

City Council  
May 18, 2015

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers on Monday, May 18, 2015, at 7:00 p.m.

Council Members Present: Kevin Strength, Mayor  
Mark Singleton, Mayor Pro Tem  
Chuck Beatty, Councilmember  
David Hill, Councilmember  
Mary Lou Shipley, Councilmember

Others Present: Paul Stevens, City Manager  
Michael Scott, Assistant City Manager  
Steve Chapman, City Attorney  
Lori Saunders, City Secretary

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Mayor Kevin Strength called the meeting to order. City Manager Paul Stevens gave the invocation, led the pledge of allegiance and the Texas pledge of allegiance.

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Mayor Strength canvassed the election returns of the City Council Election held Saturday, May 9, 2015 as follows:

<u>Candidate</u>	<u>Early Votes</u>	<u>Election Day Votes</u>	<u>Total Votes</u>
Mary Lou Shipley	855	311	1166
Coy Sevier	366	145	511
Charles "Chuck" Beatty	794	333	1127

Votes cast in Early Voting: 1515  
Votes cast on Election Day: 591  
Total number of mail ballots: 12  
**Total Votes Cast: 2118**

**Mayor Pro Tem Mark Singleton moved acceptance of the canvassing of the May 9, 2015 election returns for the City Councilmembers.** Councilmember David Hill seconded, **All Ayes.**

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City Attorney Steve Chapman administered the Statement of Office and the Oaths of Office to Councilmember Mary Lou Shipley and Councilmember Chuck Beatty for a two-year term.

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Organization of City Council:

**Mayor Pro Tem Mark Singleton moved Mayor Kevin Strength continue as Mayor of the City of Waxahachie for a one-year term by acclamation.** Councilmember Chuck Beatty seconded, **All Ayes.**

**Councilmember Chuck Beatty moved Mayor Pro Tem Mark Singleton continue as Mayor Pro Tem of the City of Waxahachie for a one-year-term by acclamation.** Councilmember Mary Lou Shipley seconded, **All Ayes.**

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**CONSENT AGENDA:**

- a. Minutes of the regular City Council meeting of May 4, 2015
- b. Minutes of the regular Planning and Zoning Commission meeting of May 13, 2015
- c. Minutes of the Waxahachie Community Development Corporation meeting of May 5, 2015
- d. Minutes of the Firemen's Relief & Retirement Fund meeting of May 4, 2015
- e. Minutes of the Heritage Preservation Commission meeting of April 9, 2015
- f. Monthly Code Enforcement Report for April 2015
- g. Monthly Violation Activity Statistics Report for April 2015
- h. Monthly Crime Report for April 2015
- i. Monthly Fire and EMS Report for April 2015
- j. Monthly Building Report for March 2015
- k. Approve 2014-2015 budget amendment requested by Utilities Department
- l. Approve downtown street closure for Gingerbread Trail June 6-7, 2015
- m. Approve wedding and reception at Chautauqua Auditorium on June 20, 2015

**Councilmember Chuck Beatty moved to approve Items a. through m. on the Consent Agenda.** Councilmember Mary Lou Shipley seconded, **All Ayes.**

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Mayor Strength announced Honorary Councilmember was not able to attend due a previous comment.

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Mr. Brian Johnson, representing the Optimist Pool, requested funds in the amount of \$12,000 for re-plaster, coping and normal wear and tear repairs. Mr. Johnson reported after many seasons of repainting, the pool has reached a point where plastering is the only recourse.

City Manager Paul Stevens stated the city gave \$50,000 yearly for pool operations and it was cut back to \$5,000 yearly. Due to better times now, he recommended supporting \$12,000 to the pool for repairs.

**Mayor Pro Tem Mark Singleton moved to approve \$12,000 to the Optimist Pool for repairs as presented.** Councilmember David Hill seconded, **All Ayes.**

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Mr. Corey Green, Atmos Energy, 901 Ferris St., Waxahachie, requested approval of Resolution No. 1205 approving Atmos Energy Rate Case. He explained the Resolution approves a Settlement Agreement between Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division that resolves the 2015 RRM proceeding pending with Cities for a rate increase that is approximately \$15 million less than what the Company would be entitled to receive under the GRIP statute. Additionally, the Settlement Agreement resolves the 2014 RRM.

### **RESOLUTION NO. 1205**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2014 AND 2015 RATE REVIEW MECHANISM FILINGS; APPROVING A SETTLEMENT AGREEMENT WITH ATTACHED RATE TARIFFS AND PROOF OF REVENUES; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.**

**WHEREAS**, the City of Waxahachie, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos; and

**WHEREAS**, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

**WHEREAS**, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

**WHEREAS**, the initial RRM Tariff was in effect for four (4) years; and

**WHEREAS**, ACSC Cities and Atmos Mid-Tex entered into another settlement agreement and revised the RRM Tariff; and

**WHEREAS**, ACSC Cities and Atmos Mid-Tex compromised and reached agreements on the amount of the rate increases to be in effect for the RRM Tariff filings for 2012 and 2013; and

**WHEREAS**, ACSC Cities and Atmos Mid-Tex were unable to reach an agreement on the 2014 RRM Tariff filing, resulting in the ACSC Cities' rejection of the 2014 RRM filing; and

**WHEREAS**, Atmos Mid-Tex appealed the ACSC Cities' actions rejecting its 2014 RRM filing to the Railroad Commission of Texas ("Commission"), pursuant to the provisions of the RRM Tariff; and

**WHEREAS**, Atmos Mid-Tex and ACSC litigated the appeal of the 2014 RRM filing at the Commission; and

**WHEREAS**, on February 27, 2015, Atmos Mid-Tex filed its 2015 RRM Tariff filing, requesting to increase natural gas base rates system-wide by \$28.762 million; and

**WHEREAS**, ACSC coordinated its review of Atmos Mid-Tex RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

**WHEREAS**, Atmos Mid-Tex has agreed to withdraw its appeal of ACSC's rejection of its 2014 RRM Tariff rate increase; and

**WHEREAS**, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve the attached Settlement Agreement (Attachment A to this Resolution) as well as the tariffs attached thereto, resolving both the 2014 and the 2015 RRM Tariff filings, which together will increase the Company's revenues by \$65.7 million over the amount allowed under City-approved rates set in 2013; and

**WHEREAS**, the attached tariffs implementing new rates are consistent with the negotiated Settlement Agreement and are just, reasonable, and in the public interest; and

**WHEREAS**, the RRM Tariff should be renewed for a period of time commencing in 2016 and continuing until the RRM Tariff is suspended by ordinance of the City; and

**WHEREAS**, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:**

**Section 1.** That the findings set forth in this Resolution are hereby in all things approved.

**Section 2.** That the City Council finds that the Settlement Agreement (Attachment A to this Resolution) represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2014 and 2015 RRM filings, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

**Section 3.** That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Attachment C, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$65.7 million in revenue over the amount allowed under currently approved rates, or \$21 million over currently-billed rates, as shown in the Proof of Revenues attached hereto and incorporated herein as Attachment B; such tariffs are hereby adopted.

**Section 4.** That the ratemaking treatment for pensions and other post-employment benefits in Atmos' next RRM filing shall be as set forth on Attachment D, attached hereto and incorporated herein.

**Section 5.** That in an effort to streamline the regulatory review process, the Atmos Mid-Tex RRM Tariff is renewed for a period commencing with the Company's March 1, 2016 RRM filing for calendar year 2015, effective June 1, 2016, and continuing thereafter until such time as the City adopts an ordinance suspending operation of the RRM Tariff.

**Section 6.** That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's RRM application.

**Section 7.** That to the extent any resolution previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

**Section 8.** That the meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 9.** That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

**Section 10.** That consistent with the City ordinance that established the RRM process, this Resolution shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after June 1, 2015.

**Section 11.** That a copy of this Resolution shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LJB Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

**Councilmember Chuck Beatty moved to approve Resolution No. 1205 as presented.**  
Councilmember Mary Lou Shipley seconded, **All Ayes.**

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Mayor Strength opened the Public Hearing on a Specific Use Permit within a Single Family-1 (SF-1) for a temporary batch plant used in the construction of The Cove Phase 1, located in the H Levi Survey being 50.54 acres. Owner: JHDMC, LLC (ZA 2015- 10).

Mr. Clyde Melick, Director of Planning, announce the applicant is not present. He stated the batch plant is typically for 90 days and streets are normally built within two weeks. It is a very efficient process without streets getting tore up.

There being no others to speak for or against Zoning Amendment Request 2015-10, Mayor Strength closed the Public Hearing.

City Attorney Steve Chapman presented Ordinance 2793:

**ORDINANCE NO. 2793**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT ON PROPERTY SITUATED ON 20.949 ACRES IN THE HENRI LEVI SURVEY, ABSTRACT NO. 629, AND ROBERT RUSSELL SURVEY, ABSTRACT 911, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY,**

**TEXAS, BEING SINGLE FAMILY-1 (SF-1) TO SINGLE FAMILY-1 WITH SPECIFIC USE PERMIT (SF-1 w/SUP), FOR THE PURPOSE OF ALLOWING A TEMPORARY CONCRETE BATCH PLANT FOR PAVING PUBLIC RIGHT OF WAY AT OF THE COVE, PHASE ONE A, WAXAHACHIE, ELLIS COUNTY, TEXAS, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Mayor Pro Tem Mark Singleton moved to approve Ordinance No. 2693 as presented.**  
Councilmember David Hill seconded, All Ayes.

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Mayor Strength opened the Public Hearing on a request by Glenn Thurman, Inc. for a Specific Use Permit within a Single Family-1 (SF-1) Zoning District for a temporary batch plant used in the construction of Settlers Glen Ph. 3, located in the WM Paine Survey, being 50.20 acres. Owner: Settler's Glen LTD (ZA 2015-11).

Mr. Clyde Melick, Director of Planning, announce the applicant is not present. He stated the batch plant is typically for 90 days and streets are normally built within seven to 14 days.

There being no others to speak for or against Zoning Amendment Request 2015-11, Mayor Strength closed the Public Hearing.

City Attorney Steve Chapman presented Ordinance 2794:

**ORDINANCE NO. 2794**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT ON PROPERTY SITUATED ON 21.089 ACRES IN THE WILLIAM PAINE SURVEY, ABSTRACT NO. 835, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING SINGLE FAMILY-1 (SF-1) TO SINGLE FAMILY-1 WITH SPECIFIC USE PERMIT (SF-1 w/SUP), FOR THE PURPOSE OF ALLOWING A TEMPORARY CONCRETE BATCH PLANT FOR PAVING PUBLIC RIGHT OF WAY AT OF SETTLER'S GLEN ADDITION, PHASE 3, WAXAHACHIE, ELLIS COUNTY, TEXAS, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Mayor Pro Tem Mark Singleton moved to approve Ordinance No. 2794 as presented.**  
Councilmember Chuck Beatty seconded, All Ayes.

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Mayor Strength opened the Public Hearing on a request by Hunt Properties, Inc. for a Site Plan within Planned Development-42-Commerical (PD-42-C) for a retail building, located at the corner of Country Meadows and Hwy 77, situated in the H Levy Survey. Owner: Kris Risser Estes, et al (ZA 2015-12).

Mr. Larry Kates, Architect for Applicant, presented a schematic of the retail building with changes to the façade articulation to match other buildings.

Mr. Melick reported the proposed articulation is being changed from 5 feet to 3 feet which will be a good compliment to the Academy store. He reviewed Staff Comments noting additional hardscape amenities are provided to offset lack of articulation, including: 5 benches, 2 trash receptacles, tree grates, ornamental lighting and 1 bike rack. Additional variety of accent trees will be along the back access road. Dumpsters must have screening and spring-loaded or gravity hinge to ensure gate stays closed. Storm drainage easement needed at the outfall onto the adjoining property to the south.

There being no others to speak for or against Zoning Amendment Request 2015-12, Mayor Strength closed the Public Hearing.

**After a brief discussion, Councilmember Mary Lou Shipley moved to approve a request by Hunt Properties, Inc. for a Site Plan within Planned Development-42-Commerical (PD-42-C) for a retail building, located at the corner of Country Meadows and Hwy 77, situated in the H Levy Survey. Owner: Kris Risser Estes, et al (ZA 2015-12), subject to all Staff Comments.**  
Mayor Pro Tem Mark Singleton seconded, **All Ayes.**

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Mayor Strength opened the Public Hearing to receive citizen input on the update of the City of Waxahachie Thoroughfare Plan (an Amendment of the Comprehensive Plan).

Mr. Melick reviewed the Thoroughfare Plan map focusing on approximately 300 acres recently purchased by the Waxahachie Independent School District in order to build a High School. He stated there is basically no circulation in this area and proposed to continue highway 664 west connecting highway 287 and west highway 287. He explained, once the high school campus is complete the connectors will be needed due to new residential and retail in this area.

There being no others to speak for or against en input on the update of the City of Waxahachie Thoroughfare Plan (an Amendment of the Comprehensive Plan), Mayor Strength closed the Public Hearing.

**After a brief discussion, Councilmember Chuck Beatty moved to approve updating the City of Waxahachie Thoroughfare Plan (an Amendment of the Comprehensive Plan) as presented.**  
Mayor Pro Tem Mark Singleton seconded, **All Ayes.**

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City Secretary Lori Saunders presented proposed Ordinance No. 2795 closing a 25 foot unimproved alley located between FM813 (Brown Street) and Lot 5R, Block B, Indian Hills Phase 7 Addition. She reported City Staff and the utility companies approved the closure.

**ORDINANCE NO. 2795**

**AN ORDINANCE CLOSING A 25 FOOT UNIMPROVED ALLEY LOCATED BETWEEN FM 813 (BROWN STREET) AND LOT 5R, BLOCK B, INDIAN HILLS PHASE 7, AN ADDITION IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND SETTING AN EFFECTIVE DATE.**

*Councilmember David Hill moved to approve Ordinance No. 2795 as presented.*  
Councilmember Chuck Beatty seconded, *All Ayes.*

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*Citizens' Petition and Request*

None

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*Comments by Mayor, City Council, City Attorney and City Manager*

Mayor Strength, Councilmembers, City Staff and City Attorney congratulated Councilmembers Mary Lou Shipley and Chuck Beatty on their re-election.

City Manager Paul Stevens stated Mr. Doug Barnes, Director of Economic Development is attending the International Shopping Center Conference.

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There being no further business the meeting adjourned at 7:53 p.m.

Respectfully Submitted,

Lori Saunders  
City Secretary