CITY OF SULPHUR SPRINGS, TEXAS

REGULAR MEETING OF THE

CITY COUNCIL

September 5, 2023

7:00 p.m.

Mayor Sellers called the regular meeting of the Sulphur Springs City Council to order at 7:00 p.m.

The following council members and staff were present:

Mayor John A. Sellers
Councilman Jay W. Julian
Councilman Oscar Aguilar
Councilman Tommy Harrison
Councilman Gary Spraggins
Councilman Tyler Law

Absent: Mayor Pro Harold Nash Sr.

Staff:
Marc Maxwell, City Manager
Natalie Burling, City Secretary
Nate Smith, City Attorney
Tory Niewiadomski, Director of Community Development/ Assistant City Manager
Lesa Smith, Finance Director/Assistant City Manager
Gordon Frazier, HR /Assistant City Manager
Jason Ricketson, Chief of Police
Roger Feagley, Director of EDC

CALL TO ORDER

Mayor Sellers called to order the regular meeting of the Sulphur Springs City Council at 7:00 p.m.

PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG, TEXAS FLAG, AND INVOCATION

Mayor Sellers led in the pledge of allegiance to the United States Flag and the Pledge to the Texas Flag, and the invocation was led by Councilman Spraggins.

PRESENTATIONS, PROCLAMATIONS, AND ANNOUNCEMENTS.

(A) <u>TEACHER'S DAY PROCLAMATION</u> (deferred to a later date)

Mayor Sellers presented the following proclamation to Charlotte Abbott:

National Constitution Week

PROCLAMATION

WHEREAS, The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

WHEREAS, September 17, 2023, marks the two hundred and thirty-sixth anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week; and

NOW, THEREFORE BE IT RESOLVED, that I, John A. Sellers, by virtue of the authority vested in me as Mayor of Sulphur Springs, Hopkins County, in the State of Texas, and on behalf of the city council, do hereby proclaim the week of September 17 through 23 as Constitution Week and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Texas, in SULPHUR SPRINGS, the County seat, this 5th day of September in the Year of our Lord, Two Thousand and Twenty-Three.

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John A. Sellers, Mayor

Charlotte Abbott accepted the proclamation and invited the public to the special exhibit honoring constitution week at the Sulphur Springs Public Library.

Councilman Aguilar invited the first responders to a special mass at St. James Catholic Church at 9:00 am on Sunday followed by a free breakfast by Knights of the Columbus. In the afternoon, and a carnival will be hosted with lots of music and food and the public is invited.

MANAGER'S REPORT WILL INCLUDE A STATUS REPORT OF CAPITAL IMPROVEMENTS, MUNICIPAL OPERATIONS, ACCIDENTS AND CLAIMS FOR THE MONTH, AND A REVIEW OF EXPENDITURES AND REVENUES

CLAIMS – We had one workers' compensation claim in August for a sprained ankle.

We received one notice of claim and associated lawsuit that we will discuss in a future executive session.

SENIOR CITIZENS CENTER – The steel has arrived and vertical construction has begun.

COLLEGE STREET – The capital Construction Division continues to install water main and sewer main from Rookson to Como. Both utilities are within 600 feet of Como. The concrete contractor has installed 500 feet of curb and gutter, and 220 feet of street so far.

PACIFIC PARK – This project is nearing completion. The Capital Construction Division is constructing on-street parking and a few sections of sidewalk. The Parks and Recreation Department is installing irrigation.

WATER FILTER REHABILITATION – This $3.2 million project will rehabilitate all 6 filters at the water treatment plant. Expect work to begin in October.

STREET IMPROVEMENT PLAN (SIP) – Following is a list of streets to be repaved in 2023. Completed streets are highlighted in yellow.

Street	Between	Length
League	soft spot repairs	500
Woodcrest	Azalea to Cul de Sac	898
Mulberry	Woodlawn to RR	530
Lemon	Bill Bradford to Spence	1199
Milligan	Church to Davis	549
Rockdale	Shannon to Hillcrest	3749
Robertson	Davis to Texas	1199
Houston	Hillcrest to League	4800
Putman	Jackson to Carter	1400
Texas	Shannon to Arbala	1901
Spence	Fisher to Davis	476
Spence	Gilmer to Ardis-end	850
Spring	Gilmer to Magnolia	808
Peach	Texas to Brinker	570

Craig	Booker to Main	2170
		21599

REVENUES AND EXPENDITURES – Finance Director Lesa Smith presented the usual report of revenues and expenditures.

Elsewhere around the city, employees:

- Patched 482 potholes.
- Hauled 642 tons of sludge to the landfill.
- Hauled street sweeper spoils to the landfill.
- Demolished 3 houses.
- Shredded Lake Sulphur Springs Dam.
- Cleared out drainage areas on Davidson, Carter and Martin Luther King streets.
- Responded to 188 animal control calls while achieving a 98% adoption rate.
- Responded to 2093 911 calls for police.
- Made 3 felony arrests in the Special Crimes Unit.
- Responded to 33 accidents, issued 535 traffic citations, recorded 31 offences and made 41 arrests in the Patrol Division.
- Responded to 230 calls for fire/rescue including 1 vehicle fire and 6 grass fires.
- Performed 48 fire inspections.
- Performed preventative maintenance on 76 fire hydrants.
- Conducted 71 building inspections, 27 electrical inspections, 13 plumbing inspections, and issued 30 building permits and 39 trade permits.
- Repaired generator at the Coleman water tower.
- Reset and repaired all school zone timers.
- Repaired lights on Hopkins County Veterans Memorial.
- Repaired water fountain at City Hall.
- Performed preventative maintenance on several items at the wastewater treatment plant and water treatment plant.
- Treated effluent to a total suspended solids reading of .07 mg/L.
- Repaired 14 water breaks.
- Replaced 20 water meters.
- Unstopped 6 sewer mains.
- Flushed 38 dead end water mains.
- Changed downtown banners.
- Made repairs to the plaza fountain.
- Rented the Grays building 13 times.

- Cut down dead trees at Colemen Park
- Power-washed dugouts at Coleman Park.
- Sold 3,145 Gallons of AvGas and 10,455 gallons of JetA fuel.
- Checked out 3,914 items plus 872 e-books from the library.

Councilman Aguilar asked if there are less water main breaks for August. Manager Maxwell said that the drop in number is astounding. Councilman Julian questioned the delay in paving. Manager Maxwell explained that prices were locked in and flexibility helps lower the prices.

DISCUSSION/ACTION ON CONSENT AGENDA

City Secretary Burling presented the staff report. Consider for approval the City Council regular meeting minutes of 08/01/2023, the City Council Special Workshop meeting minutes of 08/01/2023, 08/08/2023 and the City Council Special meeting minutes 08/15/2023**;** the Economic Development Corporation regular meeting minutes of 07/21/2023**;** Planning and Zoning meeting minutes 07/17/2023; and 380 agreements for 302 Fuller, 904 Como Street, 736 Calvert Street and 416 Craig Street. Councilman Julian made a motion to approve the consent agenda as presented. Councilman Spraggins seconded and the vote was unanimous.

The motion carried.

CONDUCT A PUBLIC HEARING TO MEET STATE LAW REQUIREMENTS FOR THE CITY OF SULPHUR SPRINGS TAX RATE

Mayor Sellers opened the public hearing at 7:14 pm. There was no one to speak to the issue. Mayor Sellers closed the public hearing at 7:14 pm.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2835 ADOPTING THE FY 2024 BUDGET AND APPROPRIATING CERTAIN FUNDS AND DIRECTING THEIR EXPENDITURE

Staff report was presented by Finance Director/Assistant City Manager Lesa Smith. This first reading of the budget ordinance includes all funds for next budget year which begins on October 1st. This is a $48,869,269 total budget that includes $25,926,786 in operating costs, $19,440,402 in capital costs, and $3,502,081 for debt service and other contractual obligations.

This budget reflects the draft budget discussed during budget workshops with the following changes made:

- Increased employee appreciation from $50 to $100 per employee across all departments.
- Added $120,000 for full-time planner position in Community Development
- Increased budget in Finance Department for paying the Hopkins County Appraisal District by $4,000 due to increased homestead exemption and tax rate compression for school districts in the state. Because the tax levy for school districts will be reduced, this legislature reduces each school district's HCAD allocation and therefore shifts that burden to cities, the county and hospital district. There is no additional revenue being provided to the city to pay

for this shift in cost.

- Added $95,000 for police dispatch console in General Fund capital outlay budget. Since the last meeting, we lost one console which puts dispatching at risk. We have applied for a grant for this in the past, but we did not receive it and the risk is too great to wait on future grant funding.
- Reduced 2023 projected expenditure to $88,666 in Street Improvement Fund and increased 2024 budget to $1,995,334. Paving contractor will not be able to complete street paving list before October 1st. Those streets will be paved in the early part of the new fiscal year and paid for at that time.
- Increased Seizure Fund budget in Special Revenue from $50,000 to $100,000 to reflect the asset forfeiture budget that Chief Ricketson is presenting tonight.

Councilman Julian questioned the line item for the railroad for $100,000 and requested it be removed since we have not entered into a contract with the railroad at this time. Manager Maxwell said that he has no objection to that request. Councilman Julian questioned the tourism hotel occupancy tax. He asked that the tourism line item be increased and would like to challenge the staff to increase these funds due to the growth of the city. Mayor Sellers brought up the topic of Air B&B tax revenue for the city. Is the city receiving the tax money from these rentals? He also stated that there are companies that will collect this for the city. Finance Director/Assistant City Manager Smith let them know that these taxes were not being paid. Councilman Julian stated that he has questions in reference to page 30, the City Cemeteries Line item. He stated that he would like his written questions as well as the City Attorney's written response entered into the minutes. They are both listed below.

August 8, 2023, at 9:09 PM
Mr. Smith,

Thank you for your attendance at the special city council meeting on August 8, 2024, at 5:30 p.m., relating to the 2024 budget.

As you may recall, there was commentary brought up during budget discussions indicating that the Sulphur Springs City Cemetery is not actually owned by the City of Sulphur Springs. I was under the impression that the City of Sulphur Springs outright owned the "City Cemetery". Please review the attachment that I researched from the Texas Municipal League (TML) web site. I have highlighted in yellow what concerns me. That pesky conjunction "and" appears to represent a problem in my humble opinion.

I realize my attachment is not taken from the law, but rather is an interpretation of the spirit of the actual law by TML experts to answer a question.

As Sulphur Springs City Councilman, Place 1, I am officially requesting that you review this situation in its entirety and render me a written opinion/finding on the legality of the City of Sulphur Springs making financial gifts or financial donations to the Sulphur Springs City Cemetery, aka: City Cemetery, aka: City Cemetery Association. I am also officially requesting that you review this situation in its entirety and render me a written opinion/finding on the legality of the City of Sulphur Springs making financial gifts or financial donations to Melhaven Cemetery Society, aka: Melhaven Cemetery.

I respectfully request you deliver your written opinion/finding to me prior to the next city council budget related meeting. Also, feel free to share and discuss my official request, and TML attachment with any of the other council members and staff.

It is imperative that my service to the city and its citizens as a city councilman be ethical and beyond reproach and those are the ONLY factors driving me to make this official request of you.

Regardless of what you ultimately find and determine, I have done my job as a city councilman.

Respectfully,

Jay W. Julian
Member,
Sulphur Springs City Council, Place 1

Attachment from tml.org May a city make an annual gift of money, a donation, or a stipend to an organization or private entity?
The question is not whether a city may make an annual stipend, but whether the expenditure of public money is for a public purpose. As a general rule, a gratuitous donation or gift by a city is prohibited by the Texas Constitution. Article XVI, Section 50 of the Texas Constitution prohibits lending the credit of the state, and Article III, Section 52 prohibits the Legislature from authorizing political subdivisions to lend their credit or to grant public money.
The clear purpose of the constitutional provisions is to prevent the gratuitous application of public funds for private use. Brazoria County v. Perry 537 S.W. 2d 89 (Tex. Civ. App.-Houston [1st. Dist.] 1976, no writ); Edgewood Indep.. v. Meno, 893 S.W. 2d 450, 473 (Tex. 1995). The Constitution, however, does not invalidate an expenditure that incidentally benefits a private interest if it is made for the direct accomplishment of a legitimate public interest. Byrd v. City of Dallas, 118 Tex. 28, 6 S.W. 2d 738, 740 (1928). If the city determines that a particular expenditure accomplishes a valid public purpose, and despite the fact that one or more individuals or corporations might incidentally benefit, the expenditure will still be valid. The key question is whether a valid public purpose is being directly accomplished by the expenditure. City of Corpus Christi v. Bayfront Assoc. Ltd., 814 S.W.2d 98 (Tex. App. – Corpus Christi 1991, writ den.) (Cities may not expend public funds simply to obtain for the community the general benefits resulting from the operation of the corporate enterprise).
What constitutes a public purpose, however, cannot be answered by any precise definition other than to state that, if an object is beneficial to the inhabitants **and** directly connected with the local government, it could be considered a public purpose. Davis v. City of Taylor, 67 S.W.2d 1033, 1034 (Tex. 1934). The governing body of the city must make the determination of whether a certain expenditure meets the public purpose test, and must also place sufficient controls on the transaction to ensure that the purpose will be carried out. The city council's determination is subject to judicial review. However, if the council recognizes the expenditure

as having a valid public purpose on the record, the courts are not likely to overturn that determination. Courts are hesitant to second-guess the legislative determinations of local elected officials. Therefore, unless a fraud on the part of the governing body or a total lack of evidence supporting a public interest exists, the courts are not likely to declare that the city expenditure is invalid.

Councilman Julian,
Thank you so much for your inquiry regarding maintenance of private cemeteries with public use (including issues of budgeted funds/donations/gifts from cities) in Texas.

While I will readily admit that my research included some gray areas (as is consistent in many, MANY areas of municipal law), home-rule Texas cities of comparable population to Sulphur Springs generally have the authority to spend money on a variety of services and projects for the benefit of their residents. However, as you inferred in your original query, the use of public funds for the maintenance of private cemeteries can be a complex and potentially controversial issue, and it may be subject to legal and ethical considerations.

While my researched produced no blanket prohibition against a Texas city providing funds for the maintenance of a private cemetery, there are several factors that could come into play:

1. **Public Purpose**: The use of public funds must generally serve a valid public purpose and benefit the community as a whole. Providing money for the maintenance of a private cemetery could potentially be argued as benefiting the community by preserving historical or cultural sites, but this argument may vary depending on the circumstances.

2. **Equal Treatment**: Cities must avoid favoring specific private entities or engaging in discriminatory practices. If public funds are provided to one private cemetery, there could be questions about why other private cemeteries are not receiving similar support.

3. **Legal Restrictions**: State and local laws may impose limitations on the use of public funds for certain purposes. It's always important to consult relevant statutes and regulations to determine whether there are any legal barriers to providing funds for private cemetery maintenance.
4. **Transparency and Accountability**: Any use of public funds should be transparent and subject to appropriate oversight to ensure that the money is being used as intended and in the best interests of the community.

5. **Community Support**: City officials would likely need to consider public opinion and community support for using public funds in this manner. A lack of community support could lead to backlash or legal challenges.

In our City's current situation and in keeping with the above factors, I'd acknowledge several key issues:
- Both cemeteries do provide public use as we have no truly publicly owned/maintained cemeteries to offer to our citizens for burial.

- The City has budgeted (through staff recommendation, Council consideration, Community Input, and yearly Council approval) for these cemetery funds for at least 30 years on record.
- Both cemeteries have formal legal entities (I believe which are also organized as charitable organizations) which receive and allocate the $6,000 (each) from the City. The "CITY CEMETERY SOCIETY" (formerly "Ladies Cemetery Society") was founded in 1887 and the "MELHAVEN CEMETERY SOCIETY" is also a longstanding entity with the State. This means that both entities have to account for and disclose sources of funds for their management. Therefore, the State has had knowledge of and approved the funds in question for at least the past 30 years.
  - As noted below in Texas Health & Safety Code 712.021, cemetery entities such as CITY and MELHAVEN have the ability to receive funds and hold in trust and be used specifically for the maintenance of the cemeteries. Also of note, due to the age of both cemetery entities, Chapters 711 and 713 limit what responsibilities the entities have under current laws regarding receipt and use of funds and on cemetery maintenance because the entities are each over 50 years old.
- Several years ago, Mayor Sellers introduced a motion to donate equal amounts to both cemetery societies (one of which historically includes a majority of ethnically white burials, the other which historically includes more black ethnicities), which has MAJOR implications in community support -including but not limited to- race relations. One of the cemeteries was even designed with somewhat of a segregational (whether planned or accidental) tree line / fence line, which Mayor Sellers also moved to eradicate. The funds given to that cemetery's maintenance have made that removal possible. Our EQUAL treatment of these two cemeteries and their respective societies is in all accounts a hugely popular issue in bridging sociological groups within our city.
- Another issue that bears discussion is the protection and ability for a Texas city to maintain sites of historical significance. My understanding is that both cemeteries (City Cemetery at least) have been declared to be a "HISTORIC CEMETERY" by the Texas Historical Commission. This is the first step in a cemetery also receiving the designation of a TEXAS HISTORIC LANDMARK (with the posted plaque) from the Comm'sn.

Texas Health & Safety Codes Chs. 711-713 (partially Ch. 714 as well) (I also added a few excerpts below) deal with these rules and I consulted these statutes and the resulting opinions on these statutes that have come through Texas appellate courts. However, many of these issues at play would have been in place (and the City would have been contributing to the cemeteries) for years and years before these statutes were even passed. In real estate law, if someone has been using/living on land openly for decades, it's hard for someone to come in 50 years later and challenge the property lines that have been recognized for so long. Just as in land law, if we have been honoring certain budgetary items that for decades have been disclosed, discussed and passed publicly by the City, and which have also passed public scrutiny at every point, it will be hard to challenge the propriety of the funds so long after the fact.

As for my legal opinion, I do believe the City's maintained contributions to the two societies tasked with providing burial lands, historical significance, and public use and goodwill (including but not limited to race relations), for our citizens is consistent with the law and is overwhelmingly in the City's best interests. As you noted in your highlighted portion of the document you sent me originally, I believe the public use test is met in this scenario where the City has the responsibility to provide burial space to its citizens. The City has a responsibility to its citizens to provide appropriate burial space and to ensure the cemeteries are maintained within the parameters set by the Health & Safety Code (see 713.011 below). The second part of your highlighted document states that the City needs to ensure that the funds are used for the public use purpose, which I believe is also met in the current situation through our monitoring of the maintained cemeteries and through the CITY and MELHAVEN entities being required to report and account for funds they receive to the State and the IRS. To the extent that any citizen were to challenge the appropriateness of the City's use of funds for the CITY and MELHAVEN cemeteries' maintenance, I don't believe any court in the land would hold the City responsible for wrongdoing, let alone willful and wanton wrongdoing in this case. If there were still concerns about public sentiment in this area, a public hearing before Council is an available legal remedy, but I believe such a public hearing would not assist the Council or change the laws which authorize us to maintain course in this area.

My recommendation would be to maintain the exact course of business as we do now in these issues as I believe the funds are needed for public use and are being appropriately utilized in keeping with that public use. However, if you believe the City needs further accountability in this realm, I would suggest adding an ordinance that spells out the City's intent and scope of these two $6,000 yearly investments in our community. Such an ordinance would also be allowed in Texas law and I'd be glad to assist in such a request.

If I have not adequately answered any of your concerns or questions, please let me know and I will be glad to supplement. I admire and appreciate your commitment and concern for our citizens and for our City's complete and total transparency with the public and compliance with the law!

Respectfully, Nate Smith

Sec. 712.021. ESTABLISHMENT AND PURPOSES OF FUND.

...

(c) In establishing a fund, the corporation may adopt plans for the general care, maintenance, and embellishment of its perpetual care cemetery.

(d) The fund and the trustee are governed by the Texas Trust Code (Section 111.001 et seq., Property Code).

(e) A corporation that establishes a fund may receive and hold for the fund and as a part of the fund or as an incident to the fund any property contributed to the fund.

(f) The fund and contributions to the fund are for charitable purposes. The perpetual care financed by the fund is:

(1) the discharge of a duty due from the corporation to persons interred and to be interred in its perpetual care cemetery; and

(2) for the benefit and protection of the public by preserving and keeping the perpetual care cemetery from becoming a place of disorder, reproach, and desolation in the community in which the perpetual care cemetery is located.

Sec. 713.011. MAINTENANCE OF MUNICIPAL CEMETERIES. (a) A municipality that operates or has jurisdiction over a public cemetery shall maintain the cemetery in a condition that does not endanger the public health, safety, comfort, or welfare.

(b) A municipality's responsibility to maintain a cemetery under this section includes:

(1) repairing and maintaining any fences, walls, buildings, roads, or other improvements;

(2) leveling or straightening markers or memorials;

(3) properly maintaining lawns, shrubbery, and other plants;

(4) removing debris, including dead flowers and deteriorated plastic ornaments; and

(5) promptly restoring gravesites following an interment.

There was no one else to speak to the issue. Councilman Spraggins made a motion to approve Ordinance No. 2835 as presented with the changes presented by Councilman Julian. Councilman Law seconded and the vote was as follows:
Ayes: Aguilar, Harrison, Spraggins, Law, Sellers
Noes: Julian

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2836, SETTING THE TAX RATE FOR THE CITY OF SULPHUR SPRINGS FOR THE 2024 FISCAL YEAR

Finance Director/Assistant City Manager Lesa Smith presented the staff report. Property tax rate is set at $0.44 per $100 of valuation as discussed in budget workshops. Taxes for properties on the tax roll as of January 1, 2023 will be assessed October 1, 2023.

As stated below, the Local Government Code requires specific language for the motion, and the ordinance. The percentage increase in the motion is not the same as the percentage increase in the ordinance. The State requires different tax rate calculation for each one. The motion uses the no-new-revenue tax rate, and the ordinance uses the no-new-revenue maintenance & operations rate.

As a reminder, although the tax rate is staying the same at $0.44/$100, the tax revenue is increasing and therefore state law says we must call this a tax increase.

There was no one else to speak to the issue. Councilman Augilar stated, “I move that the property tax rate be increased by the adoption of a tax rate of $0.44 per 100 dollars which is effectively a 12.33 percent increase in the tax rate." Councilman Law seconded and the vote was unanimous.

The motion carried.

Manager Maxwell explained that the required language for the tax rate is required by the Legislature so they make themselves look good. The tax rate is still .44 and is not an increase. Values have increased so the revenue will increase but the tax rate is actually the same as it has been for years.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2837 AMENDING WATER RATE ORDINANCE SETTING, NEW WATER RATES EFFECTIVE OCTOBER 1, 2023

Finance Director/Assistant City Manager Lesa Smith presented the staff report. This ordinance shows rates as proposed at the August budget meetings. There was no one else to speak to the issue. Councilman Julian made a motion to approve the ordinance as presented. Councilman Harrison seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2838, AMENDING THE SEWER RATE ORDINANCE SETTING NEW SEWER RATES EFFECTIVE OCTOBER 1, 2023

Finance Director/Assistant City Manager Lesa Smith presented the staff report. This ordinance shows rates as proposed at the August budget meetings. There was no one else to speak to the issue. Councilman Harrison made a motion to approve the ordinance as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2839, AMENDING THE SANITATION RATE ORDINANCE SETTING NEW SANITATION RATES

Finance Director/Assistant City Manager Lesa Smith presented the staff report. First reading of Ordinance No. 2839 amending the sanitation rate ordinance setting new sanitation rates. Sanitation rates in the ordinance are calculated at cost to the city with a projected 3% contract increase plus a 10% administration fee. As discussed in budget meetings, hand-collect rates will decrease. There was no one else to speak to the issue. Councilman Harrison made a motion to approve the ordinance as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION FIRST READING OF ORDINANCE NO. 2840 – AN

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SULPHUR SPRINGS, TEXAS, AMENDING ORDINANCE NO. 2824, THE MASTER FEE SCHEDULE FOR COSTS, FEES AND RATES ASSOCIATED WITH PERMITTING, UTILITY SERVICES AND OTHER SERVICES PROVIDED BY THE CITY

Finance Director/Assistant City Manager Lesa Smith presented the staff report. The purpose of user fees are for the City to recoup the cost (or most of the cost) of providing a service to an individual benefactor rather than putting the burden on all citizens. Staff has reviewed fees and is recommending that the fees below be increased.

Exhibit A
City of Sulphur Springs Master Fee Schedule

Description	Section of Code of Ordinances	Fee Amount
City-Wide		
Credit Card Fee (except specialty airport cards)	N/A	2.3%
Returned Check	N/A	$35
Tax Certificate	23.14	$10
Airport-Net of CC transaction Cost		
Hangar Building 44, Community Space, Monthly	N/A	$150.00
Hangar Building 44, Private Space, Monthly	N/A	$175.00
T-Hangar Building 27, Bi-fold Door, Monthly	N/A	$220.00
T-Hangar Building 25, Community Space, No Door, Monthly	N/A	$120.00
100x100 Community Hangar- By Aircraft Size, Monthly	N/A	$250-$650
Land Lease Unimproved / no utilities- Per Sq. Ft.- Annual	N/A	$0.15
Land Lease Improved / Utilities- Per Sq. Ft- Annual	N/A	$0.20
Land leases Midfield Ramp- Per Sq. Ft.- Annual	N/A	$0.27
Land Leases Taxiways D,H- Per Sq. Ft.- Annual	N/A	$0.25
Avgas- self service margin	N/A	$0.80
Avgas- Full service margin	N/A	$1.05
Jet A- Full service margin	N/A	$1.42
Jet A- Over 1000 gallons per month (margin w/ CC) (Must be based out of Sulphur Springs Airport)	N/A	$1.07
Jet A- Over 1000 gallons per month (margin w/o CC) (Must be based out of Sulphur Springs Airport)	N/A	$0.92
Unscheduled Airport callout fee	N/A	$100.00
Aircraft Storage	N/A	$300.00
Animal Control		
Dog Adoption Fees (Can be lowered if shelter is full)	N/A	$110.00
Cat Adoption Fees (Can be lowered if shelter is full)	N/A	$85.00
Drop off fee per animal (Animal Surrender)	5.33	$100.00
Impoundment fee per animal	5.33	$20 per day

Court

Court fees as set by the State of Texas

Fire Protection and Prevention

Fire Plan Review Fee	N/A	$100.00
Fire Alarm Review Fee	N/A	$100.00
Fire inspection for new and existing systems	N/A	$50.00
Re-inspection for new and existing systems	N/A	$150.00
2 Free false alarm calls per year	N/A	$0.00
False alarm calls	N/A	$200.00
Outdoor Burning Permit - Pit Burn	N/A	$100 per day
Outdoor Burning Permit - Open Burn	N/A	$200 per day
Library		
Library Book- Daily Late Fee	N/A	$0.20
Audiovisual Material- Daily Late Fee	N/A	$1.00
B&W Copies- per side with print	N/A	$0.20
Color Copies- per side with print	N/A	$1.00
Flash drive files to email per file	N/A	$3.00
Fax- per page plus cover- local	N/A	$1.00 per page, $1.00 for cover
Fax- per page plus cover- long distance	N/A	$1.00 per page, $3.00 for cover
Fax- per page plus cover- international	N/A	$1.00 per page, $5.00 for cover
Scanned document to Email	N/A	$1.00 per page - Max $3.00
Lost or Damaged Items	N/A	At cost of replacement
Notary	N/A	$6.00
Parks, Recreation & Events		
Tournament Field Rental- Per day, per field (with 3 hours of lights)	N/A	$130.00
Hourly Field Rental - per hour, per field	N/A	$25.00
Lights for Field Rental- Use of lights for more than 3 hours (per field)	N/A	$30 per hour
Park Baseball/Softball/ Soccer User Fee - Per Player Per Season		
Player resides in City of Sulphur Springs	N/A	$14.00
Player resides outside City of Sulphur Springs City Limits	N/A	$17.00
Temporary Tournament Fences, Per Field	N/A	$50.00
Gray's Building Rental, per day	N/A	$50.00
Gray's Building Deposit	N/A	$200.00
Senior Center Rental (150 MLK Jr. Dr.) (0-4 hours)	N/A	$25.00
Buford Park Pavilion (0-2 hours)	N/A	$25.00
Buford Park Pavilion (2-4 hours)	N/A	$50.00
Buford Park Pavilion (4+ hours)	N/A	$75.00
Buford Park Pavilion Deposit	N/A	$100.00
Market Food Vendor Space for Market Season (May-Sept)	N/A	$300.00
Market Craft and Produce Vendor Space for Market Season	N/A	$100.00
Market Vendor Space for 1 day only	N/A	$10.00
Streets and Sidewalks		
Street Maintenance Fee - Per Residential Unit Per Month	21.64-21.73	$10.00
Street Maintenance Fee - Per Multi- Family Unit Per Month	21.64-21.73	$10.00
Street Maintenance Fee- Per Commercial Unit Per Month	21.64-21.73	$22.50

Street Maintenance Fee- Per Industrial Unit Per Month	21.64-21.73	$50.00
Utilities		
3/4" Meter Set Fee	N/A	$180.00
1" Meter Set Fee	N/A	$260.00
2" Meter Set Fee	N/A	$1,485.00
Meter Tampering Fee	N/A	$50.00
New Connect Fee	N/A	$10.00
Fire Hydrant Meter New Connect Fee	N/A	$30.00
Trash Bags (32 gal)	N/A	At Cost plus 5% plus Sales Tax
Trash Bags (42 gal)	N/A	At Cost plus 5% plus Sales Tax
Disconnection Fee (added to all accounts on list as of 8 A.M. on cutoff day)	N/A	$30.00
Reconnect Fee (for same day reconnect if paid before 4 P.M. on cutoff day or reconnected next business day)	N/A	$0.00
Reconnect Fee (for same day reconnect, paid after 4 P.M.)	N/A	$30.00
Residential Water Deposit	N/A	$100.00
Commercial Deposit	N/A	$200+
Clean Up/Inspection Service	N/A	$25.00
Administration Fee for Mowing Liens	N/A	$125.00
Sewer Tap Fee- 4" no street cut	N/A	$1,890.00
Sewer Tap Fee- 4" w/ street cut	N/A	$3,990.00
Sewer Tap Fee- 6" no street cut	N/A	$2,050.00
Sewer Tap Fee- 6" w/ street cut	N/A	$4,250.00
Sewer Tap Fee- over 6"	N/A	Calculated on individual basis
Grease Trap- W/ Street Cut	N/A	$3,990.00
Grease Trap- No Street Cut	N/A	$1,890.00
Grease Trap Inspection Fee- Per Month	N/A	$13.50
Sewer Disconnect	N/A	$200.00
Water Tap Fee- 3/4" no street cut	N/A	$2,070.00
Water Tap Fee- 3/4" w/ street cut	N/A	$4,390.00
Water Tap Fee- 1" no street cut	N/A	$2,070.00
Water Tap Fee- 1" w/ street cut	N/A	$4,390.00
Water Tap Fee- 2" no street cut	N/A	$3,740.00
Water Tap Fee- 2" w/ street cut	N/A	$5,910.00
Water Tap Fee- over 2"	N/A	Calculated on individual basis
Garbage and trash collection rates		Per section 14.22
Water Rates		Per section 26.2.1
Sewer and Surcharge Rates		Per section 26.2 and 26.2.2

EXHIBIT A

Community Development Department

Remodel means when part of the inside of a structure is altered, typically less than 50% of the structure. If a substantial part of a building or a complete floor of a building is gutted down to its shell, build out is considered new construction and subject to new construction fees.

1. **Plan review fee:**
   a. Residential N/A.
   b. Commercial $50 fee will be applied towards permit fee.

2. **Residential, single and two family (new construction-building) fee:**

a. 1,200 square feet or less = $360
b. 1,201 square feet up to 2,000 square feet = $440
c. 2,000 square feet and up = $440
plus
d. $0.15 for each additional square foot

3. **Residential, single and two-family (remodel-building) fee:**
   a. Residential remodel equal to or < under 200 square foot = $50
      i. Additions greater than 10% of the footprint of buildings will be treated as new construction and be subject to new construction fees as outlined in #2 for the overall project.

   b. Residential remodel > 200 square foot = $150
      i. Additions greater than 10% of the footprint of buildings will be treated as new construction and be subject to new construction fees as outlined in #2 for the overall project.

4. **Other permit fees:**
   a. Fees are calculated based on valuation as outlined in Table 1 & determined based on applicant's project valuation or on square footage costs of structures as outlined in Table 2, whichever is greater. Table 2 is intended for **new construction only.**

TABLE 1	
Total Valuation	**Building Permit Fee**
$1.00-$5,000	$50
5,001-$25,000	$50 for 1st $5,000 plus $12.00 for each additional $1,000 or fraction thereof; to and including $25,000.
$25,001-$50,000	$290 for 1st $25,000 plus $10.00 for each additional $1,000 or fraction thereof, to and including $50,000.
$50,001-$100,000	$540 for 1st $50,000 plus $7.00 for each additional $1,000 or fraction thereof, to and including $100,000.
$100,001-$500,000	$890 for 1st $100,000 plus $4.50 for each additional $1,000 or fraction thereof, to and including $500,000.
$500 ,001-- $1,000,000	$2,690 for 1st $500,000 plus $2.50 for each additional $1,000 or fraction thereof, to and including $1,000,000.
$1,000,001 and up	$3,940 for 1st $1,000,000 plus $1.25 for each additional $1,000 or fraction thereof

Under Table 1, a new construction commercial restaurant building that has a valuation of $399,000, the permit fee would be $2,235.50. To determine the minimum valuation of construction, refer to Table 2. An approximate 3,000 square foot restaurant that is constructed of (VB) construction would equate to $399,000 valuation and would determine the baseline for a permit fee. This is based on information that a construction type (VB) restaurant costs $133 per square foot to construct.

TABLE 2									
Square Foot Construction Costs based on Use Group									
Use Group defined in International Building Code	**I-A**	**I-B**	**II-A**	**II-B**	**III-A**	**III-B**	**IV**	**VA**	**VB**
A-1 Assembly, theaters, with stage	229	221	216	207	194	189	200	178	171
A-1 Assembly, theaters, without stage	210	202	196	188	175	170	181	158	152
A-2 Assembly, nightclubs	179	174	169	162	153	149	157	138	134
A-2 Assembly, restaurants, bars, banquet halls	178	173	167	161	151	148	156	136	133
A-3 Assembly, churches	212	204	198	190	178	172	183	161	154
A-3 Assembly, general, community halls, libraries, museams	176	169	162	154	141	137	148	125	119
A-4 Assembly, arenas	209	201	194	187	173	169	180	156	151
B Business	182	176	170	161	147	142	155	129	123
E Educational	194	187	182	173	162	154	167	141	137
F-1 Factory and industrial, moderate hazard	109	104	98	94	85	81	90	71	66
F-2 Factory and industrial, low hazard	108	103	98	93	85	80	89	71	65
H-1 High Hazard, explosives	102	97	92	87	79	74	83	65	N.P.
H234 High Hazard	102	97	92	87	79	74	83	65	59
H-5 HPM	182	176	170	161	147	142	155	129	123
I-1 Institutional, supervised environment	183	177	172	165	152	148	165	136	132
I-2 Institutional, hospitals	307	301	295	286	271	N.P.	280	253	N.P.
I-2 Institutional, nursing homes	213	206	200	192	179	N.P.	185	161	N.P.
I-3 Institutional, restrained	208	201	195	187	174	167	180	156	148
I-4 Institutional, day care facilities	183	177	172	165	152	148	165	136	132
M Mercantile	133	128	122	117	107	104	111	92	89
R-1 Residential hotels	185	179	174	166	153	149	167	137	133
R-2 Residential, multiple family	155	149	144	137	124	120	137	108	104
R-4 Residential, care/assisted living facilities	183	177	172	165	152	148	165	136	132
S-1 Storage, moderate hazard	101	96	90	86	77	73	82	63	58
S-2 Storage, low hazard	100	95	90	85	77	72	81	63	57
For more complete defintions, please refer to Chapter 6 of the International Building Code.									
N.P. means Not Permitted.									
Types I and II are those types of construction in which the building elements are of non-combustible materials except as permitted in the Code. (Typically associated with high rise to strip center type development)									
Type III type of construction in which exterior walls are of non-combustible materials and interior building elements are of materials permitted by code. (Load bearing walls are non-combustible)									
Type IV is heavy timber construction. (Not common in this area)									
Type V construction is the type of construction in which structural elements, exterior walls and interior walls are of any materials permitted by code. (Most common in residential construction and smaller commercial buildings)									
Type A means that building elements are fire protected.									
Type B means that building elements are not fire protected.									
Square footage is calculated based on total square footage under a roof.									
Mixed use occupancies can be calculated based on square footage of each classification. An example would be an office/warehouse use where 200 square feet of the building is classifid as office (B- Business) space and 1,000 square feet of warehousing (S-2 Storage) space, totaling 1,200 square feet of building area.									

1. **<u>Other inspections and fees:</u>**
   a. Remodeling is based on a per unit basis.
      i. Commercial remodel under 2,500 square feet = $200
      ii. Commercial remodel between 2,501-4,999 square feet = $500
      iii. Commercial remodel greater than 5,000 square feet = $1,000

iv. Attached additions that are less than 5% of the building footprint can be considered a remodel depending on the overall scope of the project. However, any additions that exceed 5% of the overall building footprint will be treated as new construction for that area and be subject to a separate permit unless stated elsewhere in this section or by ordinance.

b. Plumbing work & sprinkler system fee per unit
   i. Requires building permit as outlined in Table 1 for non-residential projects. For one and two-family residential projects, the fee will be $75

c. Mechanical work fees per unit
   i. Requires building permit as outlined in Table 1 for non-residential projects. For one and two-family residential projects, the fee will be $75

d. Electrical work fees per unit
   i. Requires building permit as outlined in Table 1 for non-residential projects. For one and two-family residential projects, the fee will be $75

e.	Mobile home permit	=	$50
f.	Temporary mobile office or job trailer permit	=	$100
g.	Building re-inspection fee	=	$40
h.	Stop work order fee	=	$100
i.	Inspection outside normal hours	=	$150
j.	Demolition permit	=	$50
k.	House moving permit	=	$50
l.	Roofing permit	=	$50
	i. A permit will only be required when decking is replaced.		
m.	Private swimming pool	=	$50
n.	Fences and walls	=	$40
o.	Driveway	=	$50
p.	Temporary mobile home permit	=	$50
q.	Driveway tie-in	=	$350
r.	Signs up to 100 sq. ft.	=	$50
s.	Signs over 100 sq. ft.	=	$100
t.	Patio (concrete slab structure)	=	$50
u.	Parking lot up to twenty spaces	=	$50
v.	Parking lot more than twenty spaces	=	$200
w.	Certificate of occupancy inspection (commercial)	=	$200
x.	Utility, accessory detached structures equal to or under 200 sq. ft.	=	$40
	i. Any habitable space would fall under Table 2 and be subject to supplemental valuation and fees.		
y.	Utility, accessory detached structures over 200 sq. ft.	=	$100

i. Any habitable space would fall under Table 2 and be subject to supplemental valuation and fees.

z. Outside consultants for plan checking and inspections or both = Actual costs

i. Actual costs are the amount billed to the City for services

2. Zoning & Plat Permits and Fees:

a.	Zoning verification & compliance	=	$30
	i. When requested, staff can provide written responses to applicants inquiring about facts of property relating to land use and whether a particular use can meet ordinance standards.		
b.	Administrative review	=	$60
	i. Review proposed site plans and provide written comments back to applicants on appropriate steps needed to move forward with the project.		
c.	Special use permit	=	$350
d.	Variance	=	$350
e.	Zoning change	=	$350
f.	Preliminary plat	=	$60
g.	Replat	=	$200
	i. Plus recording fee as established by County		
h.	Minor plat	=	$200
	i. Plus recording fee as established by County		
i.	Final plat	=	$300
	i. Plus recording fee as established by County		

3. Health Permits and Inspections:

a.	Health plan review	=	$150
b.	Food establishment permit/inspection	=	$300
	i. Food establishment re-inspection	=	$150
c.	Mobile food vendor permit/inspection (valid 6 months)	=	$150
	i. Re-inspection if failed	=	$150
d.	Public swimming pool inspection	=	$300
	i. Re-inspection if failed	=	$150

4. Miscellaneous:

a.	Development Management Manual	=	$100
b.	Photocopy or reproducible 8.5 x 11	=	*Free
	i. * 10 cents per page over ten pages		
c.	Photocopy or reproducible of 11 x 17	=	*Free
	i. *50 cents per page for more than one page		
d.	Photocopy or reproducible of 24 x 36	=	$5
e.	Computer generated maps 11 x 17	=	$10
f.	Computer generated maps 24 x 36	=	$20

There was a brief discussion. Councilman Spraggins made a motion to approve the ordinance as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2841, AUTHORIZATION OF UPDATED SERVICE CREDITS

Human Resources Director/Assistant City Manager Frazier presented the staff report. Staff recommends the city continues with the updated service credits for all current full time employees. We choose to act on this annually so we have the option to discontinue at any time, which we have done for periods in the past. Our 2024 TMRS contribution rate is 7.62% without updated service credits and increases to a total rate of 8.08% with the adoption of updated service credits. The cities funded ratio will decrease slightly from 97.4% to 96.7%. The additional cost of the updated service credits are estimated at $41,096.14 for 2024 fund year. Updated Service Credits enhance each retirement account of current employees for inflationary factors above specific thresholds. Inflation decreases your buying power if you are on a fixed income, or if a lot of your retirement is based on the value of money from retirement contributions made early in your career while at a much lower wage. The higher inflation is over time combined with a large salary increase, the more problematic the issue can become. Updated Service Credits apply an actuarial formula to help mitigate that issue account by account. There was no one else to speak to the issue. Councilman Julian made a motion to approve the ordinance as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2842 (ZC NO. 230801) ON A REZONE REQUEST BY TRINA YOHO FOR 511 WILDCAT WAY CONSISTING OF APPROXIMATELY 1.04 ACRES LOCATED ON THE SOUTH SIDE OF WILDCAT WAY AND EAST OF THE ARBALA ROAD INTERSECTION IDENTIFIED AS PROPERTY ID R27940 FROM SF-6 TO LIGHT COMMERCIAL

Community Development Director/Assistant City Manager Niewiadomski presented the staff report. The applicant is requesting to rezone the property to Light Commercial to be consistent with the existing business on the property for dog grooming. Looking at the Land Use Plan, it identifies the area along Wildcat Way as commercial. This request is consistent with the future intended growth in this area.

Staff sent four certified letters to surrounding property owners within 200 feet. Below is a response summary: • In Favor Of: 0 • Opposed To: 0 • Undecided On: 0 P&Z 8-21-2023 MEETING: Staff went over the report. The property was in existence prior to be annexed in the mid 2000's. At that time the house was on the same lot as the dog grooming business and has since been subdivided. This request makes the existing business conforming to the zoning request. Currently, the property is a legal nonconforming business and would need to be rezoned to be used commercially in the future. RECOMMENDATION: P&Z unanimously recommended to approve from SF-6 to Light Commercial as this area is anticipated to have commercial development per the Land Use Plan. There was no one else to speak to the issue. Councilman Julian made a motion to approve the ordinance as presented. Councilman Aguilar seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON RESOLUTION NO. 1379, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SULPHUR SPRINGS, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORPORATION

Manager Maxwell presented the staff report. The City, along with 181 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute.
Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about March 31, 2023, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2022, entitled it to additional system-wide revenues of $165.9 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to $156.1 million, $113.8 million of which would be applicable to ACSC members. After reviewing the filing and conducting discovery, ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be $130.9 million instead of the claimed $156.1 million.

After several settlement meetings, the parties have agreed to settle the case for $142 million. This is a reduction of $23.9 million to the Company's initial request. This includes payment of ACSC's expenses. The settlement also includes an additional $19.5 million for the securitization regulatory asset expenses related to Winter Storm Uri. This was previously approved by the Texas Legislature and Railroad Commission. The Effective Date for new rates is October 1, 2023. ACSC members should take action approving the Resolution/Ordinance before September 30, 2023.

RATE TARIFFS

Atmos generated rate tariffs attached to the Resolution/Ordinance will generate $142 million in additional revenues. Atmos also prepared a Proof of Revenues supporting the settlement figures. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

BILL IMPACT

The impact of the settlement on average residential rates is an increase of $6.47 on a monthly basis, or 7.31%. The increase for average commercial usage will be $24.72 or 5.19%. Atmos provided bill impact comparisons containing these figures.

SUMMARY OF ACSC'S OBJECTION TO THE UTILITIES CODE SECTION 104.301 GRIP PROCESS

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

RRM SAVINGS OVER GRIP

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM which is referred to as DARR. When new rates become effective on October 1, 2023, ACSC residents will maintain an economic monthly advantage over GRIP and DARR rates.

Comparison to Other Mid-Tex Rates (Residential)

	Average Bill	Compared to RRM Cities
RRM Cities:	$42.62	-
DARR:	$42.55	($0.07)
ATM Cities:	$44.39	$1.77
Environs:	$44.27	$1.65

Note: ATM Cities and Environs rates are as-filed. Also note that DARR uses a test year ending in September rather than December.

EXPLANATION OF "BE IT RESOLVED" PARAGRAPHS:

1. This section approves all findings in the Resolution/Ordinance.
2. This section adopts the RRM rate tariffs and finds the adoption of the new rates to be just, reasonable, and in the public interest.
3. This section makes it clear that Cities may challenge future costs associated with gas leaks.
4. This section finds that existing rates are unreasonable. Such finding is a necessary predicate to establishment of new rates. The new tariffs will permit Atmos Mid-Tex to recover an additional $142 million on a system-wide basis.
5. This section approves an exhibit that establishes a benchmark for pensions and retiree medical benefits to be used in future rate cases or RRM filings.
6. This section requires the Company to reimburse the City for expenses associated with review of the RRM filing, settlement discussions, and adoption of the Resolution/Ordinance approving new rate tariffs.
7. This section repeals any resolution or ordinance that is inconsistent with the Resolution/Ordinance.
8. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
9. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Resolution/Ordinance. This section further directs that the remaining provisions of the Resolution/Ordinance are to be interpreted as if the offending section or clause never existed.
10. This section provides for an effective date upon passage.
11. This section directs that a copy of the signed Resolution/Ordinance be sent to a representative of the Company and legal counsel for ACSC.

Financial Impact: The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process. Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover $165.9 million in additional system-wide revenues, the RRM settlement at $142 million for ACSC members reflects substantial savings to ACSC cities. Settlement at $142 million is fair and reasonable. The ACSC

Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Resolution/Ordinance before September 30, 2023. New rates become effective October 1, 2023.
There was no one else to speak to the issue. Councilman Law made a motion to approve the resolution as presented. Councilman Spraggins seconded and the vote was unanimous.

The motion carried.

<u>DISCUSSION/ACTION PLAT CASE PL NO. 230801 BEING A REQUEST BY BETHANY ASHBY, TO CONCEPTUALLY PLAT 11.41 ACRES OF LAND INTO 9 SINGLE FAMILY LOTS BETWEEN HWY 11 AND CR 3525(OLD HWY 11) APPROXIMATELY 1 MILE WEST OF HIGHWAY 19</u>

Community Development Director/Assistant City Manager Niewiadomski recused himself and physically left the council chambers to reduce the appearance of a conflict of interest.
Manager Maxwell presented the staff report. The property is located within the ETJ, which means that it will have to meet the City's subdivision requirements but not the Zoning ordinance requirements unless annexed.
The lots are at least one acre is size which is adequate to install On Site Sewer Facilities through a county permit.
Gafford Chapel Water Supply Corp. indicated that they would be interested in serving the neighborhood with water and have signed a service plan. The Owner/Developer has indicated she is not interested in City Water or Sewer Services.
The property is outside of the City's Certificate of Convenience and Necessity (CCN) The City has no obligation to serve areas outside of our CCN with utilities. It appears that the applicant does not intend to annex the property into the city limits at this time.
The purpose of the plat is to review staff comments, the physical arrangement of the subdivision and determine the adequacy of street and thoroughfare rights-of-way and alignment and the compliance of the streets and thoroughfares with the Sulphur Springs Comprehensive Plan, the existing street pattern in the area and with any other applicable provisions of the Comprehensive Plan. The developer is responsible for the cost of installing the utilities. A State Highway and County Road serve each of the lots in the development. The Planning & Zoning Commission conceptually approved the plat for the general layout of the subdivision.
Bethany Ashby stated that the property has deed restrictions for keeping the property use as residential.
Janina Ross of Hwy 11 West addressed the council with concerns in reference to drainage issues. She informed the council of a current issue of standing water on her property adjacent to the property in question. She stated that in Texas, adjacent property owners cannot create a burden for their neighbors. She is concerned that the construction will create an increased water issue on her property. She explained that there had been no development, major tree removal, etc. on these properties since the 1960's. She also

expressed concern with the burden it will put on the county since they will be finally responsible for drainage issues. She explained that with our city's growth, we will be facing issues that we have not had in the past. She would like the council to consider the established residents in their decision. She asked the council to consider the impact on property owners and of the environment with the city's future expansion. There was a brief discussion. Councilman Spraggins made a motion to approve the plat as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON ASSET FORFEITURE BUDGET

Police Chief Ricketson presented the staff report. State law requires Governing body to accept Department Asset Forfeiture Budget. Current Balance $293,775.11. Asset Forfeiture money is acquired from cash and liquidation of forfeited property from narcotic related enforcement.

Proposed Expenditures for 2023 – 2024

1. Equipment (duty belts, body cameras, radars, radio equipment, computers, vehicle equipment, etc.) Total $100,000

There was no one else to speak to the issue. Councilman Spraggins made a motion to approve the budget as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON APPROVAL OF ECONOMIC DEVELOPMENT CORPORATION BUDGET

Director Feagley presented the staff report explaining the changes in the present year and proposed years budgets. The Sulphur Springs/Hopkins County EDC budget was produced by the staff and board of directors of the EDC. This budget will outline the spending of the EDC for the next fiscal year. There was no one else to speak to the issue. Councilman Julian made a motion to approve the budget as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON APPROVAL OF THE PLAN OF WORK FOR THE SULPHUR SPRINGS/HOPKINS COUNTY ECONOMIC DEVELOPMENT CORPORATION

Staff report was presented by Director Feagley of the EDC. Annual Plan of Work for the Sulphur Springs Hopkins County Economic Development Corporation. This plan will be paid out of the half cent sales tax for economic development.

SULPHUR SPRINGS-HOPKINS COUNTY ECONOMIC DEVELOPMENT CORPORATION
Plan of Work FY 2024
Implementation Plan
1. Continued Focus on Business Retention and Expansion Strategies a. Continue business visitation program
b. Continue the yearly lunch program
c. Continue the Thanksgiving employee program
d. Begin plant visitation program for board members
2. Continue Aggressive Recruitment of Targeted Industry that will result in Job Creation and Increase the Tax Base a. Market directly (face to face) as Sulphur Springs i. One or Two Marketing Trips to companies in other states
b. Market directly to companies as part of the Northeast Economic Alliance i. Up to three trips a year
c. Market to companies as part of Team Texas i. Annual Meet the Consultants Meeting (Conroe this year)
ii. Face to Face Meetings
iii. Trade Shows one or two a year
d. Attend trade shows with ONCOR i. One to two per year
3. Expand the Pool of Skilled Workforce in Meetings the Growing Needs of Existing and Prospective New Industry a. Identify open positions and those that are hardest to fill
b. Create quarterly meetings for Human Resource Directors/Plant Managers to discuss the ongoing needs of our workforce.
c. Conduct recruitment missions with companies to attract new employees from colleges and trade schools.
d. Conduct recruitment missions to attract new employees from military bases targeting exiting soldiers.
e. Work with high schools to identify former students and ascertain if they are interested in "Coming Home."
f. Create website using the "Coming Home to Sulphur Springs" banner i. Targeted to younger population.
ii. Advantages of our "Coming Home to Sulphur Springs" to raise their children.
iii. Highlighting the Schools in Hopkins County
iv. Our lower living costs vs the Metroplex
v. Festivals and downtown fun times
g. Conduct community Job Fairs i. Advertise in newspapers in area.
ii. Advertise on radio stations.
iii. Advertise on Facebook, Twitter and Linked In
4. Additional Site and Property Acquisition and Development a. Identify possible sites.
b. Examine both positive and negative aspects of the land.
c. Consider location near or in city limits.

d. Hire engineering firm to design the site and consider development costs
in final acquisition of the site
5. Improvements to I-30 a. Continue to work with TxDOT to widen I-30 to three lanes both way from Dallas to
Sulphur Springs
b. Continue to support the efforts of TEX-21 to improve transportation infrastructure.
c. Continue to host the Northeast Texas Transportation Summit
6. Work with City Officials to Implement Aesthetic Improvements to Interstate 30 Corridor
a. Working with City and TxDOT to determine width of roadway needed for next 20 years.
b. Consider zoning overlay identifying that width and new construction standards.
c. Apply for grants for new signage for entrances and exits to City.
7. Support Cooperative Strategies to Attract New Young Talent to Region a. Support efforts of the city to enhance the quality-of-life issues.
b. The City and Chamber of Commerce on their efforts to bring tourism industries to town.
c. Expand marketing efforts to promote the idea of more high-tech companies to the community.
8. Create New and Dynamic Market Materials to Assist in Recruitment Efforts a. Work to get updated videos for the website.
b. Work to update the website.
c. Continue to update printed marketing materials.
9. Work with The City and County to Develop the Luminant Mine Site a. Use the Global Strategies study as basis of marketing the Site.
b. Interview and hire land planning firm.
c. Interview and hire engineering firm.
d. Use the land plan results to perform testing of the soil.
e. Use the engineering study to reexamine the feasibility of the land plan.
f. Use the reexamined land plan to conduct engineering study to project needed water, wastewater, and roadways for current and future needs.
g. Critical to all the studies is the need to monetize the site to assist with the income to develop the site today and into the future.
h. Name the site.
There was no one else to speak to the issue. Councilman Spraggins made a motion to approve the plan as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

Councilman Spraggins thanked Director Feagley for his work as Director of the EDC. He thanked him for bringing industry to town and keeping it here. Director Feagley explained how EDC is an investment business and he always tries to put his best foot forward. Mayor Sellers and Councilman Aguilar also thanked Director Feagley for his work.

DISCUSSION/ACTION ON A MOTION TO APPROVE A MASTER AGREEMENT WITH THE NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT (NETEX)

Manager Maxwell presented the staff report. At previous city council retreats staff has discussed the possibility of reusing our treated wastewater effluent. The idea was that if the City could acquire a utility easement along the NETEX rail line we could one day install a pipeline in the easement to transport 3 MGD of treated effluent across town to Lake Sulphur Springs. By so doing, we would be able to keep the lake topped off at all times. This would bolster our available water supply. A constant-level would also make development along the shoreline more appealing. The catch was that we did not have an easement. Since then staff has negotiated a deal with NETEX that would allow the City to install utilities "in, on, under, along and across the railroad right of way. In return, the City commits to maintaining the street crossings, but not the TXDOT crossings in perpetuity. We currently have 5 street crossings on the NETEX line: Dena, Jackson, Davis, Mulberry and 7th. The NETEX Board has already approved the master agreement. Staff estimates that we can comfortably maintain all of the crossings for $10,000 per year. There was a brief discussion. Councilman Spraggins made a motion to approve the agreement as presented. Councilman Law seconded and the vote was unanimous.

The motion carried.

VISITORS AND PUBLIC FORUM

None.

ADJOURN

With all business complete the meeting was adjourned at 8:00 p.m.