

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, MAY 21, 2012
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY MAYOR BILL MAGERS](#)
- A.4 [APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF MAY 7, 2012](#)

Public Hearing

- B.1 [PUBLIC HEARING](#)
Conduct the First Public Hearing Concerning the Annexation of 71.671 Acres along Washington Street in the City of Sherman's Extra Territorial Jurisdiction
- B.2 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5744](#)
Denying Atmos Energy Corp., Mid-Tex Division's ("Atmos Mid-Tex" or "Company") Requested Rate Change; Requiring the Company to Reimburse the City's Reasonable Ratemaking Expenses; Requiring Notice of this Resolution to the Company and Legal Counsel for the Atmos Cities Steering Committee ("ACSC")
- B.3 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5745](#)
Amending Chapter 1 of the Code of Ordinances, entitled "General Provisions", at Article 1.08, entitled "Cemeteries", Division 2, entitled "Rules and Regulations", at Sections 1.08.031, 1.08.034 and 1.08.038, and Division 3, entitled "Perpetual Care Fund; Rates and Charges", at Section 1.08.075(a)

Close Public Hearing and Consider Adoption of Ordinances

- B.4 [ADOPTION OF ORDINANCES](#)
Consider Adoption of Ordinance Numbers:
 - (a) 5744
 - (b) 5745

Resolutions

C.1 [RESOLUTION NO. 5674](#)

Awarding a Bid to and Authorizing Execution of a Contract with Vescor Inc. dba Vessels Construction for Construction of the Downtown Sherman Streetscape Improvements

Other Business

D.1 [OTHER BUSINESS](#)

Acceptance of the Deputy Mayor's Disclosure of a Personal Financial Interest in the Downtown Sherman Streetscape Improvements Project

D.2 [CITIZEN REQUESTS](#)

D.3 [MEDIA QUESTIONS](#)

D.4 [COUNCIL COMMENTS](#)

Executive Session

E.1 [EXECUTIVE SESSION](#)

In Accordance with Chapter 551, Government Code, V.T.C.S. (Open Meetings Law), "The City Council Will Now Hold a Closed Executive Meeting Pursuant to the Provisions of the Open Meetings Law, Chapter 551, Government Code, Vernon's Texas Codes Annotated, in Accordance with the Authority Contained in the Following Sections"

Section 551.074

Personnel Matters

- (a) Consider the Qualifications, Appointment and Removal of Members to Boards and Commissions:
 - (1) Sherman Housing Authority Board (3)

The Council reconvenes into General Session

F.1 [OPEN MEETING](#)

Reconvene into Open Meeting and consider action, if any, on items discussed in Executive Session

F.2 [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. A.3

INVOCATION BY MAYOR BILL MAGERS



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. A.4

APPROVE MINUTES

THE REGULAR CITY COUNCIL MEETING OF MAY 7, 2012

§

May 7, 2012

COUNTY OF GRAYSON

§

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on May 7, 2012.

MEMBERS PRESENT:

**MAYOR BILL MAGERS; DEPUTY MAYOR WILLIE STEELE.
COUNCIL MEMBERS HOWETH, PLYLER, SOFTLY,
WACKER.**

MEMBERS ABSENT:

COUNCIL MEMBER SMITH.

CALL TO ORDER

Mayor Magers called the meeting to order at 5:00 p.m. The Pledge of Allegiance and the Invocation were given by Council Member Pam Howeth.

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of April 16, 2012 and the Special Called Meeting (Budget Planning) of April 20, 2012. Council Member Howeth moved to approve the Minutes as presented; Second by Council Member Softly. All present voted AYE.

MOTION CARRIED.

APPROVE MINUTES

PROCLAMATION

“FOSTER CARE MONTH” – MAY 2012

Mayor Magers presented a proclamation to Terrence Steele, President of the Grayson County Foster and Adoptive Parent Association, designating May 2012 as “Foster Care Month” in Sherman.

Mr. Steele thanked the Mayor and Council Members for the proclamation. He said there are not enough foster homes locally and many local children are sent several counties south of Grayson County for foster care.

He encouraged the citizens of Sherman to consider being a foster parent for Grayson County.

**FOSTER CARE MONTH
(MAY 2012)**

“MOTORCYCLE SAFETY AND AWARENESS MONTH” – MAY 2012

Council Member Plyler presented a proclamation to Skee Dodson, Texoma Abate Chapter Coordinator, designating May 2012 as “Motorcycle Safety and Awareness Month” in Sherman.

**MOTORCYCLE
SAFETY &
AWARENESS
MONTH
(MAY 2012)**

Mr. Dodson thanked the Mayor and Council Members for the proclamation. He said motorcyclists are dying at an alarming rate and in 80% of the accidents involving motorcycles, drivers say they never saw the motorcyclist. During two of the last three years, Texas has had declining

motorcycle fatalities, which is contributed to greater awareness, more education, and better communication in the community.

“NATIONAL TRAVEL AND TOURISM WEEK” – MAY 5-13, 2012

Council Member Wacker presented a proclamation to Tammy Davis, Support Services Director, designating May 5 through 13, 2012, as “National Travel and Tourism Week” in Sherman.

Ms. Davis thanked the Mayor and Council Members for the proclamation and for drawing attention to the role tourism plays nationally, at the state level, and locally.

Summer is a peak time for tourism and they have been “gearing up” for Hot Summer Nights, Lights on the Lake, and the 30th Annual Sherman Arts Fest.

She also reminded citizens that the Tourism Department books events year-round in the Municipal Ballroom and in Kidd-Key Auditorium.

In recognition of Tourism Week, the Sherman Tourism Department is partnering with the Sherman Chamber of Commerce, Denison Chamber of Commerce, and the Denison Main Street Program, to greet visitors at the Travel Center north of Denison, on Friday, May 11, 2012.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5740 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING MAXIMUM, REASONABLE AND PRUDENT RATES OF SPEED ON CERTAIN PORTIONS OF THE U.S. 75 / SAM RAYBURN FREEWAY NORTH BOUND FRONTAGE ROAD IN THE CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS; FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5740.

Mayor Magers introduced Ordinance 5741 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REPEALING ORDINANCE NO. 4549 IN ITS ENTIRETY; AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED “UTILITIES”, AT ARTICLE 13.08, ENTITLED “UTILITY BILLING”, SECTION 13.08.003, AND AT ARTICLE 13.09, ENTITLED “SERVICE FEES”, SECTION 13.09.001; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

**NATIONAL TRAVEL
& TOURISM WEEK
(MAY 5-13, 2012)**

**ORD 5740
SPEED LIMITS ON
U.S. HWY 75 &
SAM RAYBURN**

**ORD 5741
UTILITY SERVICE FEES**

No citizens appeared before the City Council to discuss Ordinance 5741.

Mayor Magers introduced Ordinance 5742 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW AN AUTO DEALERSHIP, BODY SHOP AND SERVICE DEPARTMENT IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 4305 TEXOMA PARKWAY, BEING 1.94 ACRES IN THE W.F. PATTERSON SURVEY, ABSTRACT NO. 969 AND THE JOHN HENDRIX SURVEY, ABSTRACT NO. 503 (AG-POWER REAL ESTATE, INC., OWNERS; JACK BARS, PROSPECTIVE BUYER; DAVID BACA, ARCHITECT; AND SARTIN & ASSOCIATES, INC. SURVEYORS); PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

ORD 5742
SUP FOR AUTO
DEALERSHIP
(4305 TEXOMA PKWY)

No citizens appeared before the City Council to discuss Ordinance 5742.

Mayor Magers introduced Ordinance 5743 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW USED AUTOMOBILE SALES IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 2411 TEXOMA PARKWAY, BEING LOT 1, BLOCK 1, HELEN PERKINS ADDITION (FIVE AND DIME CERTIFIED SALES, LLC, OWNER; AND JADE LAMANCE, REPRESENTATIVE); PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

ORD 5743
SUP FOR AUTO SALES
(2411 TEXOMA PKWY)

No citizens appeared before the City Council to discuss Ordinance 5743.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5740

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING MAXIMUM, REASONABLE AND PRUDENT RATES OF SPEED ON CERTAIN PORTIONS OF THE U.S. 75 / SAM RAYBURN FREEWAY NORTH BOUND FRONTAGE ROAD IN THE CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS; FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5740
SPEED LIMITS ON
U.S. HWY 75 &
SAM RAYBURN

Mayor Magers verified that the new speed limits were recommended by the Texas Department of Transportation. George Olson, City Manager, said the speed limits from south of Park Street to Center Street will be 50 miles per hour, from Center Street to Texoma Parkway will be 40 miles per hour, and from Texoma Parkway to Loy Lake Road will be 45 miles per hour.

Ordinance 5741

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REPEALING ORDINANCE NO. 4549 IN ITS ENTIRETY; AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED "UTILITIES", AT ARTICLE 13.08, ENTITLED "UTILITY BILLING", SECTION 13.08.003, AND AT ARTICLE 13.09, ENTITLED "SERVICE FEES", SECTION 13.09.001; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5741

UTILITY SERVICE FEES

Mayor Magers asked about the rate increase for water deposits. Robby Hefton, Assistant City Manager/CFO, explained that the City no longer has residential deposits and the commercial deposits were last updated in the mid 1990s.

The intent is that with the new commercial deposit, it would cover approximately one month's worth of the utility bill. At 1996 rates that is currently not being done. The change only affects commercial deposits.

Ordinance 5742

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW AN AUTO DEALERSHIP, BODY SHOP AND SERVICE DEPARTMENT IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 4305 TEXOMA PARKWAY, BEING 1.94 ACRES IN THE W.F. PATTERSON SURVEY, ABSTRACT NO. 969 AND THE JOHN HENDRIX SURVEY, ABSTRACT NO. 503 (AG-POWER REAL ESTATE, INC., OWNERS; JACK BARSİ, PROSPECTIVE BUYER; DAVID BACA, ARCHITECT; AND SARTIN & ASSOCIATES, INC. SURVEYORS); PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

ORD 5742

**SUP FOR AUTO
DEALERSHIP
(4305 TEXOMA PKWY)**

Ordinance 5743

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW USED AUTOMOBILE SALES IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 2411 TEXOMA PARKWAY, BEING LOT 1, BLOCK 1, HELEN PERKINS ADDITION (FIVE AND DIME CERTIFIED SALES, LLC, OWNER; AND JADE LAMANCE, REPRESENTATIVE);

ORD 5743

**SUP FOR AUTO SALES
(2411 TEXOMA PKWY)**

PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

ACTION TAKEN.

Motion by Council Member Wacker to approve Ordinance Nos. 5740, 5741, 5742, and 5743, as presented. Second by Council Member Softly.
VOTING AYE: Howeth, Plyler, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

CONSENT AGENDA

The Council reviewed the Consent Agenda. Council Member Wacker moved to approve the Consent Agenda, as presented. Second by Deputy Mayor Steele. All present voted AYE.

CONSENT AGENDA

RESOLUTIONS

RESOLUTION NO. 5667 – AUTHORIZING EXECUTION OF AN ADVANCE FUNDING AGREEMENT BETWEEN THE CITY OF SHERMAN AND THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION, FOR AN URBAN MOBILITY AND REHABILITATION PROJECT (NEW ROADWAY FROM CANYON GROVE ROAD TO THE U.S. 82 WESTBOUND FRONTAGE ROAD)

**RES 5667
CANYON GROVE RD.
& U.S. HWY 82
TXDOT PROJECT**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN ADVANCE FUNDING AGREEMENT BETWEEN THE CITY OF SHERMAN AND THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION, FOR AN URBAN MOBILITY AND REHABILITATION PROJECT (NEW ROADWAY FROM CANYON GROVE ROAD TO U.S. 82 WESTBOUND FRONTAGE ROAD).

Mayor Magers said this project has been in the works more than two years and is a partnership between the City of Sherman, the private sector, the Metropolitan Planning Organization, and TxDOT.

The project deals with the intersection of Travis Street and U.S. Highway 82, on the west side of Wal-Mart. A “stacking” problem has been occurring for vehicles leaving Wal-Mart on Canyon Grove Road going toward Travis Street.

With the improvements, vehicles leaving the parking lot that want to travel south on Travis Street will be diverted to the U.S. 82 service road to a light where they can go south on Travis Street.

Vehicles leaving the parking lot that want to travel north on Travis Street will go through a “right turn only” lane that will take them north on Travis. Vehicles driving south on Travis

Street will still be able to enter the Wal-Mart parking lot by way of Canyon Grove Road.

Mayor Magers said the improvements should separate the traffic that is stacking up on Canyon Grove Road at the Travis Street intersection. He added that corner will still be busy, but the improvements should help open that corner for development.

He thanked the City staff for their hard work as well as the MPO and TxDOT. He also thanked Steve Alvis for donating the right-of-way for the project.

He said this is one step in three phases to help U.S. Highway 82 and U.S. Highway 75. Future projects include a weaving lane and the widening of the Loy Lake Road bridge. There should be better ingress and egress with these projects.

ACTION TAKEN.

Motion by Council Member Wacker to approve Resolution No. 5667, as presented. Second by Council Member Howeth.

VOTING AYE: Howeth, Plyler, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 5668 – AUTHORIZING SUBMISSION OF A JOINT GRANT APPLICATION WITH GRAYSON COUNTY FOR, AND THE ACCEPTANCE OF, A GRANT AWARDED UNDER THE 2012 JUSTICE ASSISTANCE GRANT PROGRAM – CFDA #16.738

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING SUBMISSION OF A JOINT GRANT APPLICATION WITH GRAYSON COUNTY FOR, AND THE ACCEPTANCE OF, A GRANT AWARDED UNDER THE 2012 JUSTICE ASSISTANCE GRANT PROGRAM – CFDA #16.738.

CONSENT AGENDA.

RES 5668
JAG GRANT

RESOLUTION NO. 5669 – AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SHERMAN AND GRAYSON COUNTY FOR GRANT FUNDING TO BE AWARDED BY THE U.S. DEPARTMENT OF JUSTICE UNDER THE 2012 JUSTICE ASSISTANCE GRANT PROGRAM – CFDA #16.738

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SHERMAN AND GRAYSON COUNTY FOR GRANT FUNDING TO BE AWARDED BY THE U.S. DEPARTMENT OF JUSTICE UNDER THE 2012 JUSTICE ASSISTANCE GRANT PROGRAM – CFDA #16.738.

CONSENT AGENDA.

RES 5669
AGREEMENT WITH
GRAYSON CO. FOR
JAG GRANT

RESOLUTION NO. 5670 – AUTHORIZING THE PURCHASE OF 96-GALLON RESIDENTIAL AUTOMATED TRASH CARTS FOR THE SOLID WASTE SERVICES DEPARTMENT THROUGH THE STATE OF TEXAS PURCHASING CONTRACT – REFERENCE BID #450-A2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF 96-GALLON RESIDENTIAL AUTOMATED TRASH CARTS FOR THE SOLID WASTE SERVICES DEPARTMENT THROUGH THE STATE OF TEXAS PURCHASING CONTRACT – REFERENCE BID #450-A2.
CONSENT AGENDA.

RES 5670
SOLID WASTE
TRASH CARTS

RESOLUTION NO. 5671 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH JAMES THORPE COMPANY FOR THE PURCHASE OF AN ANNUAL SUPPLY OF COVER STONE FOR THE 2012 SEAL COAT PROGRAM

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH JAMES THORPE COMPANY FOR THE PURCHASE OF AN ANNUAL SUPPLY OF COVER STONE FOR THE 2012 SEAL COAT PROGRAM.
CONSENT AGENDA.

RES 5671
ANNUAL SUPPLY OF
COVER STONE

RESOLUTION NO. 5672 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH ERGON ASPHALT AND EMULSIONS, INC. FOR THE PURCHASE OF AN ANNUAL SUPPLY OF EMULSIFIED ASPHALT OIL FOR THE 2012 SEAL COAT PROGRAM

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH ERGON ASPHALT AND EMULSIONS, INC. FOR THE PURCHASE OF AN ANNUAL SUPPLY OF EMULSIFIED ASPHALT OIL FOR THE 2012 SEAL COAT PROGRAM.
CONSENT AGENDA.

RES 5672
ANNUAL SUPPLY OF
EMULSIFIED ASPHALT
OIL

RESOLUTION NO. 5673 – AUTHORIZING EXECUTION OF AN ENCROACHMENT EASEMENT TO JOSEPH HUNT FOR THE CONSTRUCTION OF A STORAGE BUILDING IN A 10' DRAINAGE EASEMENT AND A 7' UTILITY EASEMENT ON LOT NO. 22 OF BLOCK NO. 6 OF THE COUNTRY RIDGE ESTATES NO. 2 ADDITION TO THE CITY OF SHERMAN (1104 PINTAIL DRIVE)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN ENCROACHMENT EASEMENT TO JOSEPH HUNT FOR THE CONSTRUCTION OF A STORAGE BUILDING IN A 10' DRAINAGE EASEMENT AND A 7' UTILITY EASEMENT ON LOT NO. 22 OF BLOCK NO. 6 OF THE COUNTRY RIDGE ESTATES NO. 2 ADDITION TO THE CITY OF SHERMAN (1104 PINTAIL DRIVE).
CONSENT AGENDA.

RES 5673
ENCROACHMENT FOR
STORAGE BUILDING
(1104 PINTAIL DR.)

OTHER BUSINESS

CONSIDER APPROVAL OF THE ANNEXATION SCHEDULING PLAN FOR THE ANNEXATION OF 71.671 ACRES ALONG WASHINGTON STREET; AND DIRECTING THE DEPARTMENT OF ENGINEERING SERVICES TO DEVELOP A SERVICE PLAN FOR THE AREA TO BE ANNEXED UPON APPROVAL OF THE ANNEXATION SCHEDULING PLAN

Mayor Magers explained that the annexation is a voluntary annexation of 71.671 acres at the west City limits, on Washington Street near S.H. 289.

**ANNEXATION
SCHEDULE
(WASHINGTON ST.)**

ACTION TAKEN.

Motion by Deputy Mayor Steele to approve the Annexation Scheduling Plan for the annexation of 71.671 acres along Washington Street and to direct the Engineering Department to develop a Service Plan for the area, as presented. Second by Council Member Plyler.

VOTING AYE: Howeth, Plyler, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

APPROVE QUARTERLY INVESTMENT REPORTS FOR PERIOD ENDING MARCH 31, 2012

The City Council approved the Quarterly Investment Reports for the period ending March 31, 2012. As of March 31, 2012, both the Operating Portfolio and the Debt Proceeds Portfolio were in compliance with applicable State laws and the City's internal Investment Policy.

**QUARTERLY
INVESTMENT REPORT**

The Operating Portfolio had a book value of about \$24.8 million, up about \$3.0 million from three months ago because of property tax collections. This portfolio is appropriately liquid and its weighted-average maturity increased to about 312 days, up from 250 days last period. The portfolio yield of 0.48% for the quarter is higher than the benchmark yield of 0.15% and the value on the City's books is essentially equal to the market value of the overall portfolio.

The Debt Proceeds Portfolio balance of about \$.3 million decreased about \$.1 million due to payments made for construction projects during the period. The portfolio remains adequately liquid, with all of the funds available within one day. Its yield of 0.14% for the quarter was essentially the same as the benchmark yield. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.

CONSENT AGENDA.

FINAL PLAT APPROVAL OF THE API ADDITION, BEING 3.87 ACRES IN THE W.F. PATTERSON SURVEY, ABSTRACT NO. 969 AND THE JOHN HENDRIX SURVEY, ABSTRACT NO. 503; AG-POWER REAL ESTATE, INC., OWNER; JACK BARS, PROSPECTIVE BUYER; AND SARTIN AND ASSOCIATES, INC., SURVEYORS (4301 AND 4305 TEXOMA PARKWAY)

**APPROVE FINAL PLAT
API ADDITION
(4301 & 4305
TEXOMA PKWY)**

The City Council approved the Final Plat of the API Addition, located at 4301 and 4305 Texoma Parkway and consists of 3.87 acres. The owner would like to divide the property into two lots for commercial development.

The Planning and Zoning Commission recommended approval of the Final Plat.
CONSENT AGENDA.

REPLAT APPROVAL OF LOT 4, CRESCENT OAKS PLAZA ADDITION, CONTAINING 7.108 ACRES; ET JOINT VENTURE, OWNERS; AND UNDERWOOD DRAFTING AND SURVEYING, SURVEYORS (1603 U.S. HIGHWAY 75 NORTH)

The City Council approved the Replat of Lot 4, Crescent Oaks Plaza Addition, located at 1603 U.S. Highway 75 North. The owner would like to replat the property into three lots for commercial development.

The Planning and Zoning Commission recommended approval of the Replat.
CONSENT AGENDA.

REPLAT APPROVAL OF LOTS 10 AND 11, BLOCK 2, O'HANLON RANCH ADDITION, PHASE 2, CONTAINING 0.54 ACRES; JOHN AND ALICIA McCAMPBELL AND DGR DEVELOPMENT GROUP, LTD, OWNERS; KEN ARNOLD, PROSPECTIVE BUYER; AND SARTIN AND ASSOCIATES, INC., SURVEYORS (2941 OVERLAND TRAIL AND 2505 SILVERADO TRAIL)

The City Council approved the Replat of Lots 10 and 11, Block 2, O'Hanlon Ranch Addition, Phase 2, located at 2941 Overland Trail and 2505 Silverado Trail.

The owners would like to replat the two lots into one lot, remove the existing wrought iron fence, and erect a 6' privacy fence above the retaining wall. They would also like to construct a pool house 9'7" from the side street property line.

The Planning and Zoning Commission recommended approval of the Replat.
CONSENT AGENDA.

CITIZENS REQUESTS
TRAFFIC PROBLEM

Hattie Moss, 1401 W. Moore, expressed concern about traffic at her home which is located on the corner of Holly and Moore Streets. There have been several accidents at the location and people drive very fast around the corner. She has replaced several mailboxes and recently a vehicle almost hit her nephew, did hit her mailbox, and hit a tree across the street, before driving off. She said she needs something for protection of her home.

APPROVE REPLAT
CRESCENT OAKS
PLAZA ADDITION
(1603 HWY 75)

APPROVE REPLAT
O'HANLON RANCH
ADDITION
(2941 OVERLAND
TRAIL & SILVERADO
TRAIL)

TRAFFIC PROBLEM

Mayor Magers asked the City Manager to look into the situation and asked Ms. Moss to give him her contact information after the meeting.

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

STUDENTS ATTEND COUNCIL MEETING FOR EXTRA CREDIT

Council Member Howeth encouraged her students who are attending the Council Meeting for extra credit to filibuster.

LOSS TO SHERMAN

Mayor Magers said Sherman recently lost a great citizen when Ralph "Slats" McCord passed away recently. He was an Austin College teacher and coach, and has been in Sherman a long time. He offered his thoughts and prayers to Mr. McCord's family.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:24 p.m.

MEDIA QUESTIONS

**STUDENTS ATTEND
COUNCIL MEETING
FOR EXTRA CREDIT**

LOSS TO SHERMAN

ADJOURNMENT

MAYOR

CITY CLERK



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. B.1

PUBLIC HEARING

Conduct the First Public Hearing Concerning the Annexation of 71.671 Acres along Washington Street in the City of Sherman's Extra Territorial Jurisdiction

Issue

To conduct the first public hearing concerning the annexation of 71.671 acres along Washington Street in the City's extra territorial jurisdiction (ETJ), in accordance with state law and the City Charter

Background

It is the City's intention to annex specifically identified individual areas in the City's ETJ, in accordance with state law and the City Charter. At its May 7th meeting, the City Council approved the schedule for annexation of this property, which sets this public hearing, a second public hearing for the June 4th regular Council meeting, and introduction and adoption of the Ordinance to annex the subject property at the June 25th called Council meeting.

Origination

City Council

Financial Consideration

City accepts maintenance. The incremental cost of annexing this property is negligible.

Staff Recommendation

It is recommended that the City Council conduct its first public hearing concerning the possible annexation of this property.

Alternatives

As directed by the City Council

Attachments

Annexation Scheduling Plan
Request Letter
Field Notes
Location Map
Municipal Service Plan

Prepared by:
Brandon Shelby, City Attorney

Approved by:
George Olson, City Manager

ANNEXATION SCHEDULING PLAN

Annexation of 71.671 acres along Washington Street

Wednesday, May 9, 2012.....	Send written notice to property owners in the area to be annexed, public or private entities that provide services in that area, and any railroads with a right of way in the area to be annexed. The Department of Engineering Services will prepare a service plan that details the specific Municipal Services that will be provided to the area after it is annexed.
Friday, May 11, 2012.....	Post notice on City's website, newspaper and City Hall for City Council's 1 st Public Hearing on intent to annex. Send written notice to each public school district in the area to be annexed. Send by certified mail a second written notice to any railroads with a right of way in the area to be annexed. Obtain required affidavit of publication from newspaper.
Thursday, May 17, 2012.....	Post notice of 1 st Public Hearing under the Open Meetings Act.
Monday, May 21, 2012.....	City Council's 1 st Public Hearing on intent to annex and service plan.* (Regular Meeting)
Friday, May 25, 2012.....	Post notice on City's website, newspaper and City Hall for City Council's 2 nd Public Hearing on intent to annex. Obtain required affidavit of publication from newspaper.
Thursday, May 31, 2012.....	Post notice of 2 nd Public Hearing under the Open Meetings Act.
Monday, June 4, 2012.....	City Council's 2 nd Public Hearing on intent to annex and service plan.* (Regular Council Meeting)
Thursday, June 21, 2012.....	Post notice on City's website, newspaper and City Hall for introduction of annexation ordinance and adoption of the ordinance. Posting will also be in compliance with the Open Meetings Act.**
Monday, June 25, 2012.....	City Council Public Hearing for introduction and consideration of adoption of annexation ordinance. (Called Council Meeting)**

* If more than twenty adults who are residents of the area to be annex protest within ten (10) days of the notice by publication, then one of the public hearings must be held in the area to be annexed.

** Special Called Meeting for introduction and consideration of adoption of annexation ordinance must be held after June 24, 2012 and before June 30, 2012 in order to comply with statutory requirements. Changing the date of introduction and consideration impacts the date notice must be published.

Mehrdad Mazaheri, M.D.
The Intralase Center PA
670 W. Campbell Rd, Suite 100, Richardson, TX 75080
Tel: (214) 564-7979

August 30, 2011

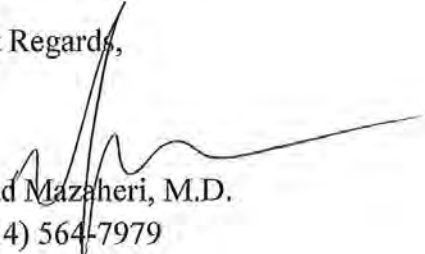
Lisa Whitfield
Department of Engineering
P.O Box 1106,
Sherman, TX 75091
Fax: (903) 870-7802

Re: Annexation for Property ID 261336

Dear Lisa,

I, Mehrdad Mazaheri, am writing this letter in order to request the annexation of all of my property in Grayson County, located at the intersection of Washington Street and SH 289. To my knowledge part of this property was annexed at a previous time. If you may have any questions or help regarding this process please feel free to contact me.

Kindest Regards,


Mehrdad Mazaheri, M.D.
Tel: (214) 564-7979

Legal Description

Situated in the County of Grayson, State of Texas, being a part of the J. Deaver Survey, Abstract No. 348, being a part of the 132.762 acre tract of land described in Exhibit "A" in deed to The Intralasik Center, P. A. of record in Volume 4024, Page 461, of the Official Public Records, Grayson County, Texas, and being more particularly described as follows:

Beginning at a ½" steel rod in Washington Street, said rod being the northeast corner of said 132.762 acre tract;

Thence South 01°44'12" East leaving said road, a distance of 2,010.03 feet to a set ½" steel rod;

Thence South 87°57'43" West a distance of 56.53 feet to a set ½" steel rod;

Thence South 01°44'12" East a distance of 648.31 feet to a ½" steel rod set in the north line of the 160.590 acre tract of land conveyed to Grayson 200, LTD., by deed of record in Volume 3945, Page 427, of said Official Public Records, said rod being the southeast corner of the herein described tract;

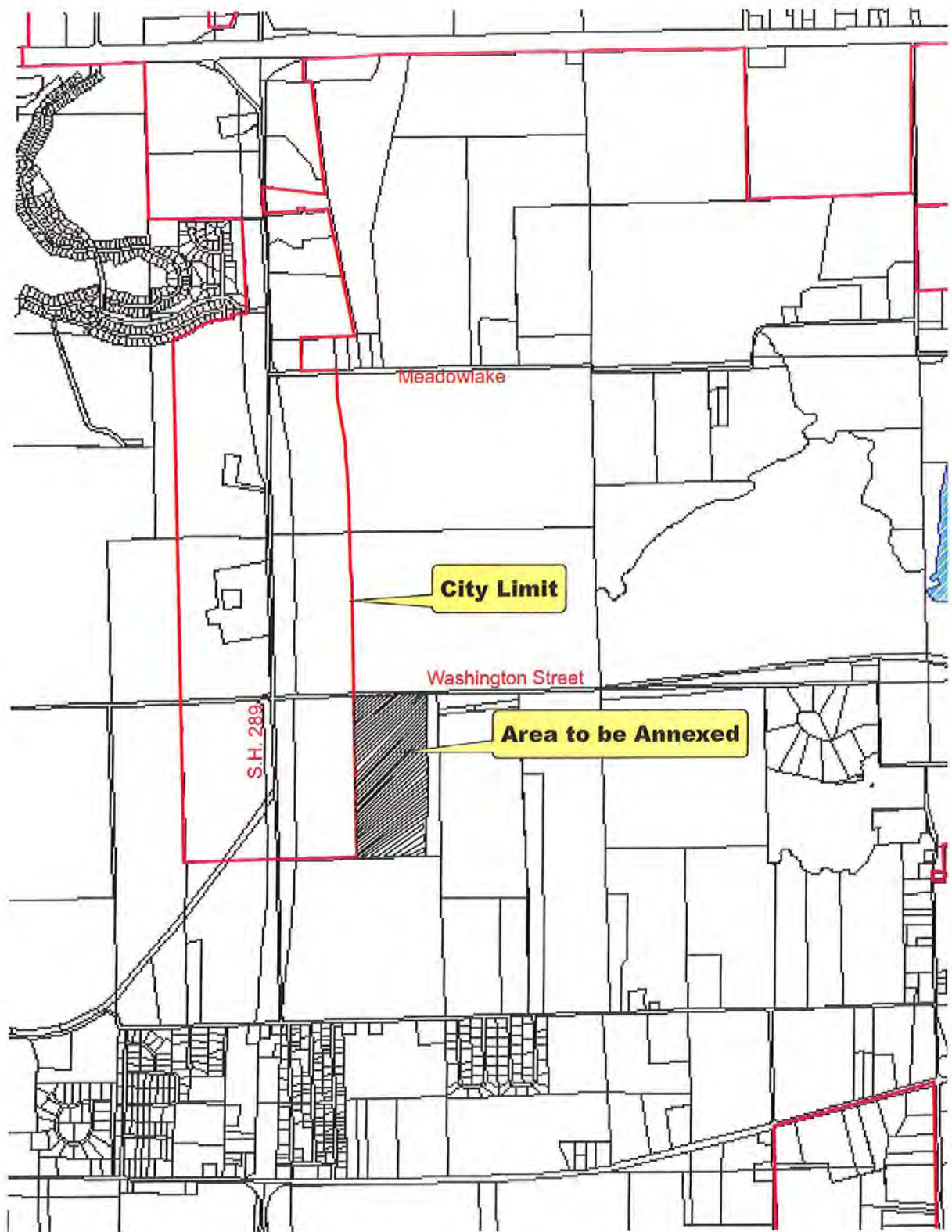
Thence South 88°30'23" West with said north line, a distance of 1134.23 feet to a point, the southwest corner of the herein described tract;

Thence North 01°45'35" West a distance of 1630.60 feet to a point;

Thence North 01°14'23" West a distance of 1025.00 feet to a point in Washington Street and the north line of said 132.762 acre tract;

Thence North 88°39'18" East with said Washington Street, a distance of 1657.85 feet to a spike nail found at an angle point;

Thence North 87°57'43" East continuing with said Washington Street, a distance of 524.69 feet to the Point-of-Beginning and containing 71.671 acres of land.



City of Sherman Municipal Service Plan Washington Street

INTRODUCTION:

The annexation is the site of approximately 71.671 acres along Washington Street lying adjacent to the City of Sherman existing city limits.

This annexation is a step in the process of providing for the orderly growth and development of the City, to protect the City from substandard development and to provide for the enlargement of the city limits by including developments and improvements that are logically a part of the City and receive city utilities.

MUNICIPAL SERVICES TO BE PROVIDED:

POLICE PROTECTION: Patrolling, radio responses to calls, and other routine police services, using present personnel and equipment will be provided on the effective date of annexation.

FIRE PROTECTION: Fire protection by the present personnel and equipment of the fire fighting force will be provided on the effective date of annexation.

SOLID WASTE: The same solid waste collection and disposal service now provided within the City of Sherman will be extended to the annexed area on the effective date of annexation.

STREETS AND BRIDGES: All access points to Washington Street shall meet City of Sherman requirements. Any future streets will be developed by the standard provisions of the Developers Ordinance with future maintenance by the City of Sherman. Street lighting will be established according to city guidelines.

PARKS: No public parks exist in the area to be annexed. Any new park facilities will be developed according to existing City policies as applicable to all city residents.

CONSTRUCTION INSPECTIONS: Building inspection activities will be available upon annexation.

ENVIRONMENTAL HEALTH AND HEALTH CODE ENFORCEMENT: Enforcement of the City's environmental health ordinances and regulations shall be provided within this area on the effective date of the annexation ordinance.

ANIMAL CONTROL: Animal control will be provided by the City on the effective date of annexation.

PLANNING AND ZONING: The Planning and Zoning jurisdiction of the City will extend to this area on the effective date of this annexation. All areas will be annexed as R-A on the effective date of the annexation ordinance.

CAPITAL IMPROVEMENTS:

WATER SERVICE: Extensions of existing city mains for future development will be made by standard City of Sherman utility extension methods. All connections to new or existing water mains will be based upon existing City policies as applicable to all city residents as stated in the current codes and ordinances.

SEWER SERVICE: Extensions of any existing sewer facilities of the City of Sherman for existing or future development may be made by standard City of Sherman utility extension methods provided the capacity of the existing appurtenances is not exceeded at the time of development. Use of lift stations and force mains will be required to serve some portions of this area. All connections to new or existing sewer mains will be based upon existing City policies as applicable to all city residents as stated in the current codes and ordinances.



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. B.2

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5744

Denying Atmos Energy Corp., Mid-Tex Division's ("Atmos Mid-Tex" or "Company") Requested Rate Change; Requiring the Company to Reimburse the City's Reasonable Ratemaking Expenses; Requiring Notice of this Resolution to the Company and Legal Counsel for the Atmos Cities Steering Committee ("ACSC")

Issue

Denying the requested rate change of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company")

Background

On January 31, 2012, Atmos Mid-Tex filed a statement of intent to increase system-wide base rates (which exclude the cost of gas) by approximately \$49 million or 11.94%. However, Atmos Mid-Tex is requesting an increase of 13.6%, excluding gas costs, for its residential customers. Additionally, the application would change the way that rates are collected, by increasing the residential fixed-monthly (or customer) charge from \$7.50 to \$18.00 and decreasing the consumption charge from \$0.25 per 100 cubic feet ("ccf") to \$0.07 per ccf.

The Atmos Cities Steering Committee ("ACSC") has met with Company officials to negotiate a settlement. While ACSC has given the Company a settlement offer, Atmos Mid-Tex does not want to provide a written offer before the expiration of city jurisdiction. State law permitted the extension of the effective date to June 11, 2012; and it does not appear that settlement can be achieved within a time frame that would allow the City to take action prior to June 11, 2012. Thus, ACSC members are encouraged to pass a denial ordinance.

The ACSC General Counsel recommends the City adopt an ordinance denying Atmos Mid-Tex's proposed rate increase.

Origination

Geoffrey M. Gay, General Counsel to the ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C.

Financial Consideration

All costs (legal and consulting) incurred by the City will be reimbursed by Atmos Mid-Tex.

Staff Recommendation

It is recommended that Ordinance No. 5744 be adopted denying the requested rate change.

Alternatives

None recommended

Attachments

Ordinance No. 5744

Memo from ACSC General Counsel dated April 30, 2012

Exhibit A to Memo dated April 30, 2012

Staff Report in Support of the Ordinance

Prepared by:

Brandon S. Shelby, City Attorney

Approved by:

George Olson, City Manager

ORDINANCE NO. 5744

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, DENYING ATMOS ENERGY CORP., MID-TEX DIVISION'S ("ATMOS MID-TEX" OR "COMPANY") REQUESTED RATE CHANGE; REQUIRING THE COMPANY TO REIMBURSE THE CITY'S REASONABLE RATEMAKING EXPENSES; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL FOR THE ATMOS CITIES STEERING COMMITTEE ("ACSC"); PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Sherman, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under Chapter 104, § 104.001 et seq. of GURA, has exclusive original jurisdiction over Atmos Mid-Tex's rates, operations, and services within the City; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of over 150 similarly situated cities served by the Company that have joined together to facilitate the review and response to natural gas issues affecting rates charged in the Atmos Mid-Tex Division; and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC and the Company worked collectively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by ACSC as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, ACSC and the Company agreed to extend the RRM process in reaching a settlement in 2010 on the third RRM filing; and

WHEREAS, in 2011, ACSC and the Company engaged in good faith negotiations regarding the continuation of the RRM process, but were unable to come to ultimate agreement; and

WHEREAS, on or about January 31, 2012, the Company filed a Statement of Intent with the cities retaining original jurisdiction within its Mid-Tex service division to increase rates by approximately \$49 million; and

WHEREAS, Atmos Mid-Tex proposed March 6, 2012, as the effective date for its requested increase in rates; and

WHEREAS, the City suspended the effective date of Atmos Mid-Tex's proposed rate increase for the maximum period allowed by law and thus extended the City's jurisdiction until June 4, 2012; and

WHEREAS, on April 25, 2012, the Company extended the effective date for its proposed rates by one week, which similarly extended the City's jurisdiction until June 11, 2012; and

WHEREAS, the ACSC Executive Committee hired and directed legal counsel and consultants to prepare a common response to the Company's requested rate increase and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, ACSC's consultants conducted a review of the Company's requested rate increase and found justification that the Company's rates should be decreased; and

WHEREAS, ACSC and the Company have engaged in settlement discussions but will be unable, according to Company representations, to reach settlement in sufficient time for cities to act before June 11, 2012; and

WHEREAS, failure by ACSC members to take action before June 11, 2012 would allow the Company the right to impose its full request on residents of said ACSC members; and

WHEREAS, the ACSC Settlement Committee recommends denial of the Company's proposed rate increase in order to continue settlement discussions pending the Company's appeal of cities' denials to the Railroad Commission of Texas; and

WHEREAS, the GURA § 103.022 provides that costs incurred by cities in ratemaking activities are to be reimbursed by the regulated utility;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That the rates proposed by Atmos Mid-Tex to be recovered through its gas rates charged to customers located within the City limits are hereby found to be unreasonable and shall be denied.

SECTION 2. That the Company shall continue to charge its existing rates to customers within the City and that said existing rates are reasonable.

SECTION 3. That the City's reasonable rate case expenses shall be reimbursed by the Company.

SECTION 4. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President of Rates & Regulatory Affairs, at Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay,

General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P. O. Box 1725,
Austin, Texas 78767-1725.

SECTION 5. That all ordinances or parts of ordinances in conflict with the provisions of
this ordinance are hereby repealed.

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

INTRODUCED on this the _____ day of _____, 2012.

ADOPTED on this the _____ day of _____, 2012.

EFFECTIVE DATE on this the _____ day of _____, 2012.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**BRANDON S. SHELBY,
CITY ATTORNEY**



Mr. Gay's Direct Line: (512) 322-5875
Email: ggay@lglawfirm.com

816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
~~Fax: (512) 477-0522~~
www.lglawfirm.com

MEMORANDUM

TO: Atmos Cities Steering Committee Members

FROM: Geoffrey M. Gay
Georgia Crump
Eileen McPhee

DATE: April 30, 2012

RE: Denial Resolution For Atmos Mid-Tex's Requested Rate Increase

Background on Atmos Mid-Tex Rate Case

On January 31, 2012, Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company") filed with Atmos Cities Steering Committee ("ACSC") city members that exercise original jurisdiction a request for a rate increase in excess of \$49 million. ACSC members passed resolutions suspending the effective date of the proposed increase to allow ACSC attorneys and consultants to study the request. A summary of the consultants' findings is attached as Exhibit A. The ACSC Settlement Committee has met with Company officials to negotiate a settlement. While ACSC has given the Company a settlement offer, Atmos Mid-Tex does not want to provide a written offer before the expiration of city jurisdiction on June 11, 2012.

Timing of City Action

ACSC members with original jurisdiction suspended the proposed effective date of March 6, 2012, extending city jurisdiction until June 4, 2012. On April 25, 2012, the Company extended its effective date by a week, which similarly extended the June 4, 2012 deadline to June 11, 2012. It does not appear that settlement could be achieved within a time frame that would allow the City to take action prior to June 11, 2012. Thus, ACSC members are encouraged to pass a denial resolution. Atmos Mid-Tex has promised to support the action which does not preclude a subsequent settlement. If settlement is achieved, ACSC will return to member cities with a request for approval of the settlement.

2557/17/2056489

Lloyd Gosselink Rochelle & Townsend, P.C.

April 30, 2012

Page 2

Recommendation and Explanation of Denial Resolution

The ACSC Settlement Committee recommends the ACSC cities pass resolutions denying Atmos Mid-Tex's proposed rate increase. The denial resolution will prevent the Company's proposed rate increase from automatically taking effect on June 11, 2012, and allow more time to engage in settlement discussions. Atmos will appeal your denial to the Railroad Commission which will trigger a 185-day time frame for action by the Commission. Settlement will hopefully occur before a hearing takes place. Please contact Geoffrey Gay if you have any questions or concerns.

2056489.1

Lloyd Gosselink Rochelle & Townsend, P.C.

Exhibit A

ACSC Consultants' Recommended Adjustments to Atmos Mid-Tex's 2012 Statement of Intent to Increase Rates¹

Following a review of the Company's 2012 Statement of Intent, ACSC consultants found justification for an approximately \$77 million decrease to the Company's requested revenue, resulting in a \$23 million decrease to the current rates charged by Atmos Mid-Tex. ACSC consultants' recommendation for a rate decrease is based upon the following major components:²

- Lowering the Company's return on equity from 10.9% to 9.5%, resulting in a revenue requirement decrease of over \$30 million
- Removing the Company's improper post-test year adjustment to add plant from January to March 2012, resulting in a revenue requirement decrease of approximately \$5 million
- Removing the Company's proposal for an energy efficiency plan to be funded only by ratepayers, resulting in a revenue requirement decrease of over \$1 million
- Various adjustments to accumulated deferred income tax, resulting in a revenue requirement decrease of approximately \$10 million
- Recognizing new depreciation rates as filed by the Company (without adjustment by ACSC consultants), resulting in a revenue requirement decrease of approximately \$15 million
- Various adjustments to the Company's requested level of operating and maintenance (O&M) expense, resulting in a revenue requirement decrease of over \$8 million
- Reducing rate base to account for ratepayer supplied funds relating to other post-employment benefits (FASB 106), resulting in a revenue requirement decrease of over \$8 million
- Cap residential customer charge at \$9.00, instead of Atmos' requested \$18.00.

¹ All figures are adjustments resulting in a revenue requirement impact to Atmos' filed case system-wide. Factoring out Dallas, the ACSC cities would see slight decreases in the numbers listed above.

² Please note that the adjustments listed are on a stand-alone basis, and may have a different impact when combined with the other adjustments.

STAFF REPORT SUPPORTING ORDINANCE DENYING ATMOS MID-TEX'S PROPOSED RATE INCREASE

The City of Sherman, along with over 150 other cities served by Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"). On or about January 31, 2012, Atmos Mid-Tex filed with the City a Statement of Intent to increase rates within the City.

Background

In 2003, TXU Gas filed a statewide rate case which became known at the Railroad Commission of Texas ("RRC") as Gas Utilities Docket ("GUD") No. 9400. That same year the Texas Legislature passed legislation referred to as the Gas Reliability Infrastructure Program ("GRIP") which authorized annual piecemeal rate reviews that Texas courts have concluded significantly restrict city jurisdiction, participation, and input. Shortly after GUD No. 9400 was decided in 2004, Atmos Energy purchased TXU Gas and created what is known as Atmos Energy Corp., Mid-Tex Division. The City is within the Atmos Mid-Tex Division.

Atmos Mid-Tex filed four GRIP cases before filing a traditional rate case in September, 2007. As part of Cities' Settlement Agreement with Atmos of the 2007 rate case, ACSC and Atmos created a substitute process for annual piecemeal GRIP cases. That substitute process was called a Rate Review Mechanism ("RRM") and was intended as an expedited but comprehensive rate review that included a number of fixed values and constraints. The RRM was intended as a three-year experiment. Last year, it was extended for a fourth year with some slight modifications to the original formulas. ACSC negotiated with Atmos in the final quarter of last year to further extend the RRM process, but no agreement was reached. Atmos has expressed a desire to reach a settlement of the January 31, 2012 filing that includes a revised RRM process.

Discussion and Purpose

Atmos Mid-Tex filed a Statement of Intent on January 31, 2012, seeking to increase system-wide base rates (which exclude the cost of gas) by approximately \$49 million or 11.94%. However, the Company is requesting an increase of 13.6%, excluding gas costs, for its residential customers. Additionally, the application would change the way that rates are collected, by increasing the residential fixed-monthly (or customer) charge from \$7.50 to \$18.00 and decreasing the consumption charge from \$0.25 per 100 cubic feet ("ccf") to \$0.07 per ccf.

ACSC engaged attorneys and consultants to review Atmos Mid-Tex's proposed rate increase. Additionally, the ACSC cities passed suspension resolutions earlier this year, extending the effective date of Atmos Mid-Tex's proposed rate increase to June 4, 2012, in order to permit the cities time to review Atmos Mid-Tex's Statement of Intent. During their review, ACSC's consultants found justification that Mid-Tex's rates should be decreased. On April 25, 2012, the Company extended the effective date of its proposed rate change, which similarly extended cities' jurisdictional deadline to June 11, 2012.

ACSC and the Company have engaged in some settlement discussions but have not yet reached agreement. ACSC is hoping to achieve settlement with the Company in order to perpetuate the RRM process. The ACSC Settlement Committee therefore recommends denial of the Company's proposed rate increase rather than a rate decrease to facilitate further settlement discussions. The ordinance prevents the Company's proposed rates from automatically going into effect on June 11. The Company has expressed a desire to settlement while an appeal from the cities' denial of the rate increase is pending at the RRC. Should a settlement be reached, the City may be required to pass an ordinance setting new rates pursuant to the settlement.

The purpose of the ordinance is to deny Atmos Mid-Tex's proposed rate increase pending further settlement discussions and to prevent Atmos' proposed rate increase from automatically taking effect on June 11, 2012.

Explanation of "Be It Ordained Paragraphs"

Section 1. The paragraph denies the Company's proposed rate increase.

Section 2. This provision provides that the Company shall continue to charge its existing rates to its customers within the City.

Section 3. By law, the Company must reimburse the cities for their reasonable rate case expenses. Legal counsel and consultants approved by ACSC will present their invoices to the City of Arlington which will then seek reimbursement from Atmos Mid-Tex. The City will not incur liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section provides that both Atmos Mid-Tex's designated representative and counsel for ACSC will be notified of the City's action by sending a copy of the approved and signed ordinance to certain designated individuals.

Section 5. This section repeals any conflicting ordinances or code provisions.

Section 6. This section merely recites that the ordinance was passed at a meeting that was open to the public and that the consideration of the ordinance was properly noticed.

Recommendation

City Staff recommends adoption of the ordinance denying Atmos Mid-Tex's proposed rate increase.



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. B.3

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5745

**Amending Chapter 1 of the Code of Ordinances, entitled “General Provisions”,
at Article 1.08, entitled “Cemeteries”, Division 2, entitled “Rules and Regulations”,
at Sections 1.08.031, 1.08.034 and 1.08.038, and Division 3, entitled “Perpetual Care Fund;
Rates and Charges”, at Section 1.08.075(a)**

Issue

To improve the City’s ability to schedule cemetery services and collect accounts receivable from burial service providers (BSP) for those services

Background

Current City ordinance requires a minimum of five working hours’ notification from a BSP for a burial. The proposed revision requires a 24-hour notification that will allow cemetery personnel adequate time to better plan and prepare for the services provided, coordinate multiple burials within a day, etc.

Current City ordinance requires payment from BSPs for services provided within 120 days. The proposed revision requires payment in full before the 25th day of the month following the invoice date, with late fees assessed on balances existing 90 days from invoice date. Also, services could be discontinued for a BSP with account balances past due over 90 days.

Origination

Department of Public Works

Financial Consideration

The revisions enable the City to more efficiently provide services and collect payment for those services in a timely manner.

Staff Recommendation

City staff recommends approving the proposed revisions to the Cemeteries Code.

Alternatives

As may be directed by the City Council

Attachments

Ordinance No. 5745

Prepared by:
Don Keene, Director of Public Works

Approved by:
George Olson, City Manager

ORDINANCE NO. 5745

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, ENTITLED "GENERAL PROVISIONS", AT ARTICLE 1.08, ENTITLED "CEMETERIES", DIVISION 2, ENTITLED "RULES AND REGULATIONS", AT SECTIONS 1.08.031, 1.08.034 AND 1.08.038, AND DIVISION 3, ENTITLED "PERPETUAL CARE FUND; RATES AND CHARGES", AT SECTION 1.08.075(A); PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That Chapter 1, Article 1.08, Division 2, Section 1.08.031 of the Code of Ordinances of the City of Sherman, Texas, be and is hereby amended so that such section shall read as follows:

Sec. 1.08.031 General

- (a) All lots shall be held and used in accordance with the ordinances of the city and the rules and regulations of West Hill Cemetery and West Hill Annex, now in force and hereafter adopted.
- (b) Lots and portions thereof shall be used as burial places for human remains and personal possessions of the deceased.
- (c) Lot holders shall not allow interments to be made upon their lots for a compensation, nor shall any transfer or assignment of any lot or interest therein be valid without first obtaining the consent of the superintendent of the cemetery and all bills against said lot owner are paid. Approved transfers or assignments must be duly entered of record with the city clerk.
- (d) No lot or parcel of ground shall be defined by any fence, railing, coping, hedge, embankment, curb, border or ditch, nor shall any seat, rock-work or wire-work or any architectural object be erected, except as hereinafter specified.
- (e) Mounds over grave spaces that require frequent maintenance can be created only after approval of the superintendent.
- (f) No advertisement or solicitation of any kind whatsoever will be permitted within the cemetery.
- (g) The city reserves the right to remove from any lot or portion thereof anything that conflicts with the rules and regulations.

(h) The superintendent of the cemetery has entire charge of the cemetery and he is authorized to enforce all rules to maintain order; to overlook all workmen, visitors and drivers; and to expel those who disregard his orders. The superintendent of the cemetery is further authorized to inspect any and all materials when necessary, and to insist on the immediate removal of all trash and building material as soon as buildings or monuments are completed or erected.

(i) The city will perpetually care for and maintain all roads, paths, vegetation, lots, grounds, and shrubbery. However, lot owners must care for and maintain all markers, monuments, vaults, etc., erected on their lots.

(j) All charges for interments, graves, excavation for vaults, and other cemetery expenses must be paid for in advance unless billed through a ~~funeral home~~ *burial service provider (BSP)*.

(k) Should there be an interment on a lot not fully paid for, the city has the right to disinter the body or bodies to a lot or burial space equal to the value that has been paid on said lot.

(l) When there are two (2) or more persons interested as owners of a lot, no division line on said lot will be permitted or recognized by the city, as all lot owners have equal right of interment.

(m) All work of whatever nature, except the erection of markers, monuments, vaults, etc., shall be performed by the employees of the cemetery and under the direct supervision of the superintendent of the cemetery or his representative.

SECTION 2. That Chapter 1, Article 1.08, Division 2, Section 1.08.034 of the Code of Ordinances of the City of Sherman, Texas, be and is hereby amended so that such section shall read as follows:

Sec. 1.08.034 Funerals and interments

(a) The city requires a minimum of ~~five (5) working~~ *twenty-four (24) hours* notice of intended burial before an interment can be scheduled. *The notice shall be given during regular business hours (Monday-Friday, excluding holidays, 8 a.m.-5 p.m.).*

(b) The city requires information from the arranging ~~funeral home~~ *BSP* to include the deceased individual's name, lot identification, date of death, date/time of burial and type of container. The city also requires that a licensed mortician certify or attest to the remains being placed in interment. This record will be tabulated and entered of record with the city clerk and will constitute a permanent record.

(c) Any lot holder has the right to give permission by written order for the burial of the remains of others than his immediate family, but not for monetary consideration, sale or hire of space.

(d) One (1) interment only may be made in each grave, excepting in the case of a parent with his/her infant child or two (2) children buried at the same time. The simultaneous burial shall be allowed within another's casket with prior approval of the superintendent of the cemetery.

(e) Undertakers, drivers and all other employees at funerals are under the control of and subject to the direction of the superintendent of the cemetery or his assistants.

SECTION 3. That Chapter 1, Article 1.08, Division 2, Section 1.08.038 of the Code of Ordinances of the City of Sherman, Texas, be and is hereby amended so that such section shall read as follows:

Sec. 1.08.038 Burial Service Provider (BSP) customer delinquency procedures

~~(a) All BSP's shall receive written notice from the City if their account is not paid in full within thirty (30), sixty (60), and ninety (90) days from the date of invoice.~~

~~(b) If, after the ninety (90) days notice is received and the BSP has still not made payment in full, the City, after the customer's account being one hundred and twenty (120) days past due, shall discontinue their privilege of using the City of Sherman cemetery services.~~

(a) Payment in full is due on or before the 25th day of the month following the invoice date.

(b) If the customer account has a balance that is ninety (90) days past due from the invoice date, privilege of using the City of Sherman cemetery services may be discontinued.

(c) A late fee of five percent (5%) will then be assessed against the unpaid balance of the BSP account not paid in full within ninety (90) days from the ~~date of the invoice date and the account~~ Any BSP account that has charges more than one hundred and twenty (120) days in arrears may be referred for collection.

SECTION 4. That Chapter 1, Article 1.08, Division 3, Section 1.08.075(a) of the Code of Ordinances of the City of Sherman, Texas, be and is hereby amended so that such section shall read as follows:

Sec. 1.08.075 Fees for cemetery services

(a) The following fees are established for services rendered in the cemetery as follows:

(1) Preparation of grave. Weekdays (except holidays) from 8 a.m. to 4 p.m.

(A) Opening and closing, full space: \$700.00.

(B) Opening and closing, half space: \$600.00.

(C) Opening and closing in mausoleum: \$200.00.

- (2) Preparation of grave. Saturdays (except holidays) from 8 a.m. to 2 p.m.
 - (A) Opening and closing, regular space: \$850.00.
 - (B) Opening and closing, half space: \$750.00.
 - (C) Opening and closing in mausoleum: \$250.00.
- (3) Special services. Weekdays (except holidays) from 8 a.m. to 4 p.m.
 - (A) Disinterring only, any space: \$800.00.
 - (B) Reinterring only, any space: \$500.00.
- (4) Ashes. Weekdays (except holidays) from 8 a.m. to 4 p.m.
 - (A) Opening and closing, full space: \$100.00.
 - (B) Opening and closing, half space: \$100.00.
 - (C) Setting up tent, chairs, etc.: \$200.00.
- (5) Ashes. Saturdays (except holidays) from 8 a.m. to 2 p.m.
 - (A) Opening and closing, full space: \$150.00.
 - (B) Opening and closing, half space: \$150.00.
 - (C) Setting up tent, chairs, etc.: \$250.00.
- (6) Weekday services from 4 p.m. to 5 p.m. A charge of sixty dollars (\$60.00) will be charged to the ~~funeral home~~ BSP whose burial services require city employees to standby beyond 4 p.m., not to exceed 5 p.m. during weekdays. Such charge will be forwarded to the ~~funeral home~~ BSP creating such condition the day following the performance of such service.
- (7) Saturday (except holiday) services from 2 p.m. to 3 p.m. A charge of one hundred dollars (\$100.00) will be charged to the ~~funeral home~~ BSP whose burial services require city employees standby beyond 2 p.m. during Saturdays (except holidays), not to exceed 3 p.m. Such charge will be forwarded to the ~~funeral home~~ BSP creating such condition the day following the performance of such service.

SECTION 5. That it is the intention of the City Council of the City of Sherman, Texas, that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Sherman, Texas, and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 6. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity of effectiveness of the remainder of the ordinance.

SECTION 7. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 8. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2012.

ADOPTED on this the _____ day of _____, 2012.

EFFECTIVE DATE on this the _____ day of _____, 2012.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**BRANDON S. SHELBY,
CITY ATTORNEY**



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. B.4

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Numbers: 5744 and 5745

B.2 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5744

Denying Atmos Energy Corp., Mid-Tex Division's ("Atmos Mid-Tex" or "Company") Requested Rate Change; Requiring the Company to Reimburse the City's Reasonable Ratemaking Expenses; Requiring Notice of this Resolution to the Company and Legal Counsel for the Atmos Cities Steering Committee ("ACSC")

B.3 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5745

Amending Chapter 1 of the Code of Ordinances, entitled "General Provisions", at Article 1.08, entitled "Cemeteries", Division 2, entitled "Rules and Regulations", at Sections 1.08.031, 1.08.034 and 1.08.038, and Division 3, entitled "Perpetual Care Fund; Rates and Charges", at Section 1.08.075(a)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. C.1

RESOLUTION NO. 5674

Awarding a Bid to and Authorizing Execution of a Contract with Vescor Inc. dba Vessels Construction for Construction of the Downtown Sherman Streetscape Improvements

Issue

To consider contracting for construction of the Downtown Sherman Streetscape Improvements

Background

In 2009, the City of Sherman, interested in improving the pedestrian amenities in the downtown area, applied for a federal grant through the Texas Department of Transportation (TxDOT). The goal of the project was to remove the large striped areas and create pedestrian friendly plazas. The project includes sidewalks and trees in areas along Houston and Lamar between the Downtown Square and US 75. On December 7, 2009, a resolution was passed by the City Council committing to apply for the grant as well as set aside funds necessary to fund the project. The grant was awarded on July 29, 2010. The federal grant is for an 80% match on certain aspects of the project. Of the total construction cost of \$610,186.51, the City is being reimbursed \$353,977.60 from TxDOT. Therefore, the cost to the City of Sherman is \$256,208.91. One company submitted a bid on May 8, 2012. A bid tabulation is attached.

Origination

Engineering Department

Financial Consideration

The project is funded in the Capital Improvement Program (CIP) budget.

Staff Recommendation

It is recommended that the bid be awarded for construction of the Downtown Sherman Streetscape Improvements to the low bidder, Vescor Inc. dba Vessels Construction of Sherman, Texas, in the amount of \$610,186.51. It is also recommended that the City Manager be authorized to execute the required contract documents.

Alternatives

Those as may be recommended by the City Council

Attachments

Resolution No. 5674

Letter to TxDOT dated May 14, 2012

Bid Tabulation

Contract

Location Map

Prepared by:
Clay Barnett, P.E., City Engineer

Approved by:
George Olson, City Manger

RESOLUTION NO. 5674

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH VESCOR INC. DBA VESSELS CONSTRUCTION FOR CONSTRUCTION OF THE DOWNTOWN SHERMAN STREETScape IMPROVEMENTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That Vescor Inc. dba Vessels Construction of Sherman, Texas, is hereby awarded the bid in the total amount of Six Hundred Ten Thousand One Hundred Eighty-Six Dollars and Fifty-One Cents (\$610,186.51) for construction of the Downtown Sherman Streetscape Improvements; and that the City Manager be and is hereby authorized and directed, subject to concurrence of the approval of the award by the Texas Department of Transportation and subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a contract with Vescor Inc. dba Vessels Construction for construction of the Downtown Sherman Streetscape Improvements, in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this the ____ day of _____, 2012.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**BRANDON S. SHELBY,
CITY ATTORNEY**

SHERMAN



May 14, 2012

Mr. Sydney Newman
Texas Department of Transportation
1365 North Main Street
Paris, TX 75460

RE: Downtown Sherman Streetscape Improvements

Dear Mr. Newman:

Thank you for attending the bid opening for the Downtown Sherman Streetscape Improvements on May 8, 2012. Please find enclosed a copy of the bid tabulation. The engineer's estimate is included with the bid tabulation. The bid tabulation shows that Vessels Construction is the lowest bidder. When the bid was reviewed it was determined that all required certifications were signed, the addendum was acknowledged and these documents were submitted with a properly completed bid form, thus making the bid responsive. Additionally, Vessels Construction has successfully completed several previous projects of similar size and scope for the City of Sherman and is a responsible contractor. Finally, we have analyzed their bid and find that the bid is fairly balanced and with the exception of Item 65 is consistent with the engineer's estimate. Item 65 is a Tier 2 item and is not included in the funds from the grant. We will also discuss this item with the contractor.

Award of the contract is currently on the May 21, 2012 Council Agenda. We respectfully request concurrence for the award.

The City of Sherman is committed to this project and understands that we will be financially responsible for any and all overruns associated with the project.

If you have any questions, please feel free to contact me.

Sincerely,

CITY OF SHERMAN

A handwritten signature in black ink, appearing to read 'Clay Barnett', with a long horizontal flourish extending to the right.

Clay Barnett, P.E.
City Engineer

DOWNTOWN SHERMAN STREETSCAPE BID TAB

ITEM	DESCRIPTION	EST QTY	UNIT	VESSELS UNIT PRICE	VESSELS CONTRACT TOTAL	ENGINEERS UNIT PRICE	ENGINEERS CONTRACT TOTAL
TIER 1							
1	MOBILIZATION [TXDOT ITEM 500]	1	LS	\$35,136.00	\$35,136.00	\$31,500.00	\$31,500.00
2	UNCLASSIFIED EXCAVATION [TXDOT ITEM 110]	1	LS	\$4,045.61	\$4,045.61	\$5,250.00	\$5,250.00
3	REMOVING CONCRETE / ASPHALT PAVEMENT FOR INTERSECTIONS AROUND DOWNTOWN SQUARE [TXDOT ITEMS 104 & 105]	2766	SY	\$10.64	\$29,430.24	\$12.60	\$34,851.60
4	TREE REMOVAL [TXDOT ITEM 752]	2	EA	\$1,078.06	\$2,156.12	\$315.00	\$630.00
5	REMOVE SIDEWALK ALONG HOUSTON/LAMAR SIDEWALK PROJECT [TXDOT ITEM 104]	3348	SF	\$1.11	\$3,716.28	\$1.58	\$5,273.10
6	REMOVE DRIVEWAY/PARKING LOT PAVEMENT ALONG HOUSTON/LAMAR SIDEWALK PROJECT [TXDOT ITEM 104]	485	SY	\$10.22	\$4,956.70	\$7.48	\$3,627.80
7	REMOVE RETAINING WALL ALONG HOUSTON/LAMAR SIDEWALK PROJECT [TXDOT ITEM 104]	3	LF	\$25.00	\$75.00	\$52.50	\$157.50
8	REMOVE DRAIN PIPES [TXDOT ITEM 472]	18	LF	\$25.00	\$450.00	\$10.50	\$189.00
9	SIDEWALK / FLATWORK (4") [TXDOT ITEM 531]	2730	SY	\$44.95	\$122,713.50	\$42.53	\$116,093.25
10	PROPOSED CONCRETE DRIVEWAY (6" THICK, 4,000 PSI AT 28 DAYS) [TXDOT ITEM 530]	241	SY	\$42.15	\$10,158.15	\$63.79	\$15,372.79
11	PROPOSED 6" CURB [TXDOT ITEM 529]	100	LF	\$22.22	\$2,222.00	\$12.60	\$1,260.00
12	CONCRETE CURB & GUTTER (6" CURB & 18" GUTTER) [TXDOT ITEM 529]	550	LF	\$25.09	\$13,799.50	\$23.10	\$12,705.00
13	CONCRETE CURB & GUTTER (MOUNTABLE CURB & 18" GUTTER) [TXDOT ITEM 529]	1124	LF	\$34.65	\$38,946.60	\$25.20	\$28,324.80
14	3' FLUME W/ 2" INVERT [TXDOT ITEM 420 & 531]	41	LF	\$19.37	\$794.17	\$21.00	\$861.00
15	TRENCH DRAIN (12") [TXDOT ITEM 420 & 471]	367	LF	\$103.98	\$38,160.66	\$126.00	\$46,242.00
16	TRENCH DRAIN (24") [TXDOT ITEM 420 & 471]	46	LF	\$192.32	\$8,846.72	\$189.00	\$8,694.00
17	PROPOSED RETAINING WALL [TXDOT ITEM 423]	60	SF	\$19.05	\$1,143.00	\$26.25	\$1,575.00
18	DENSE-GRADED HOT-MIX ASPHALT (TEMPORARY 6" TYPE IV) [TXDOT ITEM 340]	190	SY	\$82.06	\$15,591.40	\$28.35	\$5,386.50
19	PLANING AND TEXTURING PAVEMENT (2" MILL) [TXDOT ITEM 354]	1173	SY	\$3.82	\$4,480.86	\$2.10	\$2,463.30
20	DENSE-GRADED HOT-MIX ASPHALT (2" TYPE IV OVERLAY) [TXDOT ITEM 340]	1173	SY	\$13.68	\$16,046.64	\$10.50	\$12,316.50
21	4' BARRIER FREE RAMP (STANDARD) [TXDOT ITEM 531]	3	EA	\$234.41	\$703.23	\$220.50	\$661.50
22	4' BARRIER FREE RAMP (FLARED) [TXDOT ITEM 531]	14	EA	\$283.05	\$3,962.70	\$614.25	\$8,599.50
23	6' BARRIER FREE RAMP (FLARED) [TXDOT ITEM 531]	12	EA	\$428.61	\$5,143.32	\$714.00	\$8,568.00
24	ADJUST MANHOLES, VALVES & HYDRANTS TO GRADE [TXDOT ITEM 479]	1	LS	\$11,250.00	\$11,250.00	\$21,000.00	\$21,000.00
25	RELOCATE EXISTING FIRE HYDRANT	1	EA	\$3,075.00	\$3,075.00	\$4,200.00	\$4,200.00
26	CONSTRUCTION TRAFFIC CONTROL - BARRICADES, SIGNS, AND TRAFFIC HANDLING [TXDOT ITEM 502]	4	MO	\$2,640.00	\$10,560.00	\$4,200.00	\$16,800.00
27	REMOVE EXISTING TXDOT TRAFFIC SIGNAL & SALVAGE EXISTING PEDESTRIAN SIGNAL FOR USE IN ITEM 28 [TXDOT SPECIAL SPECIFICATION SS6007]	2	EA	\$2,750.00	\$5,500.00	\$1,890.00	\$3,780.00
28	RELOCATE EXISTING TXDOT PEDESTRIAN SIGNAL - INCLUDING ADDITIONAL APPURTENANCES REQUIRED FOR RELOCATION [TXDOT ITEM 687]	5	EA	\$3,080.00	\$15,400.00	\$1,890.00	\$9,450.00
29	REMOVE STRIPING BY SANDBLASTING [TXDOT ITEM 677]	1	LS	\$11,384.00	\$11,384.00	\$5,250.00	\$5,250.00
30	SOD (BERMUDA) [TXDOT ITEM 162]	414	SY	\$3.30	\$1,366.20	\$3.15	\$1,304.10
31	SILT FENCE [TXDOT ITEM 506]	1025	LF	\$1.65	\$1,691.25	\$2.10	\$2,152.50
32	INLET PROTECTION [TXDOT ITEM 506]	20	LF	\$27.50	\$550.00	\$4.20	\$84.00
33	24" WHITE THERMOPLASTIC CROSS WALK STRIPING [TXDOT ITEM 666]	2270	LF	\$7.65	\$17,365.50	\$3.15	\$7,150.50
34	24" WHITE THERMOPLASTIC STOP BAR [TXDOT ITEM 666]	195	LF	\$7.65	\$1,491.75	\$3.15	\$614.25
35	IRRIGATION SYSTEM IMPROVEMENTS AROUND COURTHOUSE [SPECIAL SPECIFICATIONS - SECTION 02810 LANDSCAPE IRRIGATION SYSTEM]	1	LS	\$2,640.00	\$2,640.00	\$2,625.00	\$2,625.00
36	RELOCATE EXISTING BENCH	5	EA	\$217.40	\$1,087.00	\$210.00	\$1,050.00
37	PROPOSED TREE AROUND DOWNTOWN SQUARE - 15 GALLON FOSSUMHAW HOLLY (Ilex decidua) [TXDOT ITEM 192]	30	EA	\$297.00	\$8,910.00	\$525.00	\$15,750.00
38	PROPOSED TREE ALONG HOUSTON/LAMAR SIDEWALK PROJECT - 4 INCH CALIPER TEXAS RED OAK (Quercus texana) [TXDOT ITEM 192]	31	EA	\$539.00	\$16,709.00	\$525.00	\$16,275.00
39	4' x 4' TREE GRATE [SPECIAL SPECIFICATIONS - (IRONSMT) II OR NEENAH]	22	EA	\$833.75	\$18,342.50	\$918.75	\$20,212.50
40	3" PVC (SCHEDULE 40) CONDUIT FOR PEDESTRIAN SIGNAL [TXDOT SPECIAL SPECIFICATION SS6018]	133	LF	\$17.60	\$2,340.80	\$6.30	\$837.90
41	3C#14 WIRE FOR PEDESTRIAN SIGNAL [TXDOT ITEM 684]	682	LF	\$1.76	\$1,200.32	\$1.05	\$716.10
TOTAL TIER 1					\$493,541.72		\$479,853.99

ITEM	DESCRIPTION	EST QTY	UNIT	VESSELS UNIT PRICE	VESSELS CONTRACT TOTAL	ENGINEERS UNIT PRICE	ENGINEERS CONTRACT TOTAL
TIER 2							
42	PLANING AND TEXTURING PAVEMENT (2" MILL) [TXDOT ITEM 354]	4211	SY	\$3.84	\$16,170.24	\$2.10	\$8,843.10
43	DENSE-GRADED HOT-MIX ASPHALT (2" TYPE IV OVERLAY) [TXDOT ITEM 340]	4211	SY	\$10.50	\$44,215.50	\$9.45	\$39,793.95
44	FOG SEAL - SS1-II (0.15 GAL / SY) [TXDOT ITEM 315]	394	GAL	\$23.10	\$13,721.40	\$3.15	\$1,871.10
45	INSTALL M.U.T.C.D. SIGN - R5-1 (SIGNAL ARM MOUNTED) [TXDOT ITEM 644]	2	EA	\$440.00	\$880.00	\$420.00	\$840.00
46	INSTALL M.U.T.C.D. SIGN - R6-1 (POLE MOUNTED) [TXDOT ITEM 644]	3	EA	\$572.00	\$1,716.00	\$420.00	\$1,260.00
47	INSTALL M.U.T.C.D. SIGN - R6-2 (POLE MOUNTED) [TXDOT ITEM 644]	1	EA	\$572.00	\$572.00	\$420.00	\$420.00
48	INSTALL M.U.T.C.D. SIGN - R7-8a (POLE MOUNTED) [TXDOT ITEM 644]	9	EA	\$572.00	\$5,148.00	\$420.00	\$3,780.00
49	INSTALL M.U.T.C.D. SIGN - R3-2 (SIGNAL ARM MOUNTED) [TXDOT ITEM 644]	6	EA	\$440.00	\$2,640.00	\$420.00	\$2,520.00
50	INSTALL M.U.T.C.D. SIGN - R10-11a (SIGNAL ARM MOUNTED) [TXDOT ITEM 644]	1	EA	\$440.00	\$440.00	\$420.00	\$420.00
51	INSTALL GREEN TURN ARROW LENS CAP [TXDOT ITEM 682]	6	EA	\$275.00	\$1,650.00	\$17.50	\$105.02
52	INSTALL YELLOW TURN ARROW LENS CAP [TXDOT ITEM 682]	6	EA	\$275.00	\$1,650.00	\$17.50	\$105.02
53	INSTALL RED TURN ARROW LENS CAP [TXDOT ITEM 682]	6	EA	\$275.00	\$1,650.00	\$17.50	\$105.02
54	SALVAGE & RELOCATE STREET NAME SIGN [TXDOT ITEM 644]	8	EA	\$528.00	\$4,224.00	\$105.00	\$840.00
55	SALVAGE & RELOCATE VISITOR SIGN [TXDOT ITEM 644]	3	EA	\$528.00	\$1,584.00	\$105.00	\$315.00
56	SALVAGE & RELOCATE 3-HR PARKING SIGN [TXDOT ITEM 644]	5	EA	\$528.00	\$2,640.00	\$105.00	\$525.00
57	WHITE PAINT "ARROW" [TXDOT ITEM 666]	10	EA	\$137.50	\$1,375.00	\$126.00	\$1,260.00
58	WHITE PAINT "ONLY" [TXDOT ITEM 666]	8	EA	\$165.00	\$1,320.00	\$98.44	\$787.50
59	WHITE PAINT "HANDICAP LOGO" [TXDOT ITEM 666]	10	EA	\$165.00	\$1,650.00	\$157.50	\$1,575.00
60	WHITE THERMOPLASTIC "ARROW" [TXDOT ITEM 666]	2	EA	\$192.50	\$385.00	\$157.50	\$315.00
61	4" WHITE STRIPE [TXDOT ITEM 666]	3150	LF	\$1.88	\$4,347.00	\$0.79	\$2,480.63
62	4" WHITE THERMOPLASTIC STRIPE [TXDOT ITEM 666]	2635	LF	\$2.15	\$5,665.25	\$1.84	\$4,841.81
63	4" WHITE THERMOPLASTIC DASHED STRIPE [TXDOT ITEM 666]	340	LF	\$2.15	\$731.00	\$1.04	\$353.60
64	4" YELLOW STRIPE [TXDOT ITEM 666]	180	LF	\$1.38	\$248.40	\$0.79	\$141.75
65	TXDOT MARKER TYPE I-C [TXDOT ITEM 672]	6	EA	\$337.00	\$2,022.00	\$5.25	\$31.50
TOTAL TIER 2					\$116,644.79		\$73,530.07
TOTAL					\$610,186.51		\$553,383.99

CONTRACT
AGREEMENT

STATE OF TEXAS

COUNTY OF GRAYSON

THIS AGREEMENT is made and entered into this ____ day of _____, 2012, by and between the City of Sherman, of the County of Grayson and State of Texas, acting through its Mayor, thereunto duly authorized so to do, Party of the First Part, hereinafter termed the OWNER, and _____, of the City of _____, County of _____, State of _____, Party of the Second Part, hereinafter termed CONTRACTOR.

WITNESSETH: That for and in consideration of the payment and agreement hereinafter mentioned, to be made and performed by the OWNER, the said CONTRACTOR hereby agrees with the said OWNER to commence and complete construction of certain improvements as follows:

Downtown Sherman Streetscape Improvements

and all extra work in connection therewith, under the terms as stated in the General and Specific Provisions of the AGREEMENT; and at his own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to complete the said construction, in accordance with the conditions and prices stated in the Proposal attached hereto and in accordance with the Advertisement for Bids, Instructions to Bidders printed or written explanatory matter thereof, and the Technical Specifications and Addenda thereto, as prepared by the OWNER, each of which has been identified by the endorsement of the CONTRACTOR and the OWNER thereon, together with the CONTRACTOR's written Proposal and the General Provisions, all of which are made a part hereof and collectively evidence and constitute the entire AGREEMENT.

The CONTRACTOR hereby agrees to commence work within ten (10) calendar days after the date of written notice to do so shall have been given to him.

The OWNER agrees to pay the CONTRACTOR \$610,186.51 in current funds for the performance of the Contract in accordance with the Proposal submitted thereof, subject to additions and deductions, as provided in the General Provisions, and to make payments of account thereof as provided therein.

IN WITNESS WHEREOF, the parties of these presents have executed this AGREEMENT in the year and day first above written.

OWNER:

CONTRACTOR:

CITY OF SHERMAN

VESCOR INC DBA VESSELS CONSTRUCTION

By: _____
George Olson, City Manager

By: _____
Bill Vessels, President

ATTEST:

By: _____
Linda Ashby, City Clerk

The following to be executed if the CONTRACTOR is a corporation:

I, _____, certify that I am the secretary of the corporation named as CONTRACTOR herein; that _____, who signed this Contract on behalf of the CONTRACTOR, is the _____ of said corporation; that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Signed: _____

Corporate Seal

Approved as to form and content:

Brandon S. Shelby, City Attorney





Sherman
CLASSIC TOWN. BROAD HORIZON.

N



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. D.1

OTHER BUSINESS

Acceptance of the Deputy Mayor's Disclosure of a Personal Financial Interest in the Downtown Sherman Streetscape Improvements Project

Issue

Deputy Mayor Willie Steele is a subcontractor for the Downtown Sherman Streetscape Improvements Project; and the City Charter requires that he disclose his personal financial interest and seek the Council's approval prior to the contract's award.

Background

The City Charter provides at Article X, "General Provisions", Section 1, "Personal financial interests", subsection (c), "Restrictions relating to city business":

(c) Restrictions relating to city business. *An officer or employee may not, while in the service or employment of the city, either individually or as the officer or principal of a business entity:*

- (1) *Enter into any business relationship with the city in which the officer or employee has a substantial business interest and where the monetary amount of such relationship is in excess of five hundred dollars (\$500.00), whether or not the relationship is required by state law to be competitively bid, unless such relationship is authorized in advance by a majority vote of the council present and voting, and duly recorded.*
- (2) *Exceptions. This restriction does not apply:*
 - (A) *To a member of:*
 - (1) *A board that functions only in an advisory or study capacity and that does not have the power to make findings as to the rights of specific parties; or*
 - (2) *A board of a nonprofit development corporation that acts as an instrumentality of the city;*
 - (B) *To any transactions by the officer or employee related to their official duties for the city or any reimbursements received by the officer or employee as a result of their official duties for the city.*

(d) Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his or her office or position. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the city, shall render the contract involved voidable by the city manager or the council.

Origination

City Attorney

Financial Consideration

None

Staff Recommendation

It is recommended that the Council authorize, by motion and order, the Deputy Mayor's subcontractor relationship and personal financial interest in the Downtown Sherman Streetscape Improvements Project.

Alternatives

The Council could decide not to authorize the Deputy Mayor's interest in this city business.

Attachments

None

Prepared by:
Brandon S. Shelby, City Attorney

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. D.2

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. D.3

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. D.4

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. E.1

EXECUTIVE SESSION

**In Accordance with Chapter 551, Government Code, V.T.C.S. (Open Meetings Law),
“The City Council Will Now Hold a Closed Executive Meeting Pursuant to the Provisions
of the Open Meetings Law, Chapter 551, Government Code, Vernon’s Texas Codes
Annotated, in Accordance with the Authority Contained in the Following Sections”**

Section 551.074

Personnel Matters

- (a) Consider the Qualifications, Appointment and
Removal of Members to Boards and
Commissions:**
 - (1) Sherman Housing Authority Board (3)**

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. F.1

OPEN MEETING

**Reconvene into Open Meeting and consider action, if any,
on items discussed in Executive Session**

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. F.2

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 5-21-2012

Subject: Agenda Item No. N/A

COUNCIL CALENDAR

2012

CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

01/02/12 - January 2nd Council meeting cancelled
 01/16/12 - M.L.K., Jr. Birthday / Regular Council Meeting
 02/20/12 - Washington's Birthday / Regular Council Meeting
 04/02/12 - April 2nd Council meeting cancelled
 04/20/12 - 12 Noon Budget Planning Meeting in Council Chambers
 06/21-22/12 - Budget Workshop in Council Chambers
 06/25/12 - 12 Noon Called Meeting for Annexation Ordinance
 (71.671 acres on Washington Street)
 09/03/12 - Labor Day / Called Council Meeting on 09/04/12