

**NOTICE OF A REGULAR MEETING
OF THE GOVERNING BODY
OF THE CITY OF MIDLOTHIAN, TEXAS
Tuesday, February 14, 2012**

Pursuant to the provisions of Chapter 551 VTCA Government Code, notice is hereby given of a Regular Meeting of the Midlothian City Council, to be held in the Council Chambers and Administrative Conference Room of City Hall, 104 West Avenue E, Midlothian, Texas

REGULAR AGENDA – 6:00 P.M.

Call to Order, Invocation and Pledge of Allegiance

- 2012-39 Announcements/Presentations
- a. Cancel February 11, 2012 City Council Election
 - b. Administer Oaths of Office to Mayor and Councilmember Place 2
 - c. Proclamation honoring former mayor Boyce Whatley
 - d. Community Affairs calendar
 - e. Receive presentation from Middle School Problem Solvers
 - f. Receive annual curfew report from Police Department
 - g. Receive quarterly financial report from Linda Patterson and Associates
 - h. Administrative announcements related to personnel

CONSENT AGENDA

All matters listed under Consent Agenda are considered to be routine by the City Council and will be enacted by one motion without separate discussion. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- 2012-40 Consider and act upon minutes from City Council meeting of January 24, 2012
- 2012-41 Consider and act upon a resolution providing for an election to be held to elect two councilmembers in the City of Midlothian; defining the term of office; designating the polling location; designating the election judge and providing for clerical personnel; designating the time and place; providing for a run-off election; and providing for the filing of applications for the official ballots for said election
- 2012-42 Consider and act upon a Joint Election Agreement with the Midlothian Independent School District

REGULAR AGENDA

- 2012-43 Citizens to be heard
- 2012-44 Consider and act upon the appointment of Mike Weiss as Information Technology Director for the City of Midlothian
- 2012-45 Consider and act upon a resolution of the City of Midlothian suspending the March 6, 2012, effective date of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex”) requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with Atmos Cities Steering Committee (“ACSC”) and other cities in the Atmos Mid-Tex service area to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; requiring reimbursement of cities’ rate case expenses; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and ACSC’s legal counsel
- 2012-46 Receive information from staff regarding Employee Appreciation Program initiatives and make recommendations as appropriate

WORKSHOP

To be conducted in the Administrative Conference Room

2012-47 Review and discuss City Council procedures, personnel roles and governance process

EXECUTIVE SESSION

Executive Session items are discussed in closed session but any and all action is taken in regular open session. Executive Session is not open to the public because there is a compelling need of confidentiality (e.g., certain real estate, litigation, or personnel matters).

1. Section 551.071 Legal: Consultation with attorney regarding City of Midlothian v. Randall Denton, MidTexas International Center, Inc., Texas Properties Trust and Trade Zone Operations, Inc.
2. Section 551.071 Legal: Consultation with attorney regarding Cause No. 3-07-CV-1351-N, Texas Central Business Lines Corporation v. City of Midlothian
3. Section 551.087 Deliberation regarding economic development negotiations
4. Section 551.074 Personnel Matters: (a)(1) to deliberate the appointment, employment or duties of an Economic Development Executive Director for the City of Midlothian
5. Section 551.072 Real Estate: Deliberate and consider the acquisition of real property necessary for roadway and parks improvement projects
6. Section 551.072 Real Estate: Deliberation regarding real property - to deliberate the purchase, exchange, lease or value of real property

As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

REGULAR AGENDA

- 2012-47 Action resulting from Executive Session, Item #1: Randall Denton, et al
2012-48 Action resulting from Executive Session, Item #2: Texas Central Business Lines
2012-49 Action resulting from Executive Session, Item #3: Economic Development
2012-50 Action resulting from Executive Session, Item #4: Personnel – Economic Development Executive Director
2012-51 Action resulting from Executive Session, Item #5: Real Estate
2012-52 Action resulting from Executive Session, Item #6: Real Estate
2012-53 Action resulting from Executive Session related to Section 551.071(2)
2012-54 Adjourn

I, Tammy Varner, Deputy City Secretary of the City of Midlothian, Texas, do hereby certify that this Notice of Meeting was posted on the front window of City Hall, 104 West Avenue E, Midlothian, Texas, at a place readily accessible to the general public at all times, no later than the 10th day of February, 2012 at or before 5:00 p.m.


Tammy Varner, Deputy City Secretary

**This facility is wheelchair accessible and accessible parking spaces are available.
Requests for reasonable accommodations must be made 48 hours prior to this meeting.
Please contact the City Secretary at 775-3481 for further information.**



AGENDA ITEM 2012-40

AGENDA CAPTION:

Consider and act upon minutes from City Council meetings of January 24 and February 7, 2012

ITEM SUMMARY/BACKGROUND:

Minutes from the January 24 and February 7 Council meetings are submitted for approval or correction

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

N/A

ATTACHMENTS:

Minutes from Regular Council meeting of January 24, 2012

Minutes from Called Council meeting of February 7, 2012

ALTERNATIVES:

Approve or correct

RECOMMENDATION:

Approve as submitted

SUBMITTED AND TO BE PRESENTED BY:

Lou Jameson, City Secretary, for the February 14, 2012 City Council Meeting



City Secretary

REVIEWED BY:



Tammy Varner, Deputy City Secretary

APPROVED BY:



Don Hastings, City Manager

**MINUTES
REGULAR COUNCIL MEETING
JANUARY 24, 2012**

The City Council of the City of Midlothian convened in a Regular Meeting in the Council Chambers of City Hall, 104 West Avenue E, with the meeting open to the public and notice of said meeting posted as prescribed by V.T.C.A., Government Code, Chapter 551, with the following members present to-wit:

Vacant	§	Mayor
Wayne Sibley	§	Councilmember Place 1
Bill Houston	§	Councilmember Place 2
Jason Kyle	§	Councilmember Place 3
Joe Frizzell	§	Mayor Pro Tem Place 4
Hank Miller	§	Councilmember Place 5
Steve Massey	§	Councilmember Place 6

REGULAR AGENDA – 6:00 P.M.

Mayor pro tem Frizzell called the meeting to order at 6:00 p.m. with notice of the meeting duly posted and a quorum present. Councilmember Kyle gave the invocation and led in the pledges.

2012-17 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

With both candidates unopposed, the Special Election scheduled for February 4 was cancelled. The Oath of Office will be administered February 14th to Bill Houston as Mayor and Mike Rodgers as Councilmember Place 2. A reception will be held from 4:00 – 6:00 on the same date to extend appreciation to former Mayor Boyce Whatley and welcome the newly elected members; filing dates for the May Council Election will be February 4 through March 5; mulch still available at Water Tower #2

b. Proclamation recognizing Southern Star Christmas Celebration organizers

Appreciation was extended to Kyle Ballard, Rene McElheney, and Kim Phillips for their efforts in organizing the successful three-day event.

c. Administer Oaths to Police and Fire Department personnel

Fire Department Oaths were delayed until February 28; Mayor pro tem Frizzell administered the Oath of Commitment to newly promoted Police Department Corporals Nick Harp, Mark Holton, Adren Allen, and Steven Cooper.

d. Administrative announcements related to personnel

None were received.

CONSENT AGENDA

2012-18 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF JANUARY 10, 2012

2012-19 CONSIDER AND ACT UPON APPROVAL OF A NEW THREE-YEAR AGREEMENT BETWEEN THE CITY AND INTERMEDIX TECHNOLOGIES, INC. FOR AMBULANCE BILLING AND RELATED PROFESSIONAL SERVICES

Councilmember Miller moved to approve the Consent Agenda as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

WORKSHOP

2012-20 CONDUCT A WORKSHOP TO REVIEW A MAJOR UPDATE TO THE PARKS, RECREATION AND OPEN SPACE MASTER PLAN, A SUPPLEMENT TO THE CITY OF MIDLOTHIAN COMPREHENSIVE PLAN. THIS PLAN WILL HELP TO GUIDE THE DEVELOPMENT OF THE CITY AND MIDLOTHIAN'S PARK SYSTEM AND RECREATION PROGRAMS

Dennis Sims, park consultant with Dunkin Sims Stoffels, provided an update of needs, desired service levels, priorities, goals and objectives. Opportunities for public input were reviewed and grant funding was discussed. A public hearing for Council action was scheduled for February 28.

PUBLIC HEARINGS

2012-21 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT (SUP), TO ALLOW AN ELECTRONIC MESSAGE SIGN FOR THE FOLLOWING ELEMENTARY SCHOOLS: T.E. BAXTER ELEMENTARY – 1050 PARK PLACE BOULEVARD, J.A. VITOVSKY ELEMENTARY – 333 CHURCH STREET AND MT. PEAK ELEMENTARY – 5201 FM 663 (CASE NO. SUP02-2011-09)

Mayor pro tem Frizzell opened the Public Hearing and Mr. Garfield presented the request for retroactive approval unanimously (4-0) recommended for approval by P&Z on December 15, subject to five conditions.

Councilmember Houston moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried by a vote of 5-0 with Councilmember Miller away from the dais. Councilmember Sibley moved to approve Item 2012-21 subject to the five conditions recommended by P&Z and with waiving of fees as presented. Motion was seconded by Councilmember Massey and carried by a vote of 5-0 with Councilmember Miller away from the dais.

REGULAR AGENDA

2012-22 CITIZENS TO BE HEARD

Meadows HOA president Joe McKee, 1626 Melanie Trail, representing 100+ families, spoke regarding safety in the subdivision. He requested installation of speed humps and increased police presence to deter speeding. Mr. Hastings was directed to meet with Mr. McKee to discuss solutions.

2012-23 CONSIDER AND ACT UPON AUTHORIZING AMENDMENT NO. SIX TO THE AGREEMENT FOR CONSTRUCTION MANAGER AT RISK SERVICES FOR WATER TREATMENT PLANT NO. 2 WITH GARNEY COMPANIES, INC. TO AWARD THE REMAINING BID SET ONE PACKAGES AND ALL OF THE BID SET TWO PACKAGES IN A TOTAL AMOUNT NOT TO EXCEED \$12,595,708

Mike Adams presented the final amendment to the project. The Utility Advisory Board voted unanimously to recommend approval of the amendment.

Councilmember Sibley moved to approve Item 2012-22 as presented. Motion was seconded by Councilmember Houston and carried by a vote of 5-0 with Councilmember Miller away from the dais.

2012-24 CONSIDER AND ACT UPON AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE PLACEMENT OF MAILBOXES WITHIN PUBLIC RIGHTS-OF-WAY IN THE CITY OF MIDLOTHIAN, ATTACHED HERETO AS EXHIBIT "A"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY THAT ANY VIOLATION OF THE TERMS OF THIS ORDINANCE IS DECLARED TO BE A MISDEMEANOR, AND ANY PERSON FOUND TO BE GUILTY THEREOF SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000), AND EACH DAY THAT SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; AND PROVIDING FOR AN EFFECTIVE DATE

Item 2012-24 was tabled at the request of staff.

2012-25 CONSIDER AND ACT UPON ADOPTING THE CITY OF MIDLOTHIAN PURCHASING POLICY AND PROCEDURES MANUAL

Chris Dick presented updates to the 2005 document which included software use for requisition/payments, increased bid limits, local vendor procedures, and administrative improvements. Councilmember Sibley moved to approve Item 2012-25 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (6-0).

2012-26 CONSIDER AND ACT UPON ADOPTING THE CITY OF MIDLOTHIAN DEBT MANAGEMENT POLICY

Chris Dick presented the actions already in practice but not formalized in a policy as recommended by credit rating agencies.

Councilmember Kyle moved to approve Item 2012-26 as presented. Motion was seconded by Councilmember Houston and carried unanimously (6-0).

2012-27 CONSIDER AND ACT UPON ADOPTING THE CITY OF MIDLOTHIAN FINANCIAL POLICIES

Chris Dick reviewed updates to the 2000 document which included new governmental regulations and practices, write-off procedures for uncollectibles, and language clarification to reflect current practices.

Councilmember Sibley moved to approve Item 2012-27 as presented. Motion was seconded by Councilmember Houston and carried by a vote of 5-1 with Councilmember Miller opposed. Council directed staff to post all three policies on-line for citizen access.

Council moved to Executive Session at 7:21 p.m. for the purpose of discussing Items 1 and 3, and with the following present: Mayor pro tem Frizzell, Councilmembers Sibley, Houston, Kyle, Miller, Massey; City Manager, City Attorney

EXECUTIVE SESSION

1. **SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING CITY OF MIDLOTHIAN V. RANDALL DENTON, MIDTEXAS INTERNATIONAL CENTER, INC., TEXAS PROPERTIES TRUST AND TRADE ZONE OPERATIONS, INC.**
2. **SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN**
3. **SECTION 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS**
4. **SECTION 551.074 PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE APPOINTMENT, EMPLOYMENT OR DUTIES OF AN ECONOMIC DEVELOPMENT EXECUTIVE DIRECTOR FOR THE CITY OF MIDLOTHIAN**
5. **SECTION 551.072 REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY NECESSARY FOR ROADWAY AND PARKS IMPROVEMENT PROJECTS**
6. **SECTION 551.072 REAL ESTATE: DELIBERATION REGARDING REAL PROPERTY - TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY**

AS AUTHORIZED BY SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE, THIS MEETING MAY BE CONVENED INTO CLOSED EXECUTIVE SESSION FOR THE PURPOSE OF SEEKING CONFIDENTIAL LEGAL ADVICE FROM THE CITY ATTORNEY ON ANY AGENDA ITEM LISTED HEREIN

Council reconvened in Regular Session at 7:42 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2012-28 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: RANDALL DENTON, ET AL

No action was taken following Executive Session.

2012-29 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: TEXAS CENTRAL BUSINESS LINES

The Item was not discussed in Executive Session nor was action taken.

2012-30 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECONOMIC DEVELOPMENT

Joyce Keen and David Fisher were in attendance; no action was taken following Executive Session.

2012-31 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: PERSONNEL – ECONOMIC DEVELOPMENT EXECUTIVE DIRECTOR

The Item was not discussed in Executive Session nor was action taken.

2012-32 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: REAL ESTATE

The Item was not discussed in Executive Session nor was action taken.

2012-33 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: REAL ESTATE

The Item was not discussed in Executive Session nor was action taken.

2012-34 ACTION RESULTING FROM EXECUTIVE SESSION RELATED TO SECTION 551.071(2)

The Item was not discussed in Executive Session nor was action taken.

2012-35 ADJOURN

With no further business to discuss, Mayor pro tem Frizzell adjourned the meeting at 7:43 p.m.

ATTEST:

Bill Houston, Mayor

Lou Jameson, City Secretary

**MINUTES
CALLED COUNCIL MEETING
FEBRUARY 7, 2012**

The City Council of the City of Midlothian convened in a Called Meeting in the Council Chambers of City Hall, 104 West Avenue E, with the meeting open to the public and notice of said meeting posted as prescribed by V.T.C.A., Government Code, Chapter 551, with the following members present to-wit:

Vacant	§	Mayor
Wayne Sibley	§	Councilmember Place 1
Bill Houston	§	Councilmember Place 2
Jason Kyle	§	Councilmember Place 3
Joe Frizzell	§	Mayor Pro Tem Place 4
Hank Miller	§	Councilmember Place 5
Steve Massey	§	Councilmember Place 6

REGULAR AGENDA – 6:30 P.M.

Mayor pro tem Frizzell called the meeting to order at 6:30 p.m. with notice of the meeting duly posted and the full Council present.

Council moved to Executive Session at 6:31 p.m. for the purpose of discussing Items 1 and 2 and with the following present: Mayor pro tem Frizzell, Councilmembers Sibley, Houston, Kyle, Miller, and Massey; City Manager, City Attorney, City Engineer, Planning Director, land-use attorneys Terry Morgan and Jim Morris, Councilmember Elect Mike Rodgers

EXECUTIVE SESSION

- 1. SECTION LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 551.071 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN**
- 2. SECTION LEGAL: CONSULTATION WITH ATTORNEY REGARDING CITY OF 551.071 MIDLOTHIAN V. RANDALL DENTON, MIDTEXAS INTERNATIONAL CENTER, INC., TEXAS PROPERTIES TRUST AND TRADE ZONE OPERATIONS, INC.**

Council reconvened in Regular Session at 7:53 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2012-36 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES

Councilmember Kyle moved to authorize Council to file a motion for a rehearing for Cause No. 3-07-CV-1351-N, Texas Central Business Lines Corporation v. City of Midlothian. Motion was seconded by Councilmember Houston and carried by a vote of 5-1 with Councilmember Miller opposed.

2012-37 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: RANDALL DENTON, ET AL

The item was not discussed nor was action taken.

2012-38 ADJOURN

With there being no further business, Mayor pro tem Frizzell adjourned the meeting at 7:55 p.m.

ATTEST:

Bill Houston, Mayor

Lou Jameson, City Secretary



AGENDA ITEM 2012-41

AGENDA CAPTION:

Consider and act upon a resolution providing for an election to be held to elect two councilmembers in the City of Midlothian; defining the term of office; designating the polling location; designating the election judge and providing for clerical personnel; designating the time and place; providing for a run-off election; and providing for the filing of applications for the official ballots for said election

ITEM SUMMARY/BACKGROUND:

Councilmember Places 5 and 6 will be on the ballot this year. Filing as a candidate begins February 4th and continues through March 5th. Early voting will be conducted at the Conference Center beginning April 30th and ending May 8th, weekdays only. Election Day will be Saturday, May 12th. During early voting, April 30th through May 4th, voting hours will be 8:00 a.m. – 5:00 p.m.; May 7th and 8th voting hours will be 7:00 a.m. – 7:00 p.m.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

N/A

ATTACHMENTS:

Proposed Resolution

ALTERNATIVES:

Approve, deny, table or amend the proposed resolution

RECOMMENDATION:

Approve as submitted.

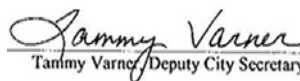
SUBMITTED AND TO BE PRESENTED BY: Lou Jameson, City Secretary

For the February 14, 2012 City Council Meeting



City Secretary

REVIEWED BY:



Tammy Varner, Deputy City Secretary

APPROVED BY:



Don Hastings, City Manager

RESOLUTION 2012-

A RESOLUTION PROVIDING FOR AN ELECTION TO BE HELD TO ELECT TWO COUNCILMEMBERS IN THE CITY OF MIDLOTHIAN; DEFINING THE TERM OF OFFICE; DESIGNATING THE POLLING LOCATION FOR SAID ELECTION; DESIGNATING THE ELECTION JUDGE AND PROVIDING FOR CLERICAL PERSONNEL FOR SAID ELECTION; DESIGNATING THE TIME AND PLACE OF SAID ELECTION; PROVIDING FOR A RUN-OFF ELECTION; AND PROVIDING FOR THE FILING OF APPLICATIONS FOR OFFICIAL BALLOTS FOR SAID ELECTION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS:

SECTION 1. Election of Councilmembers. That an election be held on the second Saturday in May 2012, being May 12, 2012, under and by virtue of the provisions of the Charter of the City of Midlothian, Texas and the laws of the State of Texas, for the purpose of electing Councilmembers for Places Five and Six. Each shall serve for a term of three (3) years, their terms expiring in May 2015.

SECTION 2. Filing of Applications. Any person desiring his/her name to appear on the official ballot for the election of said City Councilmembers, or desiring to file as a write-in candidate, shall file his/her sworn application with the City Secretary at the City Office, beginning February 4, 2012 and ending on March 5, 2012; write-in candidate filing period ends March 9, 2015.

SECTION 3. Election Judge and Clerical Personnel. Judy Howard is hereby designated as Presiding Election Judge and the Presiding Judge is authorized and directed to employ sufficient clerical personnel to efficiently conduct said election. Karen Esberger is hereby designated to serve as Alternate Election Judge.

SECTION 4. Early Voting Board. Judy Howard and designated election clerks are hereby appointed to serve as the Early Voting Ballot Board for the election to be held on Saturday, May 12, 2012.

SECTION 5. Early Voting. Early voting for the election shall be held at the Midlothian Conference Center, #1 Community Circle, Midlothian, Texas, and said place of early voting shall remain open between the hours of 8:00 a.m. and 5:00 p.m. on normal working days, which is not a Saturday, Sunday, or an official State Holiday, beginning on April 30, 2012 and continuing through May 4, 2012. In addition, two twelve-hour voting days will be provided: Monday, May 7 and Tuesday, May 8 – polls will be open from 7:00 a. m. – 7:00 p.m. on those two days.

SECTION 6. Time and Place of Election. That said election shall be held at the Midlothian Conference Center, #1 Community Circle, Midlothian, Texas for all city precincts and the time of the election shall be from 7:00 a.m. to 7:00 p.m. on Saturday, May 12, 2012.

SECTION 7. Run-Off Election. Providing for a Run-Off Election if necessary and designating the date as Tuesday, June 12, 2012, with the location being the Midlothian Conference

Center, #1 Community Circle, 7:00 a.m. to 7:00 p.m., and designating the Presiding Election Judge as Judy Howard with the Alternate Election Judge being Karen Esberger.

SECTION 8. Bilingual Election. The election shall be conducted with bilingual (English and Spanish) election materials and methods, in accordance with the Federal Voting Rights Act.

SECTION 9. Voting System. The election shall be conducted with AutoMARK Voter Assist System, Model A-100, for disabled voters in accordance with the Help America Vote Act (HAVA).

PASSED, APPROVED, AND ADOPTED on this the 14th day of February 2012.

Bill Houston, Mayor

ATTEST:

Lou Jameson, City Secretary



AGENDA ITEM 2012-42

AGENDA CAPTION:

Consider and act upon a Joint Election Agreement with the Midlothian Independent School District

ITEM SUMMARY/BACKGROUND:

In 2006 HB 1 was passed requiring school districts that have joint elections with municipalities to have formal agreements with the entity. MISD and the City have conducted joint elections for the convenience of voters for many years; the contract simply formalizes the process and has been successfully utilized since 2007.

Both the City and MISD will have their own areas at the Conference Center for their respective election. All aspects of the election are separate except for the joint use of the Automark machine for electronic voting.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

The average cost to use MISD's Automark equipment is \$300. As always, each entity is responsible for all elements of their own election. Council election costs were budgeted in line item 105-611-337.

ATTACHMENTS:

Proposed agreement

ALTERNATIVES:

Approve, deny, amend or table

RECOMMENDATION:


Approve Joint Election Agreement as submitted.

SUBMITTED AND TO BE PRESENTED BY: Lou Jameson, City Secretary

For the February 14, 2012 City Council Meeting



City Secretary

REVIEWED BY:

Tammy Varner, Deputy City Secretary

APPROVED BY:

Don Hastings, City Manager

**JOINT ELECTION AGREEMENT BETWEEN THE MIDLOTHIAN
INDEPENDENT SCHOOL DISTRICT AND THE CITY OF
MIDLOTHIAN, TEXAS**

This joint election agreement is made this 16th day of January, 2012, by and between the Midlothian Independent School District ("Midlothian ISD") and the City of Midlothian, Texas ("the City").

WHEREAS, Midlothian ISD plans to hold a Board of Trustees Election on May 12, 2012, for the purpose of electing Place 1, Place 2, and Place 3.

WHEREAS, the City plans to hold a City Council Election on May 12, 2012, for the purpose of electing Council Member Place 5 and Place 6.

WHEREAS, Texas Election Code section 271.002 authorizes the governing bodies of political subdivisions to enter into an agreement to hold joint elections in election precincts that can be served by common polling places;

WHEREAS, Midlothian ISD and the City will hold elections on the same day;
and

WHEREAS, it would be to the benefit of the City, Midlothian ISD, and the citizens and voters thereof to hold the elections jointly.

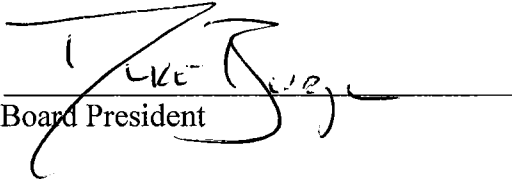
NOW, THEREFORE, IT IS AGREED that a joint election will be held by Midlothian ISD and the City under the following terms and conditions:

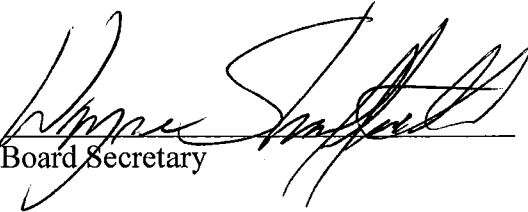
1. Ballots. The entities will be using separate ballots, and each entity will be solely responsible for printing and securing its own ballots, and for getting the necessary software and/or programming from ES&S for use on the ES&S Automark equipment.
2. Use of voting equipment. The entities will be sharing the ES&S Automark equipment for Early Voting and on Election Day, and will share the cost of operating this equipment jointly.
3. Election forms and records. Each entity will be responsible for the production, safekeeping and detention of its own election forms and records.
4. Tabulation of precinct results and canvassing. Each entity will be responsible for the tabulation and canvassing of its own elections results.
5. Notice of election and order of election. Each entity will be responsible for ordering its own election. Notice of the election will be published separately, and each entity is responsible for fulfilling its own notice and publication requirements.

6. Appointment of Chief Election Official, Early Voting Clerk. Each entity will be responsible for appointing its own chief election official and early voting clerk.
7. Early voting. Early voting will be conducted jointly at the Midlothian Conference Center. Each entity shall provide a minimum of one person for purposes of conducting early voting for that entity. Each entity will have its own list of voters. The City shall not charge Midlothian ISD a fee for use of its Conference Center for early voting.
8. Polling places. The entities will share the City's polling location on Election Day, which is the Midlothian Conference Center, located at 1 Community Circle Drive.
9. Management of election. Except as set forth herein, each entity will be responsible for preparing for and running its own election, including but not limited to the following duties and responsibilities:
 - o Securing qualified individuals to serve as election judges for the polling place.
 - o Securing the facility where the election is to be conducted.
 - o Securing election materials and supplies, including programming and preparation of an accessible voting system to be used in the election.
 - o Management of early voting by personal appearance and by mail.
10. Costs. Each entity will be responsible for all of its own costs, except that the entities will share the costs of operation and use of the ES&S Automark.
11. US. Department of Justice preclearance submission. Each entity will submit a letter to the Department of Justice on its own behalf, if necessary.
12. Contract withdrawal – cancellation of election. If either entity cancels its election, the other entity will be entitled to use the Midlothian Conference Center to conduct its election as scheduled.

The undersigned are the duly authorized representatives of the parties' governing bodies, and their signatures represent adoption and acceptance of the terms and conditions of this agreement.

APPROVED, this 16th day of January, 2012, by the Board of Trustees of the Midlothian Independent School District.


Board President


Board Secretary

APPROVED, this _____ day of _____, 2012, by the City Council of the City of Midlothian, Texas.

City of Midlothian Mayor

ATTEST:

City Secretary



AGENDA ITEM 2012-43

AGENDA CAPTION:

Citizens to be Heard

ITEM SUMMARY/BACKGROUND:

Citizens who have registered with the City Secretary may address Council with comments and/or concerns.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

N/A

ATTACHMENTS:

N/A

ALTERNATIVES:

N/A

RECOMMENDATION:

N/A



AGENDA ITEM 2012-44

AGENDA CAPTION:

Consider and act upon the appointment of Mike Weiss as Information Technology Director for the City of Midlothian

ITEM SUMMARY/BACKGROUND:

Following direction received at the Fall 2011 budget retreat, administration is processing the upgrade of the I.T. Manager position to I.T. Director. This personnel change is based on the increased responsibilities of the I.T. manager position, such as the addition of an I.T. support position, increased budgetary responsibilities, and an increased responsibility to department directors and city management.

SPECIAL CONSIDERATION:

The City Charter states "the appointments of the directors of all departments established by the Council or by this Charter shall be subject to the approval of the Council."

FINANCIAL IMPACT/FUNDING SOURCE:

This position is fully funded within the Information Technology Budget.

ATTACHMENTS:

Overview of Mike Weiss' background

ALTERNATIVES:

1. Approve
2. Deny

RECOMMENDATION:

Approve as presented

SUBMITTED, TO BE PRESENTED AND APPROVED BY:

For the February 14, 2012 Council meeting



Don Hastings, City Manager

REVIEWED BY:



Chris Dick, Finance Director

MIKE WEISS

EXPERIENCE:

Ten years of I.T. experience with five years of management experience directing a department with a staff of five people and five years of local government experience.

EDUCATION:

Bachelor's Degree in 2002 with a double major in Theology and Philosophy; will complete Master's Degree in Information Security in May 2012.

CERTIFICATIONS:

CISSP: Certified Information Systems Security Professional (a US Department of Defense and National Security Association recognized certification). An overview of the certification can be found at:

http://en.wikipedia.org/wiki/Certified_Information_Systems_Security_Professional

GCIA: GIAC (Global Information Assurance Certification) Certified Intrusion Analyst (there are only just over 3000 GCIA's in the world). An overview of the certification can be found at:

<http://www.giac.org/certified-professionals/directory/gcia/w>

MCSE:S: Microsoft Certified Systems Engineer, with a focus in Security
Sub-certifications that this is founded on:

MCP: Microsoft Certified Professional

MCSA: Microsoft Certified Systems Administrator

CEH: Certified Ethical Hacker (trained in hacking techniques in order to better defend systems against hacking attempts).

Security+: Security+ is a generic globally recognized certification in information security techniques.

ACTIVE MEMBERSHIPS:

South Dallas IT Group: a local group of Government Directors and Managers that meet quarterly to share notes and information.

TAGITM: Texas Association of Government IT Managers which is a trade group of state, county, and local IT Managers across Texas.

ISSA: Information Systems Security Association which is a national trade group of security professionals



AGENDA ITEM 2012-45

AGENDA CAPTION:

Consider and act upon a resolution suspending the March 6, 2012 effective date of Atmos Energy Corp. Mid-Tex Division ("Atmos Mid-Tex") requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with Atmos Cities Steering Committee ("ACSC") and other cities in the Atmos Mid-Tex service area to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; requiring reimbursement of cities' rate case expenses; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and ACSC's legal counsel

ITEM SUMMARY/BACKGROUND:

In 2003, TXU Gas filed a statewide rate case which became known at the Railroad Commission of Texas ("RRC") as Gas Utilities Docket ("GUD") No. 9400. That same year the Texas Legislature passed legislation referred to as the Gas Reliability Infrastructure Program ("GRIP") which authorized annual piecemeal rate reviews that Texas courts have concluded significantly restrict city jurisdiction, participation, and input. Shortly after GUD No. 9400 was decided in 2004, Atmos Energy purchased TXU Gas and created what is known as Atmos Energy Corp., Mid-Tex Division. The City is within the Atmos Mid-Tex Division.

Atmos Mid-Tex filed four GRIP cases before filing a traditional rate case in September, 2007. As part of Cities' Settlement Agreement with Atmos of the 2007 rate case, ACSC and Atmos created a substitute process for annual piecemeal GRIP cases. That substitute process was called a Rate Review Mechanism ("RRM") and was intended as an expedited but comprehensive rate review that included a number of fixed values and constraints. The RRM was intended as a three-year experiment. Last year, it was extended for a fourth year with some slight modifications to the original formulas. ACSC negotiated with Atmos in the final quarter of last year to further extend the RRM process, but no agreement was reached. Atmos has expressed a desire to reach a settlement of the January 31, 2012 filing that includes a revised RRM process.

Enclosed are frequently asked questions ("FAQ") on ACSC and the RRM ratemaking process.

Discussion and Purpose

Atmos Mid-Tex filed a Statement of Intent on January 31, 2012, seeking to increase system-wide base rates (which exclude the cost of gas) by approximately \$49 million or 11.94%. However, the Company is requesting an increase of 13.6%, excluding gas costs, for its residential customers. Additionally, the application would change the way that rates are collected, by increasing the residential fixed-monthly (or customer) charge from \$7.50 to \$18.00 and decreasing the consumption charge from \$0.25 per 100 cubic feet ("ccf") to \$0.07 per ccf.

The law provides that a rate request made by a gas utility cannot become effective until at least 35 days following the filing of the application to change rates. Atmos has proposed an effective date of March 6, 2012. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. If the City fails to take some action regarding the filing before the effective date, Atmos' rate request is deemed administratively approved.

The purpose of the resolution is to extend the effective date of Atmos Mid-Tex's proposed rate increase to give the City time to review the rate-filing package. The resolution suspends the March 6, 2012 effective date of the Company's rate increase for the maximum period permitted by law to allow

the City, working in conjunction with the other ACSC cities, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy to pursue, including settlement and ultimately to approve reasonable rates.

Explanation of “Be It Resolved Paragraphs”

Section 1. The City is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective so long as the City has a legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as the “maximum period allowed by law” rather than ending by a specific date. This is because the Company controls the effective date and can extend its effective date and, therefore, extend the deadline for final city action to increase the time that the City retains jurisdiction (for example, if necessary to reach settlement on the case). If the suspension period is not otherwise extended by the Company, the City must take final action on Atmos Mid-Tex’s request to raise rates by June 4, 2012.

Section 2. This provision recognizes the City’s membership in ACSC and authorizes the City to participate with other similarly situated cities served by Atmos Mid-Tex in order to more efficiently represent the interests of the City and its citizens.

Section 3. By law, the Company must reimburse the cities for their reasonable rate case expenses. Legal counsel and consultants approved by ACSC will present their invoices to the City of Arlington which will then seek reimbursement from Atmos Mid-Tex. The City will not incur liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the resolution was properly noticed.

Section 5. This section provides that Atmos Mid-Tex’s designated representative and counsel for ACSC will be notified of the City’s action by sending a copy of the approved and signed resolution to certain designated individuals.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

The approval of this resolution will suspend the requested increase.

ATTACHMENTS:

1. Resolution
2. List of ACSC members
3. FAQ regarding ACSC and the RRM process

ALTERNATIVES:

Approve, Deny

RECOMMENDATION:

Approve resolution as presented.

SUBMITTED BY and TO BE PRESENTED BY:

Chris Dick, CPA Finance Director, for the February 14, 2012 Council Meeting



Chris Dick, Finance Director

REVIEWED BY:



Tammy Varner, Deputy City Secretary

APPROVED BY:



Don Hastings, City Manager

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF MIDLOTHIAN SUSPENDING THE MARCH 6, 2012, EFFECTIVE DATE OF ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX”) REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND OTHER CITIES IN THE ATMOS MID-TEX SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES’ RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND ACSC’S LEGAL COUNSEL

WHEREAS, on or about January 31, 2012, Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), pursuant to Gas Utility Regulatory Act § 104.102 filed with the City of Midlothian (“City”) a Statement of Intent to change gas rates in all municipalities exercising original jurisdiction within its Mid-Tex Division service area, effective March 6, 2012; and

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 104, §104.001 et seq. of GURA has exclusive original jurisdiction over Atmos Mid-Tex’s rates, operations, and services within the City; and

WHEREAS, in order to maximize the efficient use of resources and expertise, it is reasonable for the City to maintain its involvement in the Atmos Cities Steering Committee (“ACSC”) and to cooperate with the more than 150 similarly situated city members of ACSC and other city participants in conducting a review of the Company’s application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, Atmos Mid-Tex proposed March 6, 2012, as the effective date for its requested increase in rates; and

WHEREAS, it is not possible for the City to complete its review of Atmos Mid-Tex’s filing by March 6, 2012; and

WHEREAS, the City will need an adequate amount of time to review and evaluate Atmos Mid-Tex's rate application to enable the City to adopt a final decision as a local regulatory authority with regard to Atmos Mid-Tex's requested rate increase; and

WHEREAS, the Gas Utility Regulatory Act § 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days; and

WHEREAS, the Gas Utility Regulatory Act § 103.022 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS:

1. That the March 6, 2012, effective date of the rate request submitted by Atmos Mid-Tex on January 31, 2012, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

2. That the City is authorized to cooperate with ACSC and its member cities in the Mid-Tex service area and under the direction of the ACSC Executive Committee to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Railroad Commission.

3. That the City's reasonable rate case expenses shall be reimbursed by Atmos.

4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

5. A copy of this Resolution shall be sent to Atmos, care of David Park, Vice President Rates & Regulatory Affairs, at Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED this 14th day of February, 2012.

Bill Houston, Mayor

ATTEST:

Lou Jameson, City Secretary

APPROVED AS TO FORM:

Donald R. Stout, City Attorney

ACSC Cities (154 Total)

Abilene	Fate	Palestine
Addison	Flower Mound	Pantego
Allen	Forest Hill	Paris
Alvarado	Fort Worth	Parker
Angus	Frisco	Pecan Hill
Anna	Frost	Plano
Argyle	Gainesville	Ponder
Arlington	Garland	Pottsboro
Bedford	Garrett	Prosper
Bellmead	Grand Prairie	Quitman
Benbrook	Grapevine	Red Oak
Beverly Hills	Haltom City	Reno (Parker County)
Blossom	Harker Heights	Richardson
Blue Ridge	Haskell	Richland
Bowie	Haslet	Richland Hills
Boyd	Hewitt	River Oaks
Bridgeport	Highland Park	Roanoke
Brownwood	Highland Village	Robinson
Buffalo	Honey Grove	Rockwall
Burkburnett	Hurst	Roscoe
Burleson	Iowa Park	Rowlett
Caddo Mills	Irving	Royse City
Carrollton	Justin	Sachse
Cedar Hill	Kaufman	Saginaw
Celeste	Keene	Seagoville
Celina	Keller	Sherman
Cisco	Kemp	Snyder
Cleburne	Kennedale	Southlake
Clyde	Kerrville	Springtown
College Station	Killeen	Stamford
Colleyville	Krum	Stephenville
Colorado City	Lakeside	Sulphur Springs
Comanche	Lake Worth	Sweetwater
Coolidge	Lancaster	Temple
Coppell	Lewisville	Terrell
Corinth	Lincoln Park	The Colony
Corral City	Little Elm	Trophy Club
Crandall	Lorena	Tyler
Crowley	Madisonville	University Park
Dalworthington Gardens	Malakoff	Venus
Denison	Mansfield	Vernon
DeSoto	McKinney	Waco
Duncanville	Melissa	Watauga
Eastland	Mesquite	Waxahachie
Edgecliff Village	Midlothian	Westlake
Emory	Murphy	Whitesboro
Ennis	Newark	White Settlement
Euless	Nocona	Wichita Falls
Everman	North Richland Hills	Woodway
Fairview	Northlake	Wylie
Farmers Branch	Oak Leaf	
Farmersville	Ovilla	

FREQUENTLY ASKED QUESTIONS REGARDING ACSC AND THE RRM RATEMAKING PROCESS

What is the Role of Cities in Ratemaking?

Cities have historically exercised original jurisdiction over the level of gas rates charged within their boundaries. Generally, gas distribution utilities have filed rate cases at the city level and only gone to the Railroad Commission of Texas (“RRC”) with an appeal of city action or if they cannot reach a settlement with cities. If a utility and cities reach an agreement, the utility may then file a case at the RRC to implement the same rates approved by cities in areas outside municipal boundaries.

Once a case is at the RRC, the Commission Staff generally expects cities to intervene and do most of the discovery, sponsor opposing witnesses, and do most of the cross-examination and briefing. There is no consumer advocate at the RRC. If cities do not participate in hearings at the RRC, the request of a regulated utility is likely to be rubber-stamped.

What is the background to the creation of the Atmos Cities’ Steering Committee?

The Atmos pipeline and distribution systems were built, owned and operated by Lone Star Gas (“LSG”) which maintained over 200 rate jurisdictions until it sold its assets to Texas Utilities (“TXU”) in the late 1990’s. That meant that many cities had their own unique distribution rates and that individual cities had to process rate cases at the local level. LSG-Pipeline served all 200-plus distribution systems and pipeline rates were set by the RRC.

From the early 1980’s through the late 1990’s, LSG filed no pipeline or system-wide rate case at the RRC. When LSG was finally brought before the RRC to show cause why its rates should not be reduced, approximately 80 cities intervened and created an *ad hoc* group known as the Steering Committee of Cities Served by Lone Star.

TXU purchased the LSG assets in the late 1990’s and immediately commenced consolidating 200-plus ratemaking jurisdictions into regions. As regional cases were filed, cities within each region created an *ad hoc* committee to form a common strategy and negotiating position. Once TXU had aggregated the cities into five or six jurisdictions, each with a different rate, Texas Utilities Gas Company filed a system-wide case to bring all of the old LSG territory under one common rate. The different city regional committees then united and formed the Allied Coalition of Cities (“ACC”). While the gas utility assets were owned and controlled by TXU, the Steering Committee transformed itself from an *ad hoc* group that came together only in response to rate filings by the utility into a permanent standing committee.

In Gas Utilities Docket (“GUD”) No. 9400 in 2004, TXU’s request for a \$61.6 million system-wide increase was aggressively opposed by ACC. The Company received only a \$2.01 million increase. Unhappy with that result, TXU decided that owning a gas system was neither as fun nor as profitable as the deregulated electric system, and they sold the system to Atmos Energy Corporation (“Atmos” or “Company”). ACC was then transformed into the Steering

Committee of Cities Served by Atmos and then renamed Atmos Cities Steering Committee to obtain an easy to remember acronym, “ACSC”.

What is the Atmos Cities Steering Committee?

ACSC is a coalition of 154 cities that unite in common purpose to address gas utility rate and franchise issues related to Atmos Energy Corporation. Its objectives are to: (1) ensure that gas utility rates charged to cities and their residents are fair and reasonable; (2) maintain reasonable franchise fee revenues for cities; (3) protect cities’ original jurisdiction over rates and services; (4) be a voice for consumers where no state agency assumes such a role; and (5) promote sound ratemaking policy in the public interest.

Cities join the permanent standing committee by passing a resolution and agreeing to support the work of ACSC through modest occasional *per capita* assessments which support ongoing administrative and legislative advocacy and all expenses where cities are not entitled to reimbursement. Each member city designates a representative to ACSC. Member representatives may volunteer to serve on the ACSC Executive Committee or Settlement Committee. The Executive Committee sets policy, hires legal counsel and consultants, directs litigation, establishes a legislative agenda, sets assessments on members as needed and meets quarterly with Atmos executives. The Settlement Committee is directly involved in negotiating resolution of contested matters with Atmos executives.

The list of current members is attached.

What is the benefit of membership in ACSC?

One hundred fifty-four cities speaking as one voice is much more effective in advocacy before the Railroad Commission and legislature than any one city or multiple small groups of cities.

The legislature has given gas utilities a right to an annual increase in rates. Resources (both financial and human) of individual cities are conserved by membership in ACSC. Additionally, membership enhances institutional memory of ratemaking issues, public policy debates, and right-of-way and franchise fee battles.

What has ACSC accomplished recently?

Going into the legislative session, ACSC in December 2010 released a 48-page report, “Natural Gas Consumers and the Texas Railroad Commission.” More than 200 television, newspaper and radio news sites posted information on and a link to the report which may be found on ACSC’s website, TexasGasConsumers.org.

Earlier in 2010, ACSC representatives visited on several occasions with the Sunset Commission Staff, and several ACSC recommendations for reform were included in the Sunset Commission Report on the Railroad Commission, delivered to the legislature’s Sunset Committee prior to public hearings on the agency. Several ACSC member representatives testified before the legislature regarding reforms needed at the Railroad Commission.

During the most recent legislative session, lobbying efforts by ACSC were critical in killing two gas utility bills that would have undermined traditional regulation, deprived cities of certain rights, and led to even greater rate increases.

ACSC has resolved a major issue involving franchise fees. Atmos unilaterally, without notice, ceased inclusion of franchise fees in the calculations of gross receipts regardless of whether specific franchises included such payments. Several cities were willing to pursue the matter through litigation. However, counsel for ACSC was able to negotiate a resolution that allowed each member city to determine whether it desired an increase in franchise fee payments based on inclusion of franchise fees in the calculation of gross receipts. If a city opted for inclusion of fee-on-fee revenues, it had the further option of retroactive payments back to the point in time that Atmos decided to curtail fee-on-fee payments. Each member had these options regardless of the wording of the then valid franchise agreement. This resolution spared significant litigation costs and anxiety and was only possible because of the clout of the ACSC membership.

One of the most significant accomplishments of ACSC occurred in 2007 via a settlement of the then pending system-wide rate case. Approximately 50 ACSC city representatives showed up in Arlington for a meeting with Atmos executives who were shocked at the vocal opposition to Atmos practices, the unfairness of annual Gas Reliability Infrastructure Program (“GRIP”) rate filings that precluded city and citizen review, and the Company’s lack of coordination with cities. That meeting led to the creation of the Rate Review Mechanism (“RRM”) process and greater ongoing communication between the Company and ACSC.

In 2010, ongoing communications between ACSC and the Company led to a workable solution to the need to replace steel service lines in a manner that accommodated city needs to control their rights-of-way, while moderating the rate impact and focusing first on the riskiest service lines based on leak repair histories. This compromise precluded a more onerous (from a city and consumer perspective) program threatened by the RRC.

What is a RRM case?

The concept of a RRM proceeding emerged as a three-year experimental substitute for GRIP cases as part of the settlement of Atmos Mid-Tex’s 2007 system-wide rate case. In 2003, the Texas Legislature added Section 104.301, Interim Adjustment for Changes in Investment, to the Gas Utility Regulatory Act. While not identified as such in the law, § 104.301 was referred to as the Gas Reliability Infrastructure Program or GRIP. The GRIP adjustments allowed gas companies to recover changes to invested capital without a review of whether increased revenues or declining expenses offset the invested capital costs. Both Atmos Pipeline and Atmos Mid-Tex filed GRIP cases as soon as the RRC adopted rules to implement the interim adjustments. As explained below, it quickly became apparent that the GRIP adjustments were terrible public policy.

As an alternative to GRIP, ACSC entered into a negotiated agreement with Atmos in 2007 to establish the RRM process. Unlike GRIP, the RRM provided for an annual review of all portions of Mid-Tex’s cost of service. It fixed an authorized rate of return on equity for the three-year period at 9.6% (which was less than what the RRC would have authorized) and set

caps on the extent to which expenses or investments could increase from one year to the next. More importantly, it allowed cities to make a comprehensive evaluation of all aspects of the utility business—investment, operation and maintenance expenses and revenues—unlike GRIP which only allows consideration of changes to invested capital.

Why is RRM superior to GRIP?

The GRIP cases are one-sided guarantees of a rubber-stamp of the utility’s rate request. ACSC attempted to participate in the first two GRIP proceedings filed by both Atmos Pipeline and Atmos Mid-Tex at the RRC. Not only were cities’ motions to intervene denied, but also, ACSC’s comments were ignored. At the city level, ACSC consultants determined that Atmos was not only including items such as artwork, chairs, computers and meals in interim rate adjustments that were allegedly intended to promote pipeline safety, but also the Company was over-earning its previously authorized rate of return. ACSC attacked the Commission’s rule in court because it denied city participation, denied a hearing on a contested matter, and denied cities’ recovery of any expenses associated with resisting GRIP rate increases. The courts have not been helpful to cities and the Texas Supreme Court has affirmed the denial of cities’ right to participate in GRIP cases at the RRC.

Cities have contended that GRIP is terrible public policy since it authorizes what would from a history of public interest regulation be regarded as unlawful—piecemeal ratemaking. GRIP allows rates to increase if the utility’s invested capital net of depreciation increases year-over-year. An increase in rates is mandated under GRIP if investment increases, even if increasing revenues and declining expenses more than offset the costs associated with increased investment.

The RRM process negotiated by ACSC solves the piecemeal ratemaking problem by providing for a comprehensive review of Atmos’ expenses and revenues. Furthermore, RRM benefits ACSC by: (1) allowing cities participation that would be denied under GRIP; (2) allowing cities to recover, at utility shareholder expense, all their ratemaking costs; and (3) avoiding both litigation and RRC jurisdiction.

The legislature has functionally authorized annual increases in gas utility rates through the GRIP process. Since consumers are otherwise stuck with annual rate increases, it is better to have cities participating in the comprehensive RRM process than unable to participate in a piecemeal process.

What has been the history of the RRM efforts?

In 2010, ACSC, in settling the third RRM proceeding, agreed to a slight modification and extension of the process. A settlement of the fourth annual RRM is now pending before ACSC members. The results of the four RRM proceedings are as follows:

RRM Filing	Year	Atmos Request	ACSC Settlement
#1	2008	\$33.5 million	\$20 million
#2	2009	\$20.2 million	\$2.6 million
#3	2010	\$70.2 million	\$27 million
#4	2011	\$15.7 million	\$6.6 million

These results are better for cities and consumers than would have been authorized by the RRC under the GRIP process.

What is the future of the RRM process?

The settlement of the fourth RRM filing anticipated ACSC and Atmos working between August and December to refine the RRM process. A settlement perpetuating the RRM process was not reached by the end of 2011 which has led to the filing of the January 31, 2012 traditional rate case. Discussions regarding the future of the RRM process will continue as we attempt to resolve the rate case by settlement.

If you have other questions please contact me at (512) 322-5875 and/or ggay@lglawfirm.com.

Geoffrey Gay
ACSC, General Counsel



AGENDA ITEM 2012-46

AGENDA CAPTION: Receive information from staff regarding Employee Appreciation Program initiatives and make recommendations as appropriate

ITEM SUMMARY/BACKGROUND

Upon her hiring on October 31, 2011, one of the important projects assigned to Human Resources Director Janet Goad was to review current employee appreciation programs, and to recommend any new initiatives that would be beneficial to employee morale, productivity and retention. The need for such a review was also expressed by the City Council through an agenda item initiated by Council Members Miller, Houston and Massey.

Attached to this report is a detailed list of current and proposed recognition and reward programs. In the development of a reward strategy staff has formulated a variety of time intervals to include: annual, quarterly, monthly, periodic and on-the-spot awards. To ensure that employee recognition programs are as effective as possible, staff has based its recommendations on these principles: (1) the strategic importance of tying awards directly to results; (2) to reward employees for great work in a timely manner; and, (3) to use a wide menu of options for employee recognition.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE: Sufficient funds have been allocated in the FY11-12 Human Resources Budget (\$14,000-line 734) in order to accomplish said programs for the remainder of the fiscal year.

ATTACHMENTS:

Employee Appreciation Programs 2012

ALTERNATIVES:

N/A

RECOMMENDATION:

Informational Report - Review, discuss and issue recommendations as appropriate.

SUBMITTED BY and TO BE PRESENTED BY:

Janet Goad, Director Human Resources
For the February 14, 2012 Council meeting


Janet M. Goad, Human Resources Director

REVIEWED BY:


Chris Dick, Finance Director



Tammy Varner, Deputy City Secretary

APPROVED BY:



Don Hastings, City Manager



Employee Appreciation Programs

2012

Current

Longevity Pay **A**
Pay Bonus **A**
Employee Awards/Christmas Party **A**
Employee Family Picnic W/Parks Dept **A**
Employee Skills Training **F**
Health Fair **A**
Employee Appreciation Lunch **A**
Safety CIA Awards **F**
Holiday Hams **A**
City Manager Thank you cards **P**
Medical Flex Plan **A**
Certification Pay **M**
College Tuition Reimbursement Program **P**
Recognition Lunches with the City Manager **P**
Kudos and Comments at City Council Meetings **P**
Safety Caps and Pins **A**
Enhanced Service Awards **A**
Flexible work schedules **F**

Proposed

Kudos Korner web **M**
Kudos Korner Newsletter **Q**
Customer Service Award **Q**
Innovation Award **Q**
Rodeo Night **A**
City Manager Hall Pass **F**

Legend:

A= Annual
Q=Quarterly
M=Monthly
P=Periodic
F=Frequent (as needed)



AGENDA ITEM 2012-47

AGENDA CAPTION:

Review and discuss City Council procedures, personnel roles and governance process.

ITEM SUMMARY/BACKGROUND:

With our current change in leadership, Mayor Houston will conduct an open Workshop session to discuss Council issues and seek Council input in order to lay the foundation for his tenure as Mayor.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

N/A

ATTACHMENTS:

None

ALTERNATIVES:

N/A

RECOMMENDATION:

No action required

SUBMITTED BY:

Lou Jameson, City Secretary, for the February 14, 2012 City Council Meeting



Lou Jameson

City Secretary

TO BE PRESENTED BY:

Mayor Bill Houston

APPROVED BY:

Don Hastings

Don Hastings, City Manager