tex Settlement Agreement and Tariffs	PAGE: 1 of 1
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Benbrook, along with 150 other cities served by Atmos Energy Mid-Tex Division ("Atmos" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). Since October, ACSC members have worked diligently with Atmos representatives to explore options to address Atmos' latest request to increase rates by \$52 million and to resolve other outstanding issues. The attached ordinance and tariffs (Attachment B to the Ordinance) reflect the agreement reached between ACSC and Atmos Mid-Tex to reduce Atmos' requested increase by more than 80 percent and ensure that the Company is able to provide safe and reliable natural gas service. The Settlement Agreement (Attachment A to the Ordinance) also provides rate certainty for customers by resolving outstanding appeals, creates a new process for expedited rate review by the cities, eliminates piecemeal ratemaking, reimburses ACSC for rate case expenses associated with the GRIP surcharge cases, and avoids the necessity of costly litigation. The ACSC Executive Committee recommends that ACSC members approve the Settlement Agreement.

Purpose of the Ordinance

The purpose of the Ordinance is to endorse the Settlement Agreement between ACSC and Atmos 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 increase 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.

Procedural History and Background on Atmos Rate Increases Since 2004

On September 20, 2007, Atmos filed with the City the Company's Statement of Intent to increase natural gas rates system-wide by approximately \$52 million. The City suspended the October 25th Effective Date to work with other ACSC members to analyze the schedules and evidence offered by Atmos to support its request to increase rates. In order to facilitate approval of this Ordinance and the attached tariffs, Atmos Mid-Tex has agreed to extend the deadline for final city action until March 1, 2008.

Atmos' rate request represents the seventh increase in natural gas rates for customers in the Atmos Mid-Tex service area since 2004. Four rate increases are the result of Gas Reliability Infrastructure Program (GRIP) surcharges enacted pursuant to the Texas Utilities Code § 104.301. A primary complaint of cities around the state regarding GRIP filings is that it is piecemeal

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE:

DATE: 01/17/08	REFERENCE NUMBER: G-1758	SUBJECT: Ordinance ratifying the Atmos Energy Mid-Tex Settlement Agreement and Tariffs	PAGE: 2 of 3
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ratemaking and only looks at changes in the utility's invested capital, rather than a more comprehensive review of all components affecting rates charged. Cities thus far have been unsuccessful in defeating GRIP at the Legislature and in court.

In addition to the four GRIP surcharges, base rates charged to customers served by Atmos Mid-Tex have increased as the result of two system-wide cost of service rate filings since 2004. The Company's current request to increase base rates would be the third system-wide cost of service increase for customers in Atmos Mid-Tex's service area since 2004.

In the most recent cost of service rate request, GUD No. 9670, the Railroad Commission of Texas ("RRC" or "Commission") issued an order in March, 2007, approving new system-wide rates for customers of Atmos Mid-Tex. Residential customers were impacted disproportionately by the Commission's final order, with residential rates increasing by \$10 million annually, despite an overall system-wide rate increase of \$5 million.

System-wide rates charged to residential customers in the Atmos Mid-Tex region were also increased by several million dollars in 2004 in GUD No. 9400. In GUD Nos. 9400 and 9670, the hearings examiners that heard the testimony and evaluated the evidence recommended that rates be reduced for customers. However, in both cases, the Railroad Commission reversed key decisions of its own hearings examiners, ultimately issuing final orders that approved rate increases instead of the recommended rate reductions.

Reasons Justifying Settlement

During the time that the City has retained original jurisdiction in this case, consultants working on behalf of ACSC members have investigated the support for the Company's requested rate increase. While the evidence does not support the \$52 million increase requested by the Company, ACSC consultants agree that the Company can justify an increase in revenues of at least \$8 million and that there is a reasonably high probability that the RRC would award an increase of at least \$10 million.

A contested case proceeding before the RRC on the Company's current application will take several months and cost ratepayers millions of dollars in rate case expenses and would not likely produce a request more favorable than that to be produced by the settlement. The ACSC Executive Committee recommends that ACSC members take action to approve the Settlement Agreement. 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 (in the two most recent rate cases affecting Atmos Mid-Tex customers, the Commission has reversed rate reductions recommended by its own hearings examiners in favor of rate increases)
- Implements an expedited rate review process that includes the cities and allows review of all aspects of Atmos' cost of service

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- 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.

Recommendations:

Staff recommends that City Council pass the Ordinance ratifying the Atmos Energy Mid-Tex Settlement Agreement and Tariffs.



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 1/17/08	REFERENCE NUMBER: G-1759	SUBJECT: Adopt amended Storm Water Management Plan and authorize Staff to submit TCEQ permit application	PAGE: 1 of 1
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Background

As a result of litigation during the early 1990s, it was determined that the discharge of storm water from municipal separate storm sewer systems (MS4) required a permit under the Federal Clean Water Act. In January 1998, the U.S. Environmental Protection Agency established regulations for Phase 2 cities to implement permitting requirements for storm water runoff, and designated Benbrook as one of the numerous cities required to comply by March 2003. The Texas Commission on Environmental Quality assumed responsibility for these permits and published draft rules in September 2002. It was expected that the final rules would be published in December 2002, but the final permit was not issued until August 2007. The City is now required to apply for the General Permit by February 11, 2008 (or 180 days following the publication of the final rules).

Cities over 100,000 population were required to obtain individual permits from the U.S. Environmental Protection Agency in 1998 as part of Phase 1. Many industrial sites were also required to obtain Phase 1 permits. The permit that will be issued to Benbrook is known as a "General Permit". A general permit is easier to obtain, provided we comply with the conditions of the permit that include the development and implementation of a Storm Water Management Plan (SWMP) that addresses six minimum measures, plus an optional seventh measure:

- Public Involvement and Participation
- Public Education
- Illicit Discharge Detection
- Construction Site Runoff
- Post-construction Management
- Municipal Good Housekeeping
- Municipal construction activities (optional), which allows cities to take responsibility for erosion protection and permitting for City construction sites.

In anticipation of the need to apply for a permit in 2003, the City Council appointed a Storm Water Advisory Committee in September 2002 to work with staff to develop a draft Plan. The City Council adopted that plan in March 2003. The City also adopted a Stormwater Quality Ordinance (NO. 1124) in July 2002 that requires permits for grading activities, erosion control and prevention of illegal discharges into the storm water system which is required by the Phase 2 permit.

Amended Storm Water Management Plan

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE:

DATE: 1/17/08	REFERENCE NUMBER: G-1759	SUBJECT: Adopt amended Storm Water Management Plan and authorize Staff to submit TCEQ permit application	PAGE: 2 of 2
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Rather than start from scratch, the staff has simply amended and updated the 2003 Storm Water Management Plan. A preliminary draft of the amended SWMP is included in your packet. Staff may bring a revised SWMP to the meeting if additional revisions are made.

The permit application consists of a Notice of Intent, a SWMP, and a check for \$100. The permit will be valid for a period of five years from August 18, 2007 until August 17, 2012. The City will be required to submit an annual report detailing the efforts to implement the objectives outlined in the SWMP, and an annual water quality fee. 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.

The heart of the program is the activities (best management practices) that the City agrees to perform under each of the minimum measures. The City needs to propose the minimum number of activities necessary to receive approval of the SWMP by TCEQ, while not over committing to goals that we cannot achieve. Staff believes that the activities proposed are satisfactory to meet the conditions of the permit. The strategy is to commit low, but perform high.

The City has been a participant in the Regional Storm Water Coordinating Council at the North Central Texas Council of Governments. One of the benefits of the program has been the development of regional initiatives and shared activities with reduced costs. Staff intends to take credit for these activities and continue to participate as long as it is beneficial.

RECOMMENDATION

Staff recommends that the City Council adopt the amended Storm Water Management Plan and authorize the staff to prepare and the Mayor to sign the Notice of Intent (NOI) to submit our permit application by the February 11th deadline, along with the \$100 application fee.



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 01/17/08	REFERENCE NUMBER: G-1760	SUBJECT: Authorize Resolution Authorizing Offer to Sell City-owned Real Property at 913 Timberline Drive	PAGE: 1 of 1
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The property at 913 Timberline Drive contained a house that was classified as a repetitive loss property by the National Flood Insurance Program, meaning that it had sustained two or more flood insurance claims of \$1,000 or more. 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. Finally, this was one of only two houses that would not be removed from the 100-year floodplain by the Timber Creek Channel project.

In November 2005, the City Council authorized the purchase of the property at a cost of \$121,000 and the purchase was completed in January 2006. The house was demolished in March 2006 and improvements were made to the creek and the storm drain inlet, and the building pad was elevated above the new 100-year flood level in November 2006 at a cost of approximately \$77,000. The Letter of Map Revision based of Fill (LOMR-F) officially removing the building site from the 100-year flood plain was received from FEMA on June 19, 2007, delayed primarily by the processing of the LOMR by FEMA on the Timber Creek Channel project.

In August 2007, the City Council authorized the sale of the vacant lot be sold for redevelopment as a single-family residence using a sealed bid process, establishing a minimum bid of \$20,000 and that the City retain the mineral rights. The staff advertised the sale in the Fort Worth Star-Telegram twice as required by State law, with a bid opening scheduled for October 31, 2007. No bids were received.

Staff recommends attempting the sale of the vacant lot again in the coming months. Staff recommends that the minimum bid be reduced 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.

RECOMMENDATION

Staff recommends that City Council adopt the resolution authorizing the sale of real property at 913 Timberline Drive (Lot 22, Block 16, Timber Creek Addition) by sealed bids, with a minimum bid of \$15,000 and that the City retain the mineral rights and direct staff to publish notice of the sale and to expend additional funds to market the sale.

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE: