

**CITY OF SULPHUR SPRINGS, TEXAS**

**REGULAR MEETING OF THE**

**CITY COUNCIL**

**SEPTEMBER 1, 2009**

**7:00 p.m.**

Mayor Spraggins called the regular meeting of the Sulphur Springs City Council to order at 7:03 p.m. The following council members and staff were present:

Mayor Gary Spraggins  
Mayor Pro Tem Chris Brown  
Councilman Craig Johnson  
Councilman Clay Walker  
Councilman Oscar Aguilar  
Councilman Freddie Taylor  
Councilman Charles Oxford

Absent: None

Staff: Marc Maxwell, City Manager  
Gale Roberts, City Secretary  
James Litzler, Acting City Attorney  
Peter Karstens, Director of Finance  
Johnny Vance, Director of Community Development  
Gordon Frazier, Director of Human Resources  
Jim Bayuk, Chief of Police  
Craig Vaughn, Director of Utilities

**PLEDGE AND INVOCATION**

Mayor Spraggins led in the pledge of allegiance and Mayor Pro Tem Brown led in the invocation.

**MANAGER'S REPORT WILL INCLUDE STATUS REPORT OF CAPITAL IMPROVEMENTS, ACCIDENTS AND CLAIMS FOR THE MONTH, AND A REVIEW OF EXPENDITURES AND REVENUES**

**NEW DOCTOR IN TOWN** - Congratulations to Sulphur Springs' Librarian Cheryl Lawson who earned a Doctor of Philosophy degree this month from the University of

North Texas. Dr. Lawson came to the City in 2006 with a Master of Library Science degree, and she has been doing a fine job for us. Way to go Dr. Lawson!

**HOUSTON STREET** - Phase I of the Houston Street project is nearly completed, with the exception of the Church Street intersection. We should open the Davis Street intersection next week.

The Capital Construction Division has already begun work on Phase II which extends westward from Mulberry Street.

TXDOT has given us permission to convert the Church/Houston intersection to a 4-way stop, although we will not rebuild the intersection until the Connally Street project is completed.

**CONNALLY STREET** - Construction on Connally Street should begin the first week of October and conclude 4 months thereafter.

**CLAIMS** – We had one minor workers’ compensation claim in September for a strained back.

We also had 3 liability claims, including one for the June 9<sup>th</sup> near-drowning at the municipal pool.

**REVENUES AND EXPENDITURES** – Finance Director, Peter Karstens will not present the year-to-date summary of revenues and expenditures as is customary since we have been through a fairly comprehensive review of our finances during the budget process.

**MISCELLANEOUS** – Elsewhere around the City, employees:

- Processed 485 tickets through the Municipal Court.
- Made repairs at Kids Kingdom.
- Prepared the ball fields for co-ed tournaments.
- Prepared the fields for Deep East Texas baseball tournaments.
- Closed the Municipal Pool.
- Poured concrete to extend access roads at the airport.
- Performed preventative maintenance on the Jet-A and AvGas refueling trucks.
- Sold 5,615 gallons of Jet-A and 1,979 gallons of AvGas.
- Responded to 89 calls for fire and rescue including 4 structure fires.
- Conducted 36 fire inspections.
- Tested and performed preventative maintenance on 72 fire hydrants.
- Made 50 street repairs including 17 that were a result of utility repairs.
- Placed mosquito abatement tablets at strategic locations around the City.

- Mowed and trimmed 36 city properties.
- Conducted 9 health inspections and 38 public nuisance inspections.
- Conducted 22 building inspections, 26 electrical inspections, 25 plumbing inspections, 17 mechanical inspections, 21 miscellaneous inspections and issued 19 building permits.
- Abated 1 substandard structure this month, bringing the total to 428.
- Replaced 3 manholes.
- Set a few new streetlight poles in front of City National Bank.
- Repaired pumps at water plant.
- Repaired 2 lift stations.
- Restarted school zone lights.
- Repaired 10 water breaks.
- Installed 3 water taps.
- Replaced 22 water meters.
- Unstopped 10 sewer mains.
- Treated wastewater to a daily average total suspended solids (tss) reading of 0.90 mg/L, less than one tenth of the allowable amount.
- Flushed 37 dead-end water mains.
- Replaced light bulbs at the top of the Carter Street Water Tower.
- Responded to 48 accidents, made 113 arrests, wrote 485 citations, and recorded 93 offenses.

### **CONSENT AGENDA**

The following items on the Consent Agenda were reviewed: Consider for approval corrected regular City Council meeting minutes of July 7, 2009; regular City Council meeting minutes of August 4, 2009; special City Council meeting minutes of August 11, 2009; the Planning and Zoning Commission meeting minutes of August 17, 2009; the Zoning Board of Adjustments meeting minutes of August 18, 2009; the Downtown Revitalization Board meeting minutes of August 18, 2009; the Tourism and Promotion meeting minutes of July 8, 2009; and the Economic Development Corporation meeting minutes of July 27, 2009. City Secretary Roberts stated the July 7, 2009 City Council minutes were on this agenda again due to a couple of typographical changes. There was no one to speak to the issue. Councilman Oxford moved to approve the consent agenda as presented. Councilman Aguilar seconded the motion and the vote was unanimous.

**The motion carried.**

### **DISCUSSION/ACTION ON PUBLIC HEARING FOR THE SECOND AND FINAL READING OF ORDINANCE NO. 2563 APPROVING A NEGOTIATED RESOLUTION BETWEEN ATMOS CITIES STEERING COMMITTEE (ACSC OR STEERING COMMITTEE) AND ATMOS ENERGY CORPORATION, MID-TEX DIVISION (ATMOS MID-TEX OR COMPANY) REGARDING THE**

**COMPANY’S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES’ REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS’ PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE’S LEGAL COUNSEL**

City Manager Marc Maxwell presented the staff report. The rate Review Mechanism (RRM) was created in 2008 as part of a collaborative agreement between ACSC and Atmos. It replaces the unworkable and contentious Gas Reliability Infrastructure Program (GRIP) surcharge process. The RRM authorizes cities to meaningfully review and dispute the company’s annual rate filings in an expedited rate proceeding at the city level. This authority was lacking under the GRIP process. The RRM is a substitute for GRIP filings during the three-year trial period (2008-2010). Pursuant to the negotiated agreement between Atmos and the Steering Committee, the tariffs implementing the RRM will increase rates by \$2.6 million. The average customer impact by class will be:

- Residential (4.7 Mcf/month) - \$0.15/month increase (0.22% overall increase)
- Commercial (36.1/Mcf/month) - \$0.26/month increase (0.06% overall increase)
- Industrial (3480 MMBtu/month) - \$46.80/month decrease (1.96% overall decrease)

The purpose of this ordinance is to approve rate tariffs and Proof of Revenues that reflect the negotiated rate change pursuant to the RRM process. In addition to the RRM tariffs, the ordinance also approves a revision to the Atmos Mid-Tex current Gas Cost Recovery (“GCR”) tariff to allow the Company to recover certain hedging costs associated with natural gas futures through the GCR tariff. Mayor Pro Tem Brown moved to approve the ordinance on the first reading. Councilman Taylor seconded and the vote was as follows:

Ayes: Johnson, Walker, Aguilar, Taylor, Spraggins, Brown  
Nays: None  
Abstain: Oxford

**The motion carried.**

**DISCUSSION/ACTION ON PUBLIC HEARING FOR THE SECOND AND FINAL READING OF ORDINANCE NO. 2564 ADOPTING AN IDENTITY THEFT PROGRAM POLICY**

The Director of Finance, Peter Karstens, presented the staff report. The federal government required, as of November 2008, that certain institutions handling sensitive identity information from their customers establish an identity theft prevention program. Public utilities are included in this mandate. However, as many of these institutions had not resolved exactly what that implementation meant as of that date, the Federal Trade Commission delayed implementation and enforcement of that ruling until August 2009. We have used the model policy as crafted by the Texas Municipal League (TML) for small and mid sized cities for the policy under consideration with this ordinance. The billing staff has already undertaken training consistent with this policy and changed procedures to conform to this policy. There was no one else to speak to the issue. Mayor Pro Tem Brown moved to adopt the ordinance on the second and final reading. Councilman Taylor seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2565, THE APPROPRIATIONS ORDINANCE FOR THE CITY OF SULPHUR SPRINGS FISCAL YEAR 2009-2010**

Finance Director Peter Karstens presented the staff report. This is the first reading on the budget ordinance. The budget is exactly the same that was discussed in the budget workshop with three exceptions. We are in the process of receiving the \$4,300,000 grant from TxDOT Aviation. They have requested our part of the match, \$430,000 which we will need to pay right after October 1, 2009. The county and the EDC will be approached on helping with this match. Also, there seems to be an improved chance that we may get the Special Crimes Unit grant for another year. The appropriate Special Revenue Fund was increased to include two employees instead of 1.2 to reflect that possibility. The expenditures in the library were decreased by \$4,000 to correct the double expenditure found in the library budget. There was no one else to speak to the issue. Councilman Walker moved to approve the ordinance on the first reading. Councilman Taylor seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2566, SETTING THE TAX RATE FOR THE CITY OF SULPHUR SPRINGS FOR 2009**

Finance Director Peter Karstens presented the staff report. The property tax rate overall stays the same at 44 cents per \$100 of valuation. The taxes in ordinance are actually assessed on property tax as of January 1, 2009, though they are due after the tax rate is set. There was no one else to speak to the issue. Councilman Aguilar moved that the

property taxes be increased by the adoption of a tax rate of \$0.44 per \$100 of valuation which is effectively a 1.18% increase in the tax rate, approving the ordinance on the first reading. Councilman Johnson seconded the motion making the statement that this is not an increase of the actual rate. The vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2567, SETTING THE WATER RATE FOR THE CITY OF SULPHUR SPRINGS FOR 2009**

Finance Director Peter Karstens presented the staff report. The water rates, as noted in the budget workshops, increase by 4.8% from last year's budget. The increase is due to the repairs on the water and sewer lines increasing from \$135,000 five years ago to over \$530,000. It has severely affected the fund balance in the Enterprise Fund which our bond covenants require we keep a two-month supply or \$1,200,000. There was no one else to speak to the issue. Mayor Pro Tem Brown moved to approve the ordinance on the first reading. Councilman Aguilar seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2568, SETTING THE SEWER RATE FOR THE CITY OF SULPHUR SPRINGS FOR 2009**

Finance Director Peter Karstens presented the staff report. The sewer rates, as noted in the budget workshops, increase by 4% from last year's budget. The increase is due to the repairs on the water and sewer lines increasing from \$135,000 five years ago to over \$530,000. It has severely affected the fund balance in the Enterprise Fund which our bond covenants require we keep a two-month supply or \$1,200,000. There was no one else to speak to the issue. Councilman Oxford moved to approve the ordinance on the first reading. Councilman Walker seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2569, SETTING THE SANITATION RATE FOR THE CITY OF SULPHUR SPRINGS FOR 2009**

Finance Director Peter Karstens presented the staff report. The sanitation rates, as noted in the budget workshops, increase by 7.5% from last year's budget. **As per our contract the Franchisee has two 5% annual increases for fuel cost plus or minus CPI in 2008 and 2009.** There was no one else to speak to the issue. Mayor Pro Tem Brown moved to approve the ordinance on the first reading. Councilman Taylor seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON ASSET FORFEITURE BUDGET**

Police Chief Jim Bayuk presented the Police Department Asset Forfeiture Budget to the City Council. Asset Forfeiture money is acquired from cash and liquidation of forfeited property from narcotic related activities. There was no one else to speak to the issue. Mayor Pro Tem Brown moved to approve the budget as presented. Councilman Oxford seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON THE ECONOMIC DEVELOPMENT CORPORATION BUDGET**

EDC Director Roger Feagley presented the Economic Development Corporation Budget to the City Council. The City Council approval of the budget is required by State Law. There was no one else to speak to the issue. Councilman Johnson moved to approve the budget as presented. Councilman Oxford seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON SPECIFIC USE PERMIT REQUEST FOR 229 MAIN STREET**

Scott Keys has made application for a Specific Use Permit for the purpose of selling alcoholic beverages. Director of Community Development Johnny Vance was available to answer questions and present the staff report. The facility is located at 229 Main Street and is zoned Central Commercial which meets the requirements to apply for a Specific Use Permit. There was no one else to speak to the issue. Councilman Aguilar made a motion to approve the Specific Use Permit request. Mayor Pro Tem Brown seconded and the vote was as follows:

Ayes: Johnson, Walker, Aguilar, Spraggins, Brown  
Nays: Taylor, Oxford  
Abstain: None.

**The motion carried.**

**DISCUSSION/ACTION ON THE 2009 ADOPTED HOPKINS COUNTY APPRAISAL DISTRICT BUDGET**

In accordance with Section 6.06 (a) of the Texas Property Tax Code the 2010 proposed Hopkins County Appraisal District's budget was forwarded to the City Council for their information and review. There was a general discussion. There was no one else to speak

to the issue. Mayor Spraggins moved to approve the budget as presented. Councilman Oxford seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON ABATEMENT PROCEEDINGS FOR 217 MAIN STREET**

Director of Community Development, Johnny Vance, presented the staff report. There was no one to speak to the issue. Councilman Taylor moved to extend the order for abatement and rehabilitation for an additional 90 days to November 30, 2009. Councilman Oxford seconded and the vote was as follows:

Ayes: Johnson, Walker, Aguilar, Taylor, Spraggins, Oxford  
Nays: None  
Abstain: Brown

**The motion carried.**

**DISCUSSION/ACTION ON ABATEMENT PROCEEDINGS FOR 224 MAIN STREET**

Director of Community Development, Johnny Vance, presented the staff report. There was no one to speak to the issue. Councilman Taylor moved to extend the order for abatement and rehabilitation for an additional 90 days to November 30, 2009. Councilman Walker seconded and the vote was as follows:

Ayes: Johnson, Walker, Aguilar, Taylor, Spraggins, Oxford  
Nays: None  
Abstain: Brown

**The motion carried.**

**DISCUSSION/ACTION ON ABATEMENT PROCEEDINGS FOR 226 MAIN STREET**

Director of Community Development, Johnny Vance, presented the staff report. There was no one to speak to the issue. Councilman Taylor moved to extend the order for abatement and rehabilitation for an additional 90 days to November 30, 2009. Councilman Walker seconded and the vote was as follows:

Ayes: Johnson, Walker, Aguilar, Taylor, Spraggins, Oxford  
Nays: None  
Abstain: Brown

**The motion carried.**

**VISITORS/PUBLIC FORUM**

Director of Finance, Peter Karstens, reminded the City Council that there will be another meeting held September 22, 2009 at 7:00 p.m. to complete the budget which has to be adopted before October 1, 2009.

**ADJOURN**

With all business complete the meeting was adjourned at 7:35 p.m.