

**MINUTES OF THE REGULAR MEETING  
RIVER OAKS CITY COUNCIL  
JANUARY 22, 2008**

**MEMBERS PRESENT**

MAYOR HERMAN EARWOOD  
COUNCILMEMBER JACK ADKISON  
COUNCILMEMBER JOE CREWS  
COUNCILMEMBER R.R. "BOB" MINTER  
COUNCILMEMBER SHERRIE UPTMORE DAST  
CITY ATTORNEY BETSY ELAM

**MEMBERS ABSENT:**

MAYOR PRO TEM STEVE HOLLAND

**STAFF PRESENT**

CITY SECRETARY LINDA RYAN  
POLICE CHIEF DAN CHISHOLM  
FIRE CHIEF CREWS BILL CREWS  
PUBLIC WORKS DIRECTOR, MARVIN GREGORY  
SECRETARY SUSAN STEWART

CALL TO ORDER AT 7:00 P.M. BY MAYOR EARWOOD; QUORUM PRESENT

COUNCIL MEMBER CREWS GAVE THE INVOCATION. MARILYN ACKMANN LED THE PLEDGES OF ALLEGIANCE TO THE UNITED STATES AND TEXAS FLAGS

**APPROVAL OF MINUTES AND BILLS PAYABLE:**

1. CONSIDER APPROVAL OF MINUTES OF CITY COUNCIL JANUARY 8, 2008 AND WORKSHOP JANUARY 15, 2008

**Council Member Dast requested Item # 18 from the January 8, 2008 City Council Minutes be amended to include the names of volunteers who contributed to the success of the Toy Patrol as mentioned. Council Member Dast moved to approve the City Council Meeting Minutes for January 8, 2008 as amended and Workshop January 15, 2008 as presented. Motion seconded by Council Member Minter. All voted "Aye."**

2. CONSIDER APPROVAL OF BILLS PAYABLE FOR PERIOD ENDING JANUARY 22, 2008

**Council Member Crews moved to approve payment of bills for period ending January 22, 2007. Motion seconded by Council Member Dast. All voted "Aye."**

**PERSONAL APPEARANCES:**

3. MARILYN ACKMANN, PUBLIC AFFAIRS MANAGER, ATMOS ENERGY, SETTLEMENT OF SYSTEM WIDE RATE CASE WITH THE ACSC COALITION OF CITIES

Marilyn Ackmann, Public Affairs Manager for Atmos Energy, reminded the Council of the City Council's choice on October 9, 2007 to suspend the effective date of the rates for a period of 90 days in order to allow sufficient time for Atmos and the ACSC coalition to reach an agreement. Ms. Ackmann said an agreement has been reached and is enclosed for Council approval. The settlement agreement includes an increase for residential customers of approximately \$.020 per month and a reduction in the monthly customer charge for residential customers from \$10.69 to \$7.00. Ms. Ackmann mentioned Atmos is establishing an Energy Conservation Program for elderly and low-income customers.

Council Member Crews requested Ms. Ackmann provide details on the program, as the information is available for the benefit of community members who are eligible.

**RESOLUTIONS / ORDINANCES & OTHER ITEMS REQUIRING COUNCIL APPROVAL**

4. CONSIDER **ORDINANCE NO. 771-08** APPROVING SETTLEMENT AGREEMENT BETWEEN THE CITY AND ATMOS ENERGY CORPORATION REGARDING CHANGE IN GAS RATES AND ADOPTING TARIFFS TO REFLECT ADJUSTMENTS CONSISTENT WITH THE SETTLEMENT AGREEMENT

**Council Member Crews moved to approve Ordinance No. 771-08 approving the settlement agreement between the City and Atmos Energy regarding a change in the gas rates and adopting tariffs to reflect adjustments consistent with the settlement agreement. Motion seconded by Council Member Dast. All voted "Aye."**

5. INFORMATION RELATING TO THE PROPERTY TAX FREEZE FOR OVER 65 / DISABLED

Mayor Earwood thanked CS Ryan and Staff for diligently working to obtain financial stability for the City. Mayor Earwood informed Council Members and citizens that the City cannot repeal or rescind the proposed tax freeze once Council Members agree to adopt Ordinance No 772-08 freezing the taxes for over 65 and disabled homesteads. CS Ryan explained if the City adopts the tax freeze in calendar year 2008, beginning in tax year 2009, the over 65 and disabled residents would have their city taxes frozen at the 2008 level regardless of tax rate of valuation increases. Home improvements other than repairs will allow for property tax increase on the value of the improvement only. Council Member Adkison offered information pertaining to the State of Texas passing a tax freeze in 2003 and Tarrant County in 2006 which indicate substantial voter support in favor of an over 65 and disabled homestead tax freeze.

6. CONSIDER APPROVAL OF **ORDINANCE NO. 770-08** AMENDING CHAPTER 11 "TAXATION", ARTICLE 11.04 "PROPERTY TAXES" OF THE RIVER OAKS CODE OF ORDINANCES (2006) BY ADDING SECTION 11.04.005 "AD VALOREM TAX LIMITATION FOR DISABLED AND OVER 65 HOMESTEAD" AS AUTHORIZED AND DEFINED BY THE TEXAS CONSTITUTION, ARTICLE VIII, SECTION 1-b, AND TEXAS TAX CODE SECTION 11.261 ON RESIDENTIAL HOMESTEAD OF THE DISABLED AND PERSONS SIXTY-FIVE AND OLDER AND THEIR SPOUSES

**Council Member Adkison moved to approve Ordinance No 770-08 amending Chapter 11 "Taxation," Article 11.04 "Property Taxes" of the River Oaks Code of Ordinances (2006) by adding Section 11.04.005 "Ad Valorem Tax Limitation for Disabled and over 65 Homestead" as authorized and defined by the Texas Constitution, Article VIII, Section 1-b, and Texas Tax Code Section 11.261 on residential homestead of the disabled and persons sixty-five and older and their spouses. Motion seconded by Council Member Dast. All voted "Aye."**

7. CONSIDER APPROVAL OF **ORDINANCE 772-08** AMENDING 2007-2008 GENERAL FUND BUDGET IN THE AMOUNT OF \$15,000 TO PURCHASE TRANSFER SWITCH ON CITY'S MAIN BACK-UP GENERATOR

Mayor Earwood stated Ordinance No. 772-08 is necessary to allow for the purchase of a transfer switch for the City's main back up generator. Currently Staff has to manually operate the switch in the case of a power outage. PWD Gregory stated the switch will take 63-days to be delivered from the factory.

**Council Member Minter moved to approve Ordinance No. 772-08 amending the 2007-2008 General Fund Budget in the amount of \$15,000 to purchase a transfer switch for the City's main back-up generator. Motion seconded by Council Member Dast. All voted "Aye."**

8. CONSIDER AMENDING SUBSTANDARD BUILDING ORDER ON THE SUBSTANDARD BUILDING AT 1616 HILLSIDE DRIVE

PWD Gregory stated on November 13, 2007 the City Council ordered the owner to bring the structure at 1616 Hillside into compliance within 30-days including an additional 30-days for the lienholder if the owner failed to comply or else demolish the structure. If the Owner or any lienholders failed to comply with the Order, the City could demolish it on or after January 13, 2008. Therefore, Staff ordered a final title search prior to commencing with the demolition of the structure and found a company named Ocwen in Florida had acquired the property through foreclosure after the order was issued on November 13, 2007. PWD Gregory stated the property remains in substandard condition and is a hazard to the public health, safety and welfare.

CA Elam stated that when she contacted Ocwen, the company who recently acquired the property, they had not researched title and were unaware that the structure was to be demolished. CA Elam stated all notifications and filings were correctly performed, therefore the Council Order from November 13, 2007 remains in effect and the City could continue with the demolition of the structure(s). CA Elam explained the Council could choose to leave the order in place but direct staff not to demolish the structure(s) until the next Regular City Council Meeting on February 12, 2008.

Phillip Morphis, Broker of behalf of Ocwen, requested additional time in order to sell the property to a local, reputable contractor who made an offer on January 18, 2008. Mr Morphis stated the financial institution authorized to accept the offer had been closed since the offer was made on a holiday weekend. Council Members expressed concern that if additional time is given the property will remain in the current substandard condition.

Council Members requested Mr. Morphis and the contractor/buyer present a signed contract and a detailed plan of action at the Regular Council Meeting on February 12, 2008 for consideration of additional time or the structure(s) will be demolished as ordered on November 13, 2007. **No action was taken.**

9. CONSIDER AMENDING SUBSTANDARD BUILDING ORDER ON THE SUBSTANDARD BUILDING AT 5413 AMHERST

PWD Gregory showed current photos of the outside of the property at 5413 Amherst, stating the Council Order to allow the owner to repair the structure expired on December 23, 2007. He reported that the Owner was unable to attend the meeting due to health reasons but he has secured the property, is slowly making progress and is requesting an

additional 30-days to complete the repairs. CA Elam discussed with the Council the possibility of assessing civil penalties in the amount of \$1,000 a day following an administrative hearing if the property is not in full compliance.

**Council Member Crews made the following motion " I move that the Council Orders of October 23, 2007 be amended as follows on the Substandard Building at 5413 Amherst based on evidence presented at the hearing. I move that the Board find that the following facts exist: 1. That the building at 5413 Amherst is substandard and a public nuisance; and 2. That 30 additional days is a reasonable period of time to complete the needed repairs taking into account the owner's interest and the interests of public safety; and 3. That if the building is not repaired by February 22, 2008, that there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given; and 4. That the building is unfit for human habitation, and the life, health, property, and safety of the occupants are endangered, and that the building should be secured, and it is, until the work can be completed.**

**I further move that the Board order: 1. That the building be repaired in conformance with the requirements of Section 3.07.004 of the River Oaks Code of Ordinances as amended or demolished and the debris removed within 30-days; and 2. If the building is not repaired or the building is not demolished and the debris removed within said time period to full conformance with Section 3.07.004 of the River Oaks Code of Ordinances as amended, the City shall demolish the building at its expense and place a lien on the property to recover its cost." Motion seconded by Council Member Minter. All voted "Aye."**

10. CONSIDER MAYOR'S RECOMMENDATION FOR THE HIRING/RESIGNATIONS OF ADMINISTRATION EMPLOYEE

Mayor Earwood requested Council ratification for the hiring of a Customer Service Clerk to work in the Water Department due to the realignment of duties since the resignation of Assistant City Secretary Angie Harris.

**Council Member Adkison moved to approve the Mayor's recommendation for the hiring of a Customer Service Clerk to work in the Water Department at \$10.50 per hour. Motion seconded by Council Member Dast. All voted "Aye."**

11. FIRE CHIEF CREWS REPORTS ON FEMA "ASSISTANCE TO FIREFIGHTER GRANT" RECEIVED IN THE AMOUNT OF \$98,135. REQUEST TO PURCHASE AIR PACKS AND CITY MATCH UP TO \$6,400 FOR A TOTAL OF \$104,535

Mayor Earwood requested Council Members consider discussing Items #11 and #12 simultaneously.

12. CONSIDER FIRE CHIEF CREWS REQUEST TO SELL MSA AIR PACKS

FC Crews informed Council Members of the recent receipt of Assistance to Firefighter's Grant (AFG) in the amount of \$98,135. He is requesting the grant money be spent to purchase new air packs that meet current standards at a total price of \$104,732. In

addition to the grant money, a buyer has offered \$7,000 for the current air packs making the City's total out of pocket expense non-existent.

**Council Member Dast moved to approve FC Crews request to utilize \$98,135 in "Assistance to Firefighter Grant" money to purchase new air packs and to sell the MSA air packs for \$7,000 applying the proceeds of the sale to the amount of the City's responsibility of up to \$6,400. Motion seconded by Council Member Crews. All voted "Aye."**

**CORRESPONDENCE – ANNOUNCEMENTS:**

13. **STAFF REPORT:** UPDATE ON SUBSTANDARD PROPERTIES AT 4833 OHIO GARDEN RD., 1229 CAMBRIDGE, AND 916 ROBERTS CUT OFF RD.

PWD Gregory reported significant progress on the property at **4833 Ohio Garden Rd.** He stated the Administrative Order to assess civil penalties applies to both structures on the property.

PWD Gregory stated the tenants have moved back into the extremely hazardous structure at **1229 Cambridge** as indicated by photos taken on January 21, 2008. He reported an Administrative Warrant was obtained on January 22, 2008, in order to enter the structure resulting in the numerous photos presented. All utilities have been terminated. FC Crews requested to speak with the Council in Executive Session pertaining to some issues shown in the pictures.

PWD Gregory showed photos of **916 Roberts Cut Off** stating the current management company has been diligently working to bring the property into compliance, however, a clean out is needed between the buildings and a recent report from one of the tenants revealed the roof is still leaking.

14. **STAFF REPORT:** 2007 WHOLESAL WASTEWATER COST OF SERVICES STUDY

PWD Gregory reviewed the results of the annual rate setting study performed by the City of Fort Worth in accordance to the Fort Worth Wastewater Contract. This year's increase to the City amounts to approximately 17.6%. The increase went into effect October 1, 2007 showing an increase of \$8,336.60 over the previous month. This report is only a preliminary report but it appears the City will have to consider a substantial sewer rate increase in April.

15. **STAFF REPORT:** STORM SYSTEM PHASE II PERMITTING

PWD Gregory stated that Staff would submit the required permit application and the Storm Water Management Program to the TCEQ by February 11, 2008 but to make it happen over the next 5-years will mean involvement by the City as a whole. He informed the Council that a storm public education task force would need to be established that includes a local contractor, a city council member, a licensed water operator, volunteers that have involvement with Parks and Recreation, a city inspector, a resident volunteer, and a business owner.

16. MAYOR, CITY COUNCIL, AND/OR DEPARTMENT HEADS MAY MAKE ANNOUNCEMENTS AND PRESENT CORRESPONDENCE AT THIS TIME

FC Crews reported the Fire Department average response time of 5.17 minutes is below the national standard of 6 minutes, which only 35% of fire departments in the United States meet or exceed.

**Council Member Adkison** directed Staff to research impact fees for new construction, rebuilds, and remodels. CA Elam stated the lengthy process to incorporate impact fees would have to be done in strict compliance with Chapter 395 of the Texas Local Government Code and would need to include engineer analysis, public hearings and publications. CS Elam said she would present the Council with additional information so an informed decision could be made.

**Mayor Earwood** reviewed the Code Compliance Year End Report, complimenting Code Compliance Officer, Steve Sanders, for continuing to do an outstanding job.

**MONTHLY REPORTS:**

17. FIRE DEPARTMENT – DECEMBER 2007

18. POLICE DEPARTMENT AND WARRANT DIVISION – DECEMBER 2007

19. PUBLIC WORKS DEPARTMENT (TO INCLUDE CODE COMPLIANCE, PERMITS & INSPECTIONS, SANITATION AND WATER) – DECEMBER 2007

20. PUBLIC LIBRARY – DECEMBER 2007

21. CITY ADMINISTRATOR REPORTS:

\*TEXPOOL INVESTMENTS-INVESTMENTS THROUGH DECEMBER 2008

\*1% SALES TAX, ½% EDC SALES TAX, ½% CRIME DISTRICT TAX 3 – YEAR COMPARISON

\*POLICE ACTIVITY REPORT FOR CALENDAR YEAR 2007

\*MUNICIPAL COURT – DECEMBER 2007 (APRIL – DECEMBER 2007 COMPARISON)

**PUBLIC COMMENTS:**

22. AT THIS TIME, ANY PERSON WITH CITY RELATED BUSINESS MAY SPEAK TO THE COUNCIL. IN COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT, THE CITY COUNCIL MAY NOT DELIBERATE OR TAKE ACTION

**No action was taken.**

**EXECUTIVE SESSION:**

23. CONVENE IN EXECUTIVE SESSION PURSUANT TO CHAPTER 551, TEXAS GOVERNMENT CODE; THE COUNCIL RESERVES THE RIGHT TO CONVENE IN EXECUTIVE SESSION(S) FROM TIME TO TIME ON ANY POSTED AGENDA ITEM TO RECEIVE ADVICE FROM ITS ATTORNEY AS PERMITTED BY LAW DURING THIS MEETING. THE COUNCIL MAY CONVENE IN EXECUTIVE SESSION TO DISCUSS THE FOLLOWING:

- A) Section 551.071 Pending or contemplated litigation or to seek advice from attorney
- B) Section 551.072 Discussion regarding possible sale, lease or acquisition of real estate
- C) Section 551.074 Personnel matters – To deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a Public Officer or Employee or to hear a complaint or charge against an Officer or Employee
- D) Section 551.076 Deliberation regarding security devices

At 8:45 P.M. Mayor Earwood moved to convene into Executive Session pursuant to Section 551.071, Section 551.072, Section 551.074 and Section 551.076

**RECONVENE:**

At 9:10 P.M. Mayor Earwood move to reconvene into Regular Session

24. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

**None**

**ADJOURN:**

25. ADJOURN

**Council Member Minter moved to adjourn the meeting at 9:10 P.M. Motion seconded by Council Member Dast. All voted "Aye."**

APPROVED:

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Herman Earwood, Mayor

ATTEST:

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Linda A. Ryan, City Secretary