

**MINUTES
CITY OF GAINESVILLE
CITY COUNCIL MEETING
200 South Rusk
Gainesville, Texas 76240
May 15, 2012**

The City Council of the City of Gainesville, Texas met in regular session on May 15, 2012 at 6:30 p.m. with the following persons in attendance.

MEMBERS PRESENT: Ray Nichols, Mayor Pro Tem
Carolyn Hendricks, Ken Keeler, Vince Rippy, Beverly Snuggs

MEMBERS ABSENT: Mayor Jim Goldsworthy, Phillip Neelley

STAFF PRESENT: Barry Sullivan, City Manager; Kay Lunnon, City Secretary; Bill Harris, City Attorney; Dan Parker, Finance Director; Steven Fleming, Police Chief; John Noblitt, Community Services Director; Kent Sharp, GEDC Executive Director; Chris Cypert, Municipal Court Judge

OTHERS PRESENT: Greg Russell, Kit Chase, Jack Frost, Debbie Frost, Boyd London, Sara Bedford, Sergeant David Sharp, Officer Daniel Ramos, Officer Mark Linnell, and Officer Joshua Johnson, Garry Way.

CALL TO ORDER

Mayor Pro Tem Nichols called the meeting to order at 6:30 p.m. with a quorum of members present. Mayor Goldsworthy and Councilman Neelley were absent.

INVOCATION & PLEDGE OF ALLEGIANCE

Reverend Garry Way, Cornerstone Baptist Church, gave the invocation. Mayor Pro Tem Nichols led in the pledge to the flag.

RESOLUTION NO. 05-15-2012 – ACCEPTING LETTER FROM COUNCILMAN PHILLIP NEELLEY, WARD 3

CONSIDERATION OF AND ACTION ON A LETTER FROM PHILLIP NEELLEY REGARDING HIS ELECTION AS CITY COUNCIL MEMBER, WARD 3.

Council received and acted on a letter from Councilman Phillip Neelley, who declined his newly elected position as City Council Member, Ward 3. Mr. Neelley notified the Council that he no longer resides in Ward 3 and therefore does not meet residency qualifications for the position. Councilman Neelley has expressed appreciation for the support received from residents and voters in Ward 3. Council took formal action accepting the letter from Councilman Neelley.

Councilmember Keeler moved to **approve the Resolution**, and was seconded by Councilmember Snuggs. Motion carried by vote of 5 Ayes, 0 Nays, 2 absent (Goldsworthy, Neelley).

OATHS OF OFFICE TO NEWLY ELECTED OFFICIALS

Judge John Morris, Cooke County Court at Law, administered the Oath of Office to newly elected City officials Christopher F. Cypert, Municipal Judge; Ray Nichols, City Councilman, Ward 5; and Vince Rippy, City Councilman, Ward 6.

ELECTION OF MAYOR PRO TEM

Mayor Pro Tem Nichols called for nominations for Mayor Pro Tem to serve the next Council year, May 2012 to May 2013. Councilmember Snuggs nominated Ray Nichols, and Councilmember Keeler seconded the nomination. Nominations ceased. Mayor Pro Tem Nichols called for the vote. Nichols was elected Mayor Pro Tem by vote of 4 Ayes, 0 Nays, 1 Abstention (Nichols), 1 Absent (Goldsworthy), 1 Vacancy (Neelley).

PROCLAMATIONS/ RECOGNITIONS

Mayor Pro Tem Nichols read and presented a proclamation declaring the week of May 13-19, 2012 as **National Law Enforcement Week**, recognizing law enforcement personnel, honoring the service and sacrifice of those law enforcement officers killed in the line of duty, and publicly saluting the service of law enforcement officers in our community and in communities across the nation. Sergeant David Sharp, Officer Daniel Ramos, Officer Mark Linnell, and Officer Joshua Johnson received the proclamation on behalf of the Gainesville Police Department.

City Employee of the Month, May 2012.

Jack Frost, Fireman and Code Enforcement Officer, received recognition as City Employee of the Month for May 2012. City Manager Barry Sullivan read and presented a Certificate to Frost for his dedication to the City of Gainesville and his willingness to go above and beyond whatever is needed. Frost, who serves the City in dual capacities - as an inspector for the Fire Department and as a Code Enforcement Officer for Community Services – was commended for performance in both positions, and for finding time to instruct a class of students working toward certification as Fire Protection Fire Inspectors. As Employee of the Month, Frost also received a certificate for one extra day of paid vacation.

REPORTS

Cohen Scholarship Award

City Secretary Kay Lunnon announced the Cohen Scholarship Board met to consider applications and has awarded a Cohen Scholarship in the amount of \$1000 to Kylie Woodlock for the 2012 academic year. Ms. Woodlock is a 2012 graduating Gainesville High School senior who is enrolled at the University of Texas at Austin. The Cohen Scholarship is an endowed scholarship fund given to the City of Gainesville by Harry Cohen in 1986, with stipulation that recipients be GHS students attending UT at Austin.

CONSENT AGENDA

Council reviewed Minutes of the regular City Council Meeting of May 1, 2012, and approved them as written.

RESOLUTION 05-15-2012 A – APPOINTMENT TO MAIN STREET ADVISORY BOARD

A RESOLUTION MAKING APPOINTMENT TO THE GAINESVILLE MAIN STREET BOARD

Lynette Scruggs was appointed to the Main Street Advisory Board, to a term expiring December 2014.

Councilmember Rippy **moved to approve the Consent Agenda**, and was seconded by Councilmember Snuggs. Motion carried by vote of 5 Ayes, 0 Nays, 0 Abstentions, 1 Absent (Goldsworthy), and 1 Vacancy.

RESOLUTION NO. 05-15-2012 B – DECLARING A VACANCY ON THE CITY COUNCIL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE DECLARING A VACANCY ON THE CITY COUNCIL.

The Ward 3 Council position was declared vacant, due to the resignation of Councilman Phillip Neelley, who has moved out of the ward. Declaring the vacancy establishes the beginning of a ninety-day period for the City Council to fill the position by appointment. Mayor Pro Tem Nichols announced that the City Council will appoint a successor to the Ward 3 position, who will serve until the next annual City election is held in May 2013, when the voters will elect a Council member to represent Ward 3. Persons interested in appointment to the position should contact the City Secretary for an application form.

Councilmember Hendricks **moved to approve the Resolution**, and was seconded by Councilmember Keeler. Motion carried by vote of 5 Ayes, 0 Nays, 0 Abstentions, 1 Absent (Goldsworthy), and 1 Vacancy.

RESOLUTION 05-15-2012 C – CONTRACT WITH KIMLEY-HORN FOR IMPLEMENTATION PACKAGE D OF THE STREET AND UTILITY MAINTENANCE PROGRAM (SUMP)

A RESOLUTION AUTHORIZING THE CITY MANAGER, FOR AND ON BEHALF OF THE CITY OF GAINESVILLE, TO EXECUTE AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES FOR IMPLEMENTATION OF INDIVIDUAL PROJECT ORDER 2012-2, BID PACKAGE D, OF THE STREET AND UTILITY MAINTENANCE PROGRAM FOR THE CITY OF GAINESVILLE.

The resolution approves and authorizes the City Manager to execute a contract with Kimley-Horn and Associates for implementation of Package D of the Street and Utility Maintenance Program (SUMP). The contract includes construction design, bidding and construction contract management components of Package D for mill and overlay of certain sections of MLK Blvd (Culberson to I-35 frontage) and Red River Street (Main to Church). The engineering contract is for \$63,200 and also provides authorization for the City Manager to execute an amendment for an additional amount up to \$33,800 if the roadways will need reconstruction instead of mill and overlay.

Councilmember Keeler **moved to approve the Resolution**, and was seconded by Councilmember Rippy. Motion carried by vote of 5 Ayes, 0 Nays, 0 Abstentions, 1 Absent (Goldsworthy), and 1 Vacancy.

RESOLUTION 05-15-2012 D – DENYING GAS RATE CHANGE FOR ATMOS ENERGY CORPORATION, MID-TEX DIVISION

A RESOLUTION OF THE CITY OF GAINESVILLE DENYING ATMOS ENERGY CORP., MID-TEX DIVISION'S ("ATMOS MID-TEX") REQUESTED RATE CHANGE; REQUIRING THE COMPANY TO REIMBURSE THE CITY'S REASONABLE RATEMAKING 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.

Council approved the resolution denying the proposed gas rate increase by Atmos Energy, Mid-Tex Division. The denial prevents the proposed rate change from automatically taking effect on June 11, 2012. Adoption of the resolution was recommended by the City Manager and by legal counsel for the Atmos Cities Steering Committee (ASCS), of which the City of Gainesville is a member city. In January 2012, Atmos Mid-Tex filed for a system-wide base rate increase of \$49 million (11.94%), excluding the cost of gas. During review of proposed rates ASCS found justification that Mid-Tex's rates should be decreased. Atmos Mid-Tex has filed their appeal of the rate increase denial to the Railroad Commission. ASCS has engaged in settlement discussions but have not yet reached agreement, thus this denial of the proposed rate is

recommended. Should a settlement be reached, the City may be required to pass an ordinance setting the new rates pursuant to the settlement.

Councilmember Snuggs **moved to approve the Resolution**, and was seconded by Councilmember Keeler. Motion carried by vote of 5 Ayes, 0 Nays, 0 Abstentions, 1 Absent (Goldsworthy), and 1 Vacancy.

ORDINANCE NO. 1295-05-2012 - RE-ZONE 1610 BONNER ROAD FROM MULTI-FAMILY 2 (MF-2) TO MULTI-FAMILY 1(MF-1)

SECOND READING OF AN ORDINANCE AMENDING ORDINANCE 1219-12-2008; THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AUTHORIZING THE CITY OF GAINESVILLE, TEXAS, TO REZONE FROM MULTI-FAMILY HIGH DENSITY (MF-2) TO MULTI-FAMILY LOW DENSITY (MF-1) THE PROPERTY IDENTIFIED AS 1610 BONNER ROAD; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE; PROVIDING FOR AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE AND MAKING AN OPEN MEETING FINDING.

Ordinance was adopted on second reading approving the re-zoning of 1610 Bonner Road from Multi-family 2 (MF-2) to Multi-Family 1 (MF-1). The applicant requested the zoning district change in order to construct a duplex on the property. The City Manager and Planning and Zoning Commission recommended for the zoning change, due to the lot being too small to be reasonably used for high density housing. The low density MF-1 zoning for this lot is transitional between the Single Family 2 (SF-2) and Multi-Family 2 (MF 2) zoning districts abutting the property. The ordinance received first reading approval by the Council at their meeting on May 1, and no opposition to the re-zoning has been received by the City since the first reading consideration.

Councilmember Snuggs **moved to Suspend the Charter requirement of three readings**, and was seconded by Councilmember Keeler. The motion carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

Councilmember Snuggs **moved to adopt the ordinance**. The motion was seconded by Councilmember Keeler and carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

ORDINANCE NO. 1296-05-2012 - AMENDING SECTIONS 9-327 “DEFINITIONS” AND 9-329 “DEFENSES” OF THE PAWNBROKERS AND OTHER DEALERS ORDINANCE

FIRST READING OF AN ORDINANCE OF THE CITY OF GAINESVILLE AMENDING THE CODE OF ORDINANCES, CHAPTER 9, ARTICLE VIII PAWNBROKERS AND OTHER DEALERS, SECTION 9-327 DEFINITIONS “SECONDHAND DEALER” AND SECTION 9-329 DEFENSES; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND MAKING AN OPEN MEETING FINDING.

Ordinance was approved and adopted on first reading to amend the Pawnbrokers and Other Dealers Ordinance, removing secondhand firearms transactions from the definition of secondhand dealers, and adding the sale of firearms to the list of transactions that are exempted from reporting requirements. The City Manager said the original ordinance was passed to help the Police Department track stolen items through electronic reporting, but in certain cases the ordinance actually required additional work not required by the State. This amendment removes buying and selling used or secondhand firearms from the reporting requirements.

Councilmember Rippy **moved to Suspend the Charter requirement of three readings**, and was seconded by Councilmember Snuggs. The motion carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

Councilmember Rippy **moved to adopt the ordinance**. The motion was seconded by Councilmember Snuggs and carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

ORDINANCE NO. 1297-05-2012 - AMENDING APPENDIX A – ZONING CODE

FIRST READING OF AN ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AMENDING APPENDIX A - ZONING OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE, ARTICLE III - USE OF LAND OR PREMISE, SECTION 3.1.13 INDUSTRIAL DISTRICT DEFINED, SECTION 3.4.02 GENERAL PROVISIONS FOR ALL DISTRICTS, SECTION 3.4.04 COMMERCIAL AND INDUSTRIAL PROVISIONS, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR AN EFFECTIVE DATE, AND FINDING THE MEETING WAS OPEN TO THE PUBLIC.

Council approved and adopted on first reading an ordinance amending the Zoning Code, Appendix A, to exempt industrial accessory structures from the standard bulk regulations and placing them under the provisions of the Industrial Zoning District, requiring accessory structures to be 80% covered in metal, masonry, or an exterior insulated finishing system (EIFS). Planning and Zoning Commission and City Staff recommended the change to guide development of Industrial Zoning Districts, allowing developers more flexibility when designing or adding structures to accommodate manufacturing processes, and protecting the City from requests for non-standard construction, such as membrane or fabrics in the district.

Councilmember Keeler **moved to Suspend the Charter requirement of three readings**, and was seconded by Councilmember Rippy. The motion carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

Councilmember Keeler **moved to adopt the ordinance**. The motion was seconded by Councilmember Rippy and carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

ORDINANCE NO. 1298-05-2012 - AUTHORIZING ISSUANCE AND SALE OF COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2012

CONSIDER ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF “CITY OF GAINESVILLE, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2012”, INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH CERTIFICATES OF OBLIGATION.

Ordinance was approved and adopted on first reading authorizing issuance and sale of City of Gainesville Combination Tax and Revenue Certificates of Obligation, Series 2012, in a principal amount not to exceed \$3,500,000. The funds will be used for Street and Utility Maintenance Program projects (SUMP). Boyd London, First Southwest, reported the City of Gainesville Certificates were assigned a solid A+ rating by Standard & Poors and an A1 rating by Moody’s. The twenty-year term certificates were sold in the amount of \$3,020,000 with an interest rate of 2.76%. The City will make annual payments of \$200,000.

Councilmember Snuggs **moved to Suspend the Charter requirement of three readings**, and was seconded by Councilmember Keeler. The motion carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

Councilmember Snuggs **moved to adopt the ordinance.** The motion was seconded by Councilmember Keeler and carried by vote of 5 Ayes, 0 Nays, 1 absent (Goldsworthy), 1 Vacancy.

EXECUTIVE SESSION

At 7:06 p.m. Mayor Pro Tem Nichols announced that Council would convene into Executive Session in compliance with Vernon’s Texas Codes Annotated, Government Code, Chapter 551 (Open Meetings Act), to discuss the following.

Under Government Code §551.087 Economic Development

RECONVENE INTO OPEN SESSION

Council reconvened into open session at 7:32 p.m. Mayor Pro Tem Nichols announced no action was taken during executive session.

ADJOURN

With no further business to come before the City Council, the meeting was adjourned at 7:32 p.m.

Respectfully submitted,

/S/
Kay Lunnon, City Secretary

/S/
Ray Nichols, Mayor Pro Tem