



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, APRIL 20, 2006**

The regular meeting of the Benbrook City Council was held on Thursday, April 20, 2006 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Rickie Allison
Keith Bailey
John Vander Pan
Ron Sauma
James Schull
Larry Stowe

Also Present:

Cary Conklin, City Manager
Joanna King, City Secretary
Donna Savage, Assistant to City Secretary
Andy Wayman, Assistant City Manager
Sherri Newhouse, Budget Director
Shawna Cortez, Assistant to City Manager

Others Present:

Dorcas Neuman, Benbrook News
Ed Gallagher
Valerie Stowe
Daniel Tully
Bill Smith
Pat Dunkin
Marilyn Ackmann
Juan Ramirez
Theresa Gallop
Juan Ramirez, Boy Scout Troop 95
Lorenzo Ramirez, Boy Scout Troop 95
Steve Adams, Scout Master Troop 95
Eleven other members Boy Scout Troop 95
Mrs. Steve Adams
Mr. and Mrs. Robert Cook
John Larson
Kayla Larson
and 17 other citizens

I. CALL TO ORDER

Meeting called to order at 7:30 p. m. by Mayor Dittrich.

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation was given by Mayor Jerry Dittrich.
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held April 6, 2006

Motion by Mr. Stowe, seconded by Mr. Allison to approve the minutes of the April 6, 2006 regular meeting.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Vander Pan, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

IV. PROCLAMATION/AWARDS/RECOGNITION

1. Recognition of Juan Ramirez and Lorenzo Ramirez – Life Saving Rescue

Mayor Dittrich presented Juan and Lorenzo Ramirez with the City of Benbrook Citizenship Award for their heroic deed performed on April 2, 2006. Juan and Lorenzo, members if Boy Scout Troop 95, were riding along the Trinity River while working on their merit badge in cycling when they came upon a 6 year old in trouble in water rushing through a spillway. Working together, the Ramirez brothers were able to reach the small child and return him to the banks. Mayor Dittrich advised the boys that Benbrook City Council was honored in having them as citizens of the City of Benbrook and applauded their efforts, training and skills.

2. Proclamation Recognizing Boy Scout Troop 95

Mayor Dittrich presented Steve Adams, Scout Master for Boy Scout Troop 95 with a proclamation recognizing Boy Scout Troop 95 for providing our youth with a combination of intellectual, physical and spiritual activities to produce young people of character, well prepared to meet their family and community responsibilities.

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

VI. REPORTS OF CITY MANAGER

A. GENERAL

G-1619 Resolution Suspending Interim GRIP Adjustments Proposed by Atmos Energy Corporation (2006-04)

Mrs. Cortez gave the following report: In March 2006, Atmos made a GRIP filing with the Railroad Commission, the City of Benbrook. And other cities served by Atmos, notifying the entities of its intent to increase its distribution rates to all customers effective May 30, 2006, pursuant to the Texas Utilities Code.

GRIP surcharge request cannot become effective until 60 days after filing. The effective date may be suspended by a city for 45 days. If a city takes no action to suspend the filing, Atmos may begin implementing monthly surcharges on or after May 30, 2006.

The proposed resolution:

1. Suspends GRIP rate increases for the maximum period allowed by law to permit cities adequate time to evaluate filing.
2. Authorizes the City to participate with the Gas Steering Committee to conduct a joint review of the filing, hire consultants, negotiate with the Company, make recommendations regarding the proposed GRIP rate increases, and direct any related proceedings or litigation.
3. Authorizes intervention in administrative proceedings or litigation associated with the GRIP rate increases.
4. Requires prompt reimbursement of the City's reasonable expenses.

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Resolution 2006-04 suspending the implementation of the interim GRIP rate adjustments proposed by Atmos Energy; authorizing participation with the Gas Standing Steering Committee to review the proposed rate increase; authorizing intervention in related administrative or court proceedings; and requiring prompt reimbursement of reasonable legal and consultant expenses.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Vander Pan, Mr. Stowe, Mr. Sauma, Mr. Schull

Noes: None

Motion carries unanimously.

Resolution No. 2006-04 being **"A RESOLUTION BY THE CITY OF BENBROOK, TEXAS SUSPENDING THE MAY 30, 2006, EFFECTIVE DATE OF THE PROPOSAL BY ATMOS ENERGY CORP., MID-TEX**

DIVISION, TO IMPLEMENT INTERIM GAS RELIABILITY INFRASTRUCTURE PROGRAM RATE ADJUSTMENTS FOR GAS UTILITY INVESTMENT IN 2005; AUTHORIZING PARTICIPATION WITH THE GAS STANDING STEERING COMMITTEE IN A REVIEW AND INQUIRY INTO THE SUFFICIENCY OF THE FILING AND THE BASIS AND REASONABLENESS OF THE PROPOSED RATE ADJUSTMENTS; AUTHORIZING INTERVENTION IN ADMINISTRATIVE AND COURT PROCEEDINGS INVOLVING THE PROPOSED GRIP RATE ADJUSTMENTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.”

G-1620 Public Hearing and Adoption of Ordinance Ordering Atmos Energy to Reduce its Existing Natural Gas Rates (Ord. No. 1206)

Ms. Cortez gave the following report: The City of Benbrook has jurisdiction over gas utilities rates in Benbrook and the authority to initiate a proceeding to determine if the existing rates are unreasonable or in violation of the law. In late 2005, Benbrook and 75 other cities passed resolutions requiring Atmos to file by December 31, 2005, support for the reasonableness of existing rates. Atmos filed schedules and additional information with the cities, which have been reviewed by consultants who found Atmos' current rates are excessive and should be reduced.

Overview of findings:

1. Rate of Return – Atmos used same rate of return approved in GUD 9400, based upon capital structure and component costs of TXU Gas. Filing does not reflect the change in ownership; Atmos' capital structure is different from TXU Gas and the return should be adjusted.
2. Rate Base – Atmos has allocated plant assets to Mid-Tex that did not come from TXU when Atmos purchases the system, and that may be included in rates of customers served by other operating units. Atmos failed to recognize the accumulated deferred income taxes and investment tax credits that were on the books of TXU when the assets were acquired, resulting in a loss by ratepayers of the benefits of the deferrals. As a result, Atmos' rate base should be reduced by \$185 million.
3. Depreciation Expense – A service unit was removed from rate base, but Atmos has not reduced its depreciation expense associated with this removal. As a result, Atmos' depreciation expense should be reduced by \$3.1 million.
4. Operating Expenses – Atmos has improperly adjusted its operations and maintenance expense, resulting in a reduction of \$35.8 million.
5. Service Charge Revenue – Atmos has not included service charge revenues to reduce its revenue requirements. These revenues need to be accounted for, and reduce Atmos' base rate revenue requirements by \$927,576.

In summary, Atmos' revenue requirement should be reduced by \$73.5 million from that reflected in its show cause filing, and by \$34.7 million below the

revenue requirement, approved in GUD 9400. For residential customers, the cities' consultants recommend reducing the monthly customer charge by \$1.50 per customer and reducing the commodity rate 4.75 cents per mcf (thousand cubic feet). The average monthly residential bill would decrease by \$1.89 from \$36.64 to \$34.75 per month.

Mayor Dittrich opened the public hearing at 8:00 P.M.

Marilyn Ackmann, Public Affairs Manager with Atmos addressed City Council. Mrs. Ackmann stated for the record, that Atmos disagrees with the City's consultants and will appeal. The current rate was implemented in May 2004 after a lengthy rate case process. Mrs. Ackmann stated that rate case expense cost the ratepayers over \$10 million and it is expected to take another two years for Atmos to recover those expenses. She stated the GRIP legislation requires them to file a complete rate case within five years. Atmos intends to file a system wide rate case this year. This rate case along with the appeal to reduce the rates will cost ratepayers additional expenses.

Mayor Dittrich closed the public hearing at 8:03 P.M.

Motion by Sauma, seconded by Mr. Schull to adopt Ordinance 1206 ordering Atmos to reduce its existing natural gas distribution rates within Benbrook and requiring Atmos to reimburse the City for its reasonable costs incurred in this show cause and related proceedings or appeals.

Vote on the Motion:

Ayes: Mr. Allison, Mayor Dittrich, Mr. Vander Pan, Mr. Stowe, Mr. Sauma, Mr. Schull, Mr. Bailey

Noes: Mr. Stowe

Motion carries unanimously.

Ordinance No. 1206 being "AN ORDINANCE FINDING THAT THE EXISTING NATURAL GAS DISTRIBUTION RATES OF ATMOS MID-TEX SHOULD BE REDUCED; ORDERING ATMOS ENERGY CORP., MID-TEX DIVISION, TO REDUCE ITS EXISTING RATES WITHIN THE CITY; ADOPTING SPECIFIC NEW RATES R, T & C AND ORDERING ALL RATES, SERVICE CHARGES AND TARIFF LANGUAGE NOT INCONSISTENT WITH ATTACHMENT 1 TO REMAIN OPERATIVE EXCEPT THAT ALL GRIP SURCHARGES SHALL IMMEDIATELY CEASE; ORDERING ATMOS MID-TE TO REIMBURSE THE CITY FOR ITS REASONABLE COSTS INCURRED IN THIS SHOW CAUSE AND ANY RELATED RATEMAKING PROCEEDINGS OR APPEALS OF SAID PROCEEDINGS; AUTHORIZING THE ATMOS CITIES STEERING COMMITTEE TO ACT ON BEHALF OF THE CITY AND INTERVENE IN ANY PROCEEDINGS BEFORE ADMINISTRATIVE OR JUDICIAL BODIES; REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF."

G-1621 Financial Report for Quarter Ending March 31, 2006

Mr. Conklin gave the following report: Revenues through the end of the City's second quarter totaled \$8,833,811. Total collections were 80.65% of the original amount budgeted.

General Fund expenditures through the end of the quarter were \$5,288,925 or 47.65% of budgeted expenditures. No departments are over expended at this time. Revenues exceed expenditures by \$3,544,886.

Debt Service Fund revenues through the end of the quarter totaled \$1,339,272 or 95.33% of budget. Total expenditures during the quarter amounted to \$1,222,562.

The Benbrook Economic Development Corporation revenues were \$362,889 with most of this amount coming from the sales tax receipts. The EDC also received a bank loan of \$540,000. EDC expenditures were \$1,351,175, with the largest expenditures going toward land acquisition, attorney fees, and interest on outstanding loans.

Capital Projects revenues amounted to \$5,862. Capital Projects expenditures were \$2,043,035. TIF expenditures accounted for only \$1,215,710 of this total.

Special Assessments revenues were \$25,500, while expenditures amounted to \$31,203.

The gas and oil lease revenue fund brought in \$1,207,260. This entire amount came from lease payment. There were no expenses.

At March 31, 2006, the City had \$13,692,869 invested at varying interest rates.

Motion by Mr, Allison, seconded by Mr, Bailey to accept the financial report for the quarter ending March 31, 2006.

Vote on the Motion:

Ayes: Mayor Dittrich, Mr. Vander Pan, Mr. Stowe, Mr. Sauma, Mr. Schull, Mr. Bailey, Mr. Allison

Noes: None

Motion carries unanimously.

G-1622 Adopt Administrative Regulation on Clean Fleet Vehicle Policy

Mr. Wayman gave the following report: At the end of April, North Central Texas Council of Governments (NCTCOG) will issue a call for project to

disburse \$4.2 million in grant funding. The grant funding is for the purchase and conversion of municipal vehicles to reduce emissions. Eligibility to apply for the grant funding is predicated on adopting a Clean Fleet Vehicle Policy.

Benbrook plans to apply for grand funding but does not have a written Clean Fleet Vehicle Policy. The proposed Administrative Regulation F-6:

- Meets NCTCOG requirements for a Clean Fleet Vehicle Policy.
- Makes Benbrook eligible to apply for the grant.
- Establishes vehicle acquisition, operation and maintenance policies that reduce emissions.

The majority of activities in AR-F6 have already been implemented. The City has purchased LEV or better vehicles for over 5 years. The City exceeds TCEQ's requirements for the Texas Clean Fleet Program and current maintenance practices already comply. The only major activity for implementation is employee driver training specifically for emissions reductions.

Motion by Mr. Stowe, seconded by Mr. Schull to approve Administrative Regulation F-6.

Vote on the Motion:

Ayes: Mr. Vander Pan, Mr. Stowe, Mr. Sauma, Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich

Noes: None

Motion carries unanimously.

G-1623 Resolution Granting Approval to the Tarrant County Housing Finance Corporation for Single Family Homes Located Within the City (2006-05)

Mr. Conklin gave the following report: The Tarrant County Housing Finance Corporation is anticipating issuing single-family mortgage revenue bonds the end of April. The program will offer individuals and families who have not purchased a home within the last three years to access a below market interest rate with a 4.5% cash assistance at closing to offset down payment and/or other costs.

State law and the Attorney General require that cities within Tarrant County with a population greater than 20,000 pass a resolution to allow qualifying residents of the City to participate in the program.

The adoption of the resolution does not have any financial impact on the City's revenues or obligations.

Motion by Mr. Sauma, seconded by Mr. Stowe to adopt Resolution No. 2006-05.

Vote on the Motion:

Ayes: Mr. Stowe, Mr. Sauma, Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Vander Pan

Noes: None

Motion carries unanimously.

Resolution 2006-05 being **“A RESOLUTION GRANTING APPROVAL TO THE TARRANT COUNTY HOUSING FINANCE CORPORATION FOR THE USE OF THE PROCEEDS OF ITS SERIES 2006 SINGLE FAMILY MORTGAGE REVENUE BONDS TO FINANCE HOME MORTGAGES FOR SINGLE FAMILY HOMES LOCATED WITHIN THE CITY.”**

G-1624 Resolution Granting TML Liability Coverage for 4-PAWS, Inc. and Benbrook Sister Cities, Inc. (2006-06 and 2006-07)

Ms. Newhouse gave the following report: In June 2005, City Council approved coverage for Benbrook Sister Cities, Inc. (BSCI) on a limited basis. On April 6, 2006, City Council met in worksession to discuss coverage for BSCI and 4-PAWS, Inc. Most groups are covered under Texas Municipal League (TML) liability for use and operation of City vehicles. However, that coverage does not normally extend to activities and events not directly sanctioned by the City. TML is willing to cover such activities and events if a city government requests such coverage through a formal resolution.

The resolution requires the following:

1. Texas Municipal League Intergovernmental Risk Pool liability coverage for Pets Are Worth Saving, Inc and Benbrook Sister Cities, Inc.
2. Both 4-PAWS Inc. and BSC, Inc. will pay the liability insurance deductible should a claim from either entity occur.
3. Both 4-PAWS, Inc. and BSC, Inc. will obtain supplemental liability insurance coverage for special events and for activities that take place outside of Benbrook’s City limits.

It was the consensus of City Council regarding Resolution No. 2006-06 to delete the word “contractual” from the second paragraph so that the sentence read: “WHEREAS, Benbrook Sister Cities, Inc. (a non-profit corporation) was formed in May 1999 to administer and fulfill the City of Benbrook’s agreement with Benbrook’s Sister City of Bled Slovenia; and”

Motion by Mr. Vander Pan, seconded by Mr. Sauma to adopt the resolutions providing TML Liability Insurance coverage to 4-PAWS, Inc. and Benbrook Sister Cities, Inc. as indicated with minimum insurance requirement on their part in the amount of \$100,000 per claim and \$300,000 per event.

Mr. Conklin read the standard requirements as follows:

1. Claims for damages because of bodily injury, occupational sickness or disease, or death of the employees, and claims insured by usual bodily injury liability coverage – minimum coverage of \$100,000 for each person and \$300,000 for each accident.
2. Claims for damages for bodily injury, sickness or disease, or death of any person other than the employees, and claims insured by usual bodily injury liability coverage – minimum coverage of \$100,000 for each person and \$300,000 for each accident; and
3. Claims for damages because of damage to or destruction of tangible property, including loss of use resulting there from – minimum coverage of \$50,000 for each accident.

Mr. Vander Pan and Mr. Sauma agreed to the standard requirements as part of motion.

Mr. Stowe stated because the resolution regarding Benbrook Sister Cities, Inc. had been amended, the motion should contain such language.

Motion restated by Mr. Vander Pan and agreed to by Mr. Sauma as follows: Adopt the resolutions providing TML Liability Insurance coverage to 4-PAWS, Inc. and amended resolution for Benbrook Sister Cities, Inc. with added requirement that 4-PAWS, Inc. and BSI, Inc. obtain supplemental liability insurance coverage for special events and activities that occur outside of the Benbrook City limits in the amount of \$100,000 per individual and \$300,000 per event.

Vote on the Motion:

Ayes: Mr. Sauma, Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Vander Pan, Mr. Stowe

Noes: None

Motion carries unanimously.

Resolution No. 2006-06 being **“A RESOLUTION ENDORSING THE EXISTENCE OF BENBROOK SISTER CITIES, INC. AND AUTHORIZING INCLUSION OF BENBROOK SISTER CITIES, INC. WITHIN THE CITY OF BENBROOK’S LIABILITY INSURANCE COVERAGE THROUGH THE TEXAS MUNICIPAL LEAGUE’S INTERGOVERNMENTAL RISK POOL.”**

Resolution No. 2006-07 being **“A RESOLUTION ENDORSING THE EXISTENCE OF 4PAWS, INC. AND AUTHORIZING INCLUSION OF 4PAWS, INC. WITHIN THE CITY OF BENBROOK’S LIABILITY INSURANCE COVERAGE THROUGH THE TEXAS MUNICIPAL LEAGUE’S INTERGOVERNMENTAL RISK POOL.”**

VII. OTHER MATTERS OF BUSINESS

VIII. INFORMAL CITIZEN PRESENTATION

IX. ADJOURNMENT

Meeting adjourned at 8:23 p.m. followed by a worksession.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary