

MINUTES
A REGULAR MEETING
of the
DALWORTHINGTON GARDENS
CITY COUNCIL

Regular Session: Thursday, May 15, 2008 7:00 P.M.

REGULAR SESSION

A regular meeting was held at 7:00 o'clock p.m. on Thursday, May 15, 2008 in the Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas. The following items of business were considered, discussed and acted upon, as deemed appropriate by the Council:

MEMBERS PRESENT:

Michael Tedder, Mayor
Guy Snodgrass, Mayor Pro tem
Mike Pettke, Councilman
Steve Loe, Councilman
Jim Piland, Councilman

MEMBERS ABSENT:

Ken Wallace, Councilman

STAFF PRESENT:

Melinda Brittain, City Secretary
Stan Wilkes, City Attorney
Dick Perkins, City Engineer
Bill Waybourn, Chief of Public Safety
Krysten Jeter, Deputy, City Secretary

CALL TO ORDER- Mayor Tedder called the meeting to order at 7:00p.m.

1. Resolution 08-32, Canvass Election Returns
On motion by Councilman Loe, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, it was:

RESOLUTION AND ORDER

CANVASSING RETURNS AND DECLARING RESULTS OF
ELECTION OF ALDERMEN HELD ON MAY 10, 2008

WHEREAS, heretofore City the Council of the City of Dalworthington Gardens ordered an election to be held in the City on the 10th day of May, 2008 for the purpose of electing a mayor and aldermen to fill the expiring terms of the incumbent mayor and aldermen, Place 1 and Place 2; and

WHEREAS, notice of the election was given as required by law and as provided in the election order; and

WHEREAS, the said election was duly and legally held on the 10th day of May, 2008, in conformity with the election laws of the State of Texas and applicable provisions of the Texas Local Government Code; and

WHEREAS, the results of the election have been certified and returned by the proper judges and clerks of the said election; and

WHEREAS, the City Council of the City has today considered the returns of the election held on May 10, 2008; and

WHEREAS, it appears to the said City Council, and the City Council so finds, that the said election was in all respects lawfully held; and

WHEREAS, it appears to the said City Council, and the City Council so finds, that the presiding election judge and the City Secretary have tabulated the results of the said election and have certified such tabulation to the City Council, and that such tabulation is correct;

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1. That the tabulation of votes cast in the election held on the 10th day of May, 2008, for the election of a mayor and aldermen, places 1 and 2 to the governing body of the City of Dalworthington Gardens, made and certified to by the presiding election judge and the City Secretary of the City, a copy of which is attached hereto and made a part hereof, be and the same is hereby adopted as the official tabulation of the votes cast at said election; that said tabulation be filed and recorded in the official records of the City; and that a certified copy of the same be forwarded to the City Secretary of the City of Dalworthington Gardens to be made a part of the official records of said city.
2. That the said official canvass of the returns of said election reflects the following:

Official Joint General Election Results— Tarrant County — May 10, 2008

Mayor City of Dalworthington Gardens

Candidate	Early	Election	Total
Michael R. Tedder	113 100.00%	222 100.00%	335 100.00%
Cast Votes:	113 76.87%	222 74.75%	335 75.45%
Over Votes:	0 0.00%	0 0.00%	0 0.00%

Under Votes: 34 23.13% 75 25.25% 109 24.55%

Precincts	Counted	Total	Percent
	1	1	100.00%

Voters	Ballots	Registered	Percent
	444	1,885	23.55%

Alderman, Place 1 City of Dalworthington Gardens

<u>Candidate</u>	<u>Early</u>		<u>Election</u>		<u>Total</u>	
Mike Pettke	104	100.00%	203	100.00%	307	100.00%
Cast Votes:	104	70.75%	203	68.35%	307	69.14%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes: 43	29.25%	94	31.65%	137	30.86%	

Precincts	Counted	Total	Percent
	1	1	100.00%

Voters	Ballots	Registered	Percent
	444	1,885	23.55%

Alderman, Place 2 City of Dalworthington Gardens

<u>Candidate</u>	<u>Early</u>		<u>Election</u>		<u>Total</u>	
Ed Motley	32	21.77%	95	32.09%	127	28.67%
Guy Snodgrass	52	35.37%	104	35.14%	156	35.21%
Cathy Stein	63	42.86%	97	32.77%	160	36.12%
Cast Votes:	147	100.00%	296	99.66%	443	99.77%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes: 0	0.00%	1	0.34%	1	0.23%	

Precincts	Counted	Total	Percent
	1	1	100.00%

Voters	Ballots	Registered	Percent
	444	1885	23.55%

3. That the official canvass of the returns reflects that the following persons were elected to the governing body of the City:

Mayor: Michael Tedder

Alderman, Place 1: Mike Pettke

And that in the race for Alderman, Place 2, a runoff is required between Guy Snodgrass and Cathy Stein

2. Administer Oath of Office
Melinda Brittain gave the Oath of Office to Mike Pettke and Michael Tedder
3. Resolution 08-33, Election Order for Runoff
On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, the following resolution and order was adopted:

RESOLUTION AND ORDER FOR RUNOFF ELECTION
FOR ALDERMAN, PLACE 2
CITY OF DALWORTHINGTON GARDENS

WHEREAS, based on the official canvass of the results of the election held on May 10, 2008, it is necessary that a runoff election be held within the City of Dalworthington Gardens for the purpose of electing Alderman, Place 2, with said election to be held pursuant to relevant provisions of the Texas Elections Code; NOW THEREFORE

BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1. Call of election That there be and there is hereby called to be held on June 14, 2008, during the hours prescribed by law within the City, a runoff election at which there shall be elected an Alderman, Place 2.

2. Ballot The official ballots for the election shall be prepared in accordance with the Texas Election Code to determine by runoff whether Guy Snodgrass or Cathy Stein shall be elected Alderman, Place 2. The candidates shall draw for a position on the ballot, such drawing to be conducted by the City Secretary as soon as reasonably practical after the adoption of this order.

3. Polling place The polling place for the election shall be at the Dalworthington Gardens Municipal Facility (City Hall), 2600 Roosevelt

Drive, Dalworthington Gardens, TX 76016. Voting will be conducted between the hours of 7:00 a.m. and 7:00 p.m. on Saturday, June 14, 2008.

4. Election officials The following persons are hereby appointed as election officials:

Election judge: David Hudson

Alternate election judges: Laura Waybourn

The city secretary shall deliver to the election officials, in accordance with Election Code Section 32.009, notice of their appointment in a timely manner. The election judge shall appoint up to 5 election clerks to serve at the polling place.

5. Early voting

a. By personal appearance Early voting by personal appearance will be conducted at the office of the City Secretary, 2600 Roosevelt Drive, Dalworthington Gardens, Texas, on the following dates and during the following hours:

Monday, June 2 – Friday, June 6, 2008	8:00 a.m. - 5:00 p.m.
Saturday, June 7, 2008	7:00 a.m. - 7:00 p.m.
Sunday, June 8, 2008	11:00a.m. - 4:00 p.m.
Monday, June 9 & Tuesday, June 10, 2008	7:00 a.m.- 7:00 p.m.

b. By mail Applications for early voting by mail must be received in the office of the City Secretary, 2600 Roosevelt Drive, Dalworthington Gardens, TX 76013 no later than 5:00 p.m. on Friday, June 6, 2008. Early voting ballots voted by mail shall be mailed to Steve Raborn, Office of Elections Administration, 2700 Premier Street, Fort Worth, TX 76111

c. Early ballot canvassing Early balloting shall be by optic scan machine and shall be canvassed by the early voting ballot board, consisting of the election judge, as presiding officer, the alternate election judge, and the other election officials.

6. Election precinct In accordance with Election Code Section 42.061, the election precinct shall be the same precinct established for municipal elections, being coterminous with the boundaries of Tarrant County Election Precinct No. 2223 as established by the Tarrant County Commissioners' Court most recently preceding the date of adoption of this resolution.

7. Compensation of election officials The presiding election judge, alternate election judge and each election clerk shall be compensated at the rate of \$9.00 per hour in accordance with Election Code Section 32.091. The presiding election judge shall also be paid \$25.00 for delivering the returns of the election.

8. Supplies; method of voting The City Secretary of the City is hereby authorized to provide and furnish all necessary election supplies to conduct the election hereby ordered in accordance with this resolution. Voting shall be by electronic voting machine in accordance with the provisions therefore contained in the Texas Election Code.

9. Governing law The election shall be held in accordance with the constitution of the United States of America and of the State of Texas and the Texas Election Code. All resident qualified voters of the city shall be eligible to vote in the election.

10. Effective date This resolution shall be in full force and effect from and after its adoption.

4. Citizen comments.

Jeannine Calhoun, 3303 Evie Court- spoke of future grants
Kathy Price, 2820 Whisperwood Trail- gave park board report

5. Mayor and Council comments.

None

6. Resolution 08-34, Departmental Reports, April Financial Report

On motion by Councilman Loe, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the Departmental Reports and April 2008 Financial Reports be approved and placed in the records of the city

7. Resolution 08-35, Minutes of April 17, 2008 Meeting.

On motion by Councilman Pettke, seconded Councilman Loe, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the minutes of the regular meeting of the City Council held April 17, 2008, be approved and placed in the records of the city.

Tabled Item from Previous Meetings

8. **Public Hearing: Plat Revision.**

Applicant: John Anton

Location: 3623 Wooded Creek Circle

Property Description: Lot 12R, Block 1 & Tract 3B, Wooded Creek Estates

Zoning: Single Family SF-1

No action was taken

Public Hearings and Action

9. Resolution 08-36, **Public Hearing:** Review and consideration of the paving, grading, drainage, water and sewer improvements to serve Lot 6 of the Gardens Town Center

Planned Development

Applicant: Jim & John Watson

Location: 4106 South Bowen Rd.

Northwest corner of S. Bowen Rd and Pleasant Ridge,

Lot 6 is located in the northwest corner of the development

Mayor Tedder opened the public hearing at 7:30 p.m and asked for public comments.

The following persons spoke in favor of the request:

Brian Cotter, engineer/consultant for the applicant.

Melinda Brittain gave the Planning & Zoning recommendation

There being no other public comments, Mayor Tedder closed the public hearing at 7:33 p.m.

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the paving, grading, drainage, water and sewer improvements to serve Lot 6 of the Gardens Town Center Planned Development dated May 15, 2008, prepared by Cotter & Associates, be approved with the inclusion of the stipulation requested by the Planning and Zoning Commission that the storm drain inlets be modified to provide trapping of floatable material and perpetual maintenance of the inlets and that this action become a part of the record of the Planned Development of which it is a part.

Action Items:

10. Resolution 08-37, Set date for City Clean-up Day

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the date for City Clean-up Day be set for Saturday, June 21, 2008.

11. Engagement letter from Robert Walsh, Jr. for auditing services
Councilman Pettke made a motion to approve the engagement letter from Robert Walsh Jr. for auditing services, Councilman Loe seconded the motion. After discussion, Councilman Pettke made a motion to table this item, seconded by Mayor Pro tem Snodgrass. The motion passed by a vote of 4 ayes and 0 nays.

12. Park Board Request

- a. Resolution 08-38, Consider request to purchase message board for park donor recognition.

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Pettke, the motion was made to reject the request. After discussion, Mr. Snodgrass withdrew his motion with the consent of Mr. Pettke..

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the Park Board request to purchase message board for park donor recognition be approved.

- b. Resolution 08-40, Consider hiring grant writer to pursue TXPW Small Community Grant in January 2009

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the Park Board obtain for City Council consideration an engagement letter with a grant writer to pursue TXPW Small Community Grant in January 2009.

13. Ordinance 08-07, Ordinance amending the existing gas franchise between the City and ATMOS Energy Corporation to provide for a different consideration; providing an effective date; providing for acceptance by ATMOS Energy Corporation; and finding and determining that the meeting at which this ordinance is passed is open to the public as required by law.

On motion by Councilman Pettke, Seconded by Mayor Pro tem Snodgrass, by a vote of 4 ayes and 0 nays, the following ordinance was adopted:

ORDINANCE NO. 08-07

AN ORDINANCE AMENDING CHAPTER 13.3 OF THE CITY CODE, BEING THE EXISTING GAS FRANCHISE BETWEEN THE CITY AND ATMOS ENERGY CORPORATION TO PROVIDE FOR A DIFFERENT CONSIDERATION; PROVIDING

**AN EFFECTIVE DATE; PROVIDING FOR ACCEPTANCE BY
ATMOS ENERGY CORPORATION; AND FINDING AND
DETERMINING THAT THE MEETING AT WHICH THIS
ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS
REQUIRED BY LAW.**

WHEREAS, Atmos Energy Corporation (“Company”) is engaged in the business of furnishing and supplying gas to the general public in the City, including the transportation, delivery, sale, and distribution of gas in, out of, and through the City for all purposes, and is using the public streets, alleys, grounds and rights-of-ways within the City for that purpose under the terms of a franchise ordinance duly passed by the governing body of the City and duly accepted by Company or its predecessor in interest; and

WHEREAS, the City and Company desire to amend said franchise ordinance to provide for a different consideration; NOW, THEREFORE,

BE IT ORDAINED:

1.

That Chapter 13.3 – GAS, of the Code of the City is hereby amended so that all references in Chapter 13.3 to Lone Star Gas Company, TXU Gas or “The Company” shall hereafter be deemed to refer to the franchisee in its present form, Atmos Energy Corporation.

2.

That Chapter 13.3 – GAS, of the Code of the City is further amended as follows:

SECTION 1: The consideration payable by Company for the rights and privileges granted to Company by the franchise ordinance duly passed by the governing body of this City and accepted by Company or its predecessor in interest is hereby changed to be five percent (5%) of the Gross Revenues, as defined in the franchise ordinance. Section 13.3.09A is hereby amended to read as follows:

A. Effective May 1, 2008, the consideration payable by the Company for the rights and privileges granted to it by this chapter (being the gas franchise ordinance of the City) heretofore duly passed by the governing body of this City and duly accepted by the Company is hereby changed to be five percent (5%) of the Gross Revenues received by the Company, as defined in this chapter.

SECTION 2: Franchise payments shall be made on the dates prescribed in the existing franchise and shall be for the rights and privileges as set forth in the existing franchise.

SECTION 3: This ordinance shall take effect on May 1, 2008. Company shall, within thirty (30) days from the receipt of this ordinance, file its written acceptance of this ordinance with the Office of the City Secretary in substantially the following form:

To the Honorable Mayor and City Council:

Atmos Energy Corporation, acting by and through the undersigned authorized officer, hereby accepts in all respects, on this the 15th day of May, 2008, Ordinance No. 08-07 amending the current gas franchise between the City and Atmos Energy Corporation.

Atmos Energy Corporation

By _____

Vice President, Mid-Tex Division

SECTION 4: In all respects, except as specifically and expressly amended by this ordinance, the existing franchise ordinance heretofore duly passed by the governing body of the City shall remain in full force and effect.

SECTION 5: The City shall provide a copy of this Ordinance to Mr. David Park, VP of Rates and Regulatory Affairs, Atmos Energy Corp., 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, no later than ten (10) business days after its final passage and approval.

SECTION 6 It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

14. Resolution 08-39, Resolution authorizing continued participation with the steering committee of cities served by ONCOR; and authorizing the payment of

10 cents per capita to the steering committee to fund regulatory and related activities related to ONCOR electric delivery.

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, the following resolution was adopted:

A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AND AUTHORIZING THE PAYMENT OF 10 CENTS PER CAPITA TO THE STEERING COMMITTEE TO FUND REGULATORY AND RELATED ACTIVITIES RELATED TO ONCOR ELECTRIC DELIVERY

WHEREAS, the City of Dalworthington Gardens is a regulatory authority under the Public Utility Regulatory Act (PURA) and has exclusive original jurisdiction over the rates and services of Oncor Electric Delivery Company (Oncor) within the municipal boundaries of the city; and

WHEREAS, the Steering Committee has historically intervened in Oncor (formerly known as TXU) rate proceedings and electric utility related rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and

WHEREAS, the Steering Committee is participating in Public Utility Commission dockets and projects, as well as court proceedings, affecting transmission and distribution utility rates; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor; and

WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

I.

That the City is authorized to continue its membership with the Steering Committee of Cities Served by Oncor to protect the interests of the City and protect the interests of the customers of Oncor Electric Delivery residing and conducting business within the City limits.

II.

It is further authorized to pay its assessment to the Steering Committee ten cents (\$0.10) per capita based on the population figures for the City shown in the latest TML Directory of City Officials, being \$234.70..

III.

A copy of this Resolution and the assessment payment check made payable to "Oncor Cities Steering Committee" shall be sent to Jay Doegey, Chair, Oncor Cities Steering Committee, c/o City Attorney's Office, Mail Stop 63-0300, PO Box 90231, Arlington, Texas 76004-3231.

15. Amendment to Title 17 zoning ordinance to include funeral homes as an allowable use in B3 districts.

On motion by Mayor Pro Tem Snodgrass, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the City Council not take up at the present time consideration of an amendment to Title 17, "Zoning", of the City Code to include funeral homes as an allowable use in the B-3 district.

16. Resolution 08-41, City Engineer/Staff report concerning Pleasant Ridge 12' Water Line Improvement.

On motion by Mayor Pro Tem Snodgrass, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the City Engineer is hereby authorized to seek an interlocal agreement with the City of Arlington concerning a Pleasant Ridge 12' Water Line Improvement essentially in accordance with plans therefore prepared by the City Engineer.

FUTURE AGENDA ITEMS

ADJOURN

On motion by Councilman Pettke, seconded by Councilman Loe, the meeting adjourned by unanimous vote.