

**MINUTES
CITY OF GAINESVILLE
CITY COUNCIL MEETING
200 South Rusk
Gainesville, Texas 76240
February 5, 2008**

The City Council of the City of Gainesville, Texas met in regular session on February 5, 2008 at 6:30 p.m. with the following persons in attendance:

MEMBERS PRESENT: Mayor Glenn Loch
Council Members Charles Draper, Jim Goldsworthy, Carolyn Hendricks, Vince Rippey, Beverly Snuggs, Woody Williams

STAFF PRESENT: Barry Sullivan, City Manager; Kay Lunnon, City Secretary; Bill Harris, City Attorney; Dan Parker, Finance Director, John Noblitt, Planning Technician; Lynette Pettigrew, Main Street Director; Patrick McCage, Parks Supervisor, Kent Sharp, GEDC Executive Director

OTHERS PRESENT: Andy Hogue, Kathy Floyd, Keighley Jacobson, Kurt Haukohl, David Cornet, Brad Herr, Kevin Phillips, Sabrina Taylor, Suzanne McCann, Rod Tyler, Merle Currie, Frank Lorne

CALL TO ORDER

Mayor Loch called the meeting to order. All members were present.

INVOCATION & PLEDGE OF ALLEGIANCE

Councilman Charles Draper gave the invocation. Mayor Loch led the pledge to the flag.

REPORTS

Patrick McCage reported cost estimates prepared by HDR Engineering for park system improvements in Gainesville, that include softball fields, baseball fields, expansion of B. P. Douglas Park and improvements to Keneteso Park, in the amount of 8.3 million dollars and an additional 2.3 million dollars for improvements to the Leonard Park swimming pool. McCage said with the permission of Council he would approach the Gainesville Economic Development Corporation to propose a joint venture to fund the swimming pool improvements. McCage said the Parks Board requests that the improvement proposals be presented to the voters in the form of a bond election, and requested a workshop with the City Council for direction on actions to be taken.

The City Manager was directed to schedule a joint workshop between the City Council and the Parks Board for discussion regarding the proposals for future parks improvements.

CITIZENS COMMENTS

Suzanne McCann updated the Council on activities of the Cooke County Planning Association. The local group is working with former Frisco Mayor Kathy Seei on a community planning vision for future growth of Cooke County. McCann said the consensus reached by the group is that the county needs better infrastructure development, quality education, economic development, crime prevention, a multipurpose arena, stronger planning and zoning, and

emphasis on equestrian, cattle, agriculture and preservation of green spaces. Council was invited to attend the CCPA meetings.

CONSENT AGENDA

Council reviewed the Minutes of the Regular City Council Meeting of January 15, 2008, and approved them as written.

Councilmember Goldsworthy **moved to approve the Consent Agenda**, and was seconded by Councilmember Williams. The motion carried by unanimous vote.

DISCUSSION REGARDING TAX CREDIT HOUSING APPLICATION BY STERLING HEIGHTS APARTMENTS, LTD

City Manager Barry Sullivan recommended that organizations and individuals write letters to the Texas Department of Housing and Community Affairs (TDHCA) opposing the tax credit housing development proposed by Sterling Heights Apartments, Ltd. to be located at 1991 I-35 South. He said the TDHCA approves tax credit developments at the state level, unless local opposition is substantial. Sullivan said such developments use City services but do not pay their share of local taxes. Sullivan is prepared to speak to local service clubs about opposing the development. Public comments referencing this project should be addressed to: Multifamily Finance Production Division, P.O. Box 13941, Austin, TX 78711-3491. Sullivan recommended that Council pass a resolution in opposition to the proposed housing development.

RESOLUTION NO. 02-05-2008 – LEASE OF AVIATION JET-A REFUELER TRUCK AT MUNICIPAL AIRPORT

A RESOLUTION AUTHORIZING EXPENDITURE TO ASCENT AVIATION GROUP INC FOR LEASE OF ONE (1) AVIATION JET-A REFUELER TRUCK FOR THE GAINESVILLE MUNICIPAL AIRPORT.

Airport Manager, David Vinton said the lease truck is needed to replace the existing truck which needs a total refurbishment. The lease with Ascent Aviation Group Inc. is the most favorable for the City. Airport Funds are budgeted for the expenditure.

Councilmember Rippy **moved to approve**, and was seconded by Councilmember Goldsworthy. The motion carried by unanimous vote.

RESOLUTION NO. 02-05-2008 A – MULTI-USE HANGAR LEASE AT MUNICIPAL AIRPORT WITH OZ AVIATION DBA FLYING COLORS OF TEXAS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TX, AUTHORIZING THE CITY MANAGER TO EXECUTE A TWO (2) YEAR LEASE WITH OPTION TO EXTEND WITH OZ AVIATION, INC. D.B.A. FLYING COLORS OF TEXAS ON A MULTI USE HANGAR OWNED BY AND LOCATED AT THE GAINESVILLE MUNICIPAL AIRPORT.

A two (2) year lease with option to extend was authorized with Oz Aviation, Inc. d.b.a. Flying Colors of Texas on a multi use hangar located at the Gainesville Municipal Airport. Vinton said the owner, Mark Zello, wants to continue doing business at the Municipal Airport and requested the lease.

Councilmember Snuggs **moved to approve**, and was seconded by Councilmember Draper. The motion carried by unanimous vote.

RESOLUTION NO. 02-05-2008 B – LEASE AGREEMENT WITH MEALS ON WHEELS FOR CITY PROPERTY AT 400 SOUTH WEAVER STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, AUTHORIZING EXECUTION OF A LEASE AGREEMENT FOR USE OF THE BUILDING FORMERLY KNOWN AS THE CAMPFIRE BUILDING LOCATED AT 400 SOUTH WEAVER STREET.

Sullivan said Meals on Wheels is in need of a facility to prepare the meals they deliver to local elderly and disabled citizens. The City owns the land at 400 South Weaver Street formerly known as the Campfire Building. The lease reverts to the City when the use is no longer needed. Mayor Loch recommended a (20) twenty-year lease agreement for the property with option to extend another (20) twenty years.

Councilmember Draper **moved to approve the lease as recommended**, and was seconded by Councilmember Snuggs. The motion carried by unanimous vote.

RESOLUTION NO. 02-05-2008 C– CALLING THE GENERAL ELECTION FOR MAY 10, 2008 FOR ELECTION OF OFFICERS OF THE CITY OF GAINESVILLE

A RESOLUTION CALLING FOR A GENERAL MUNICIPAL ELECTION TO BE HELD BY THE CITY OF GAINESVILLE, TEXAS ON MAY 10, 2008, PROVIDING FOR THE ELECTION OF COUNCILPERSONS FOR WARD 3, WARD 5, WARD 6 AND MUNICIPAL JUDGE; ADOPTING A VOTING SYSTEM AS APPROVED BY SECRETARY OF STATE; DESIGNATING POLLING LOCATIONS FOR EARLY VOTING AND ELECTION DAY.

The General Municipal Election was ordered to be held by the City of Gainesville, Texas on May 10, 2008, the State uniform election date, for the purpose of electing Councilpersons for Ward 3, Ward 5, Ward 6 and Municipal Judge, in accordance with the City Charter. City Hall is designated as the polling location for early voting and the Civic Center is the designated polling location on Election Day.

Councilmember Hendricks **moved to approve**, and was seconded by Councilmember Draper. The motion carried by unanimous vote.

RESOLUTION NO. 02-05-2008 D – POLLING LOCATION AGREEMENT BETWEEN CITY, GISD, NTMC, AND NCTC FOR USE OF CIVIC CENTER ON MAY 10, 2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE GAINESVILLE INDEPENDENT SCHOOL DISTRICT (GISD), THE NORTH TEXAS MEDICAL CENTER (NTMC), AND THE NORTH CENTRAL TEXAS COLLEGE (NCTC) TO SHARE A POLLING LOCATION IN CERTAIN VOTING PRECINCTS FOR THE GENERAL ELECTION ON MAY 10, 2008.

The agreement between the City of Gainesville, the Gainesville Independent School District (GISD), the North Texas Medical Center (NTMC), and the North Central Texas College (NCTC) is to share the Civic Center as a polling location for the General Election on May 10, 2008. City of Gainesville voters will be able to cast ballots in all four elections at the shared polling location in the Civic Center.

Councilmember Snuggs **moved to approve**, and was seconded by Councilmember Williams. The motion carried by unanimous vote.

RESOLUTION NO. 02-05-2008 E – APPROVAL OF GEDC FACADE GRANT TO MAIN STREET

A RESOLUTION APPROVING ACTIONS OF THE GAINESVILLE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF GAINESVILLE WHICH APPROVED THE MAIN STREET COMMERCIAL FACADE GRANT PROGRAM AS AN ELIGIBLE PROJECT AND AUTHORIZED FUNDING TO GAINESVILLE MAIN STREET.

Kent Sharp, Executive Director of the Gainesville Economic Development Corporation, said the GEDC approved \$25,000 in funding for the Main Street Commercial Facade Grant Program for match grants to businesses for façade improvements. Under the program, local businesses who qualify can make improvements to their storefronts and may receive twenty-five hundred dollars in assistance after presentation and approval of receipts. The grants will be administered through the Main Street Advisory Board.

Councilmember Goldsworthy **moved to approve**, and was seconded by Councilmember Draper. The motion carried by unanimous vote.

ORDINANCE NO. 1194-02-2008 - PROHIBITING USE OF MOBILE TELEPHONES IN AN ACTIVE SCHOOL ZONE

SECOND READING OF AN ORDINANCE AMENDING THE CODE OF THE CITY OF GAINESVILLE, TEXAS, BY ADDING SECTION 52 ENTITLED “USE OF HAND-HELD MOBILE TELEPHONES IN SCHOOL ZONES” UNDER CHAPTER 11, ARTICLE IV, SCHOOL ZONES; PROHIBITING USE THEREOF; PROVIDING PENALTY FOR VIOLATION; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE AND MAKING AN OPEN MEETING FINDING; AND PROVIDING FOR SUSPENSION OF THE CHARTER REQUIREMENT OF READING THE ORDINANCE ON THREE SEPARATE OCCASIONS.

The City Charter was suspended and the ordinance adopted on Second Reading to prohibit the use of hand-held mobile telephones on official school days and during hours when the school zone is in effect. Councilman Draper strongly supported the ordinance and said people cannot pay adequate attention to driving while talking on a cell phone. Children are endangered. Draper said Gainesville is not the only city in Texas to consider such an ordinance and five states have also outlawed hand-held cell phones while driving. Councilmember Snuggs said that anything Council can do to reduce driver distractions in school zones is a good effort to protect lives. Councilman Rippy expressed his opinion that the ordinance is well-meaning, but he pointed out that cell phone ordinances have not received support from the Texas Department of Public Safety, the National Highway Safety Administration, the Texas Education Agency, or Mothers Against Drunk Driving. Rippy stated that using a cell phone while driving is a distraction among many other distractions. He said he supports Council’s duty to legislate responsibility and consequences in regard to traffic safety, but not to attempt to legislate personal behavior. Rippy urged that Council contact the GISD to find ways to alleviate severe traffic hazards around school zones, particularly the Edison School. Councilman Williams pointed out other locations that should be looked into are educational facilities such as pre-schools and daycares that also have high traffic but are not included within school zones and are not protected by this ordinance. Sullivan said he would look into getting proper signage for the school zones.

Councilmember Draper **moved to suspend the Charter**, and was seconded by Councilmember Snuggs. The motion carried by vote of 6 Ayes: Draper, Goldsworthy, Hendricks, Loch, Snuggs, Williams; and 1 Nay: Rippy.

Councilmember Draper **moved to adopt the ordinance**. The motion was seconded by Councilmember Snuggs and carried by vote of 6 Ayes: Draper, Goldsworthy, Hendricks, Loch, Snuggs, Williams; and 1 Nay: Rippy.

ORDINANCE NO. 1195-02-2008 - TO APPROVE A SETTLEMENT AGREEMENT BETWEEN THE CITY AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "THE COMPANY") REGARDING THE COMPANY'S STATEMENT OF INTENT TO CHANGE GAS RATES

SECOND READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, ("CITY") APPROVING A SETTLEMENT AGREEMENT BETWEEN THE CITY AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "THE COMPANY") REGARDING THE COMPANY'S STATEMENT OF INTENT TO CHANGE GAS RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE SETTLEMENT AGREEMENT; FINDING THE RATES TO BE SET BY THE TARIFFS TO BE JUST AND REASONABLE; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL.

The City Manager said the settlement is fair for the cities and creates a proper formula for infrastructure cost recovery. Members of the Atmos Cities Steering Committee (ACSC) were able to reduce the amount of the rate increase requested by Atmos (\$52 million in September 2007) by 80 percent and replace the piecemeal ratemaking "GRIP" Program with a rate review mechanism for cities. Attorneys for the ACSC recommend approval of the settlement agreement and tariffs.

Councilmember Williams **moved to suspend the Charter**, and was seconded by Councilmember Draper. The motion carried by unanimous vote.

Councilmember Williams **moved to adopt the ordinance**. The motion was seconded by Councilmember Draper and carried by unanimous vote.

ORDINANCE TO APPROVE A MODIFICATION TO THE LIGHTING SERVICE TARIFF BY ONCOR ELECTRIC DELIVERY COMPANY

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE APPROVING THE PETITION OF ONCOR ELECTRIC DELIVERY COMPANY LLC TO MODIFY ITS LIGHTING SERVICE TARIFF PURSUANT TO THE ENERGY POLICY ACT OF 2005.

City Manager Barry Sullivan said he presented this ordinance for Council's information based on the City's franchise agreement and recommended they take no action. The Ordinance concerns the Petition of Oncor Electric Delivery Company LLC to modify its lighting service tariff pursuant to the Energy Policy Act of 2005, which banned manufacture or importation of mercury vapor lamp ballasts after January 1, 2008. The modification closes the lighting service tariff for new mercury vapor installations for street lighting and outdoor lighting service and implements a plan to replace existing mercury vapor installations with high pressure sodium fixtures when the mercury fixtures need to be replaced. Oncor's proposed plan has already received approval by the Public Utility Commission and becomes effective on March 1, 2008, with or without City Council action. Oncor representative, Sabrina Taylor, recommended that Council adopt the ordinance if they want to make the change to the franchise agreement, but said no other cities in her district are taking action on the ordinance because the modification will take effect automatically through operation of law. Taylor said since the mercury vapor ballasts will no longer be available, the tariff will be closed. Council followed the advice of the City Manager and took no action on the ordinance.

ORDINANCE TO PROHIBIT REGISTERED SEX OFFENDERS FROM RESIDING WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER

FIRST READING OF AN ORDINANCE OF CITY OF GAINESVILLE, TEXAS, AMENDING THE CITY OF GAINESVILLE CODE OF ORDINANCES BY ADDING ARTICLE V, ENTITLED "REGISTERED SEX OFFENDERS", TO CHAPTER 13, TO PROHIBIT CERTAIN DESIGNATED PERSONS FROM RESIDING WITHIN 1,000 FEET OF PREMISES WHERE CHILDREN GATHER; PROVIDING DEFINITIONS; PROVIDING OFFENSES; PROVIDING EVIDENTIARY MATTERS AND MEASUREMENTS AND ADOPTING A MAP OF LOCATIONS; PROVIDING THAT A CULPABLE MENTAL STATE IS NOT REQUIRED FOR COMMITTING AN OFFENSE; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS; PROVIDING A SAVINGS AND REPEALER CLAUSE; PROVIDING SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

John Noblitt, Planning Technician, said the ordinance addresses only those offenders whose crimes involve minors. State law already makes it an offense for registered sex offenders to reside within 1,000 feet of premises where children gather, however, Council can set the boundary at 1,500 feet or 2,000 feet. Violations that occur between the 1,000 to 2,000 foot boundaries would constitute only a City Zoning violation with a fine of up to \$500 for each day the violation occurs. City Attorney Harris advised that boundaries over 1,000 feet would pose a greater risk of challenge and extending the boundary decreases the area available for offenders to reside.

Councilmember Goldsworthy **moved to approve first reading of the ordinance and designated the boundary at 2,000 feet.** The motion was seconded by Councilmember Snuggs and was approved unanimously.

For the second reading of the ordinance, Noblitt will present an updated map with boundaries at 2,000 feet and identified locations for schools and childcare facilities.

EXECUTIVE SESSION

Mayor Loch announced at 7:48 p.m. that Council would adjourn into closed executive session for discussion under Government Code §551.074, Personnel matters.

RECONVENE INTO OPEN SESSION

Council reconvened into open session at 7:59 p.m. and Mayor Loch announced that no action was taken during executive session.

No further action was taken following executive session.

CITY MANAGER'S COMMENTS

Barry Sullivan announced that Oncor will begin trimming trees throughout the community in the next few weeks. Oncor will notify citizens by placing door hangers on residences and through media contacts.

