

REGULAR CITY COUNCIL MEETING

NOVEMBER 4, 2008

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, November 4, 2008 at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

COUNCILMEMBER #1 HAL RICHARDS
COUNCILMEMBER #2 TOMMY SPENCER
COUNCILMEMBER #3 RICKY JORDAN
COUNCILMEMBER #4 JACK JONES
COUNCILMEMBER #5 DON THURMAN

1. Call to order.

Mayor Hal Richards called the meeting to order.

2. Invocation.

Mayor Hal Richards gave the opening prayer.

3. Discuss and Consider Approval of Special City Council Workshop Minutes of October 16, 2008 and Regular City Council Meeting Minutes of October 21, 2008.

Mayor Pro tem Jack Jones made a motion to approve Special City Council Workshop Minutes of October 16, 2008 and Regular City Council Meeting Minutes of October 21, 2008 with corrections. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

Discuss and Consider Approval of Memorandum of Agreement (MOA) Authorizing the City Manager to enter into Memorandum of Agreement with the Federal Aviation Administration (FAA) to Cover Required Land Sites and Easements for Existing Navigational Aid (NAVAID).

Mike Sims, Assistant City Manager presented to Council for discussion and consideration Memorandum of Agreement (MOA) Authorizing the City Manager to enter into Memorandum of Agreement with the Federal Aviation Administration (FAA) to Cover Required Land Sites and Easements for Existing Navigational Aid (NAVAID). Mayor Hal Richards stated "Exiting" as listed in item 6 should be "Existing". Deputy Mayor Pro tem Don Thurman made a motion to authorize the City Manager to enter into Memorandum of Agreement (MOA) with the Federal Aviation Administration (FAA) to Cover Required Land Sites and Easements for Existing Navigational Aid (NAVAID). The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

4. Hear Remarks from Visitors.

Council requested Jim Donaldson, Interim Chief of Police, to come before Council. Interim Chief Donaldson thanked the Council for the opportunity to come back and help and appreciated the Council's confidence in him.

NEW BUSINESS

5. **Receive Update on Environmental Cooperative Recycling Project.**

Torry Edwards, City Manager and Linda Brown representing Kaufman County Environmental Cooperative presented Update on Environmental Cooperative Recycling Project. There was no action taken on this item.

6. **Discuss and Consider Approval of Resolution No. 620 – Authorizing the Cities Aggregation Power Project, Inc. (CAPP) to Negotiate an Electric Supply Agreement for Deliveries of Electricity and Necessary, Related Services Effective January 1, 2009; Approve CAPP Contracting with FPL Energy and Direct Energy and Authorizing the Mayor or Other Designated City Official to Sign a Contract with CAPP for the City’s Electricity Needs for the Period Beginning January 1, 2009 and Extending Up to December 31, 2013.**

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Resolution No. 620 – Authorizing the Cities Aggregation Power Project, Inc. (CAPP) to Negotiate an Electric Supply Agreement for Deliveries of Electricity and Necessary, Related Services Effective January 1, 2009; Approve CAPP Contracting with FPL Energy and Direct Energy and Authorizing the Mayor or Other Designated City Official to Sign a Contract with CAPP for the City’s Electricity Needs for the Period Beginning January 1, 2009 and Extending Up to December 31, 2013. Councilmember Tommy Spencer made a motion to approve Resolution No. 620 - Authorizing the Cities Aggregation Power Project, Inc. (CAPP) to Negotiate an Electric Supply Agreement for Deliveries of Electricity and Necessary, Related Services Effective January 1, 2009; Approve CAPP Contracting with FPL Energy and Direct Energy and Authorizing the Mayor or Other Designated City Official to Sign a Contract with CAPP for the City’s Electricity Needs for the Period Beginning January 1, 2009 and Extending Up to December 31, 2013. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

RESOLUTION NO. 620

A RESOLUTION OF THE CITY OF TERRELL, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; APPROVING CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE MAYOR OR OTHER DESIGNATED CITY OFFICIAL TO SIGN A CONTRACT WITH CAPP FOR THE CITY’S ELECTRICITY NEEDS FOR THE PERIOD BEGINNING JANUARY 1, 2009 AND EXTENDING UP TO DECEMBER 31, 2013; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS FOR THE PERIOD BEGINNING JANUARY 1, 2009, AND EXTENDING UP TO DECEMBER 31, 2013.

WHEREAS, the City of Terrell, Texas (City) is a member of Cities Aggregation Power Project, Inc. (CAPP), a nonprofit political subdivision corporation dedicated to securing electric power for its 111 political subdivision members in the competitive retail market; and

WHEREAS, CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and

WHEREAS, the City's current contract for power expires December 31, 2008; and

WHEREAS, CAPP members must secure power supplies for 2009 or revert to high price standard contracts and independently shop for a power contract; and

WHEREAS, the CAPP Board of Directors is currently considering indicative retail energy prices that point to favorable pricing for the five year period ending December 31, 2013; and

WHEREAS, power providers desire to execute a contract with one, and only one, entity rather than have unique contracts for each CAPP member; and

WHEREAS, CAPP believes that the pricing opportunity window for favorable 2009 deliveries will be short-lived and that CAPP must be able to commit contractually to prices within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for CAPP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, aggregated rates contracted during favorable pricing periods are likely to be lower than prices obtained by the City contracting individually during the same time period; and

WHEREAS, suppliers demand assurance that CAPP will pay for all contracted load; and

WHEREAS, the City must assure CAPP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through CAPP for the period beginning January 1, 2009 and extending through December 31, 2013; and

WHEREAS, CAPP intends to continue to contract with both FPL Energy (power supply) and Direct Energy (billing, administrative and other customer services); and

WHEREAS, the current contractual relationships between CAPP and FPL Energy and Direct Energy have been beneficial and cost effective for CAPP members and the City.

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

Section 1:

That the CAPP Board and its consultants and advisors are agents authorized to negotiate for the City's electricity needs as a member of CAPP for a term to begin January 1, 2009 and extending up to December 31, 2013.

Section 2:

That the City approves CAPP contracting with FPL Energy and Direct Energy for the supply of electric power and related, necessary services for the City for a term to begin January 1, 2009 and extending up to December 31, 2013.

Section 3:

That the City will execute a contract with CAPP that permits the Chairman of CAPP to sign a Commercial Electric Service Agreement ("CESA") for the City's electricity needs and related, necessary services beginning January 1, 2009 and extending up to December 31, 2013, as a member of CAPP and commits its load for the same period pursuant to the contract recommended and approved by the CAPP Board of Directors.

Section 4:

That the City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement arranged by CAPP and signed by the Chairman of CAPP on behalf of all CAPP members for the term beginning January 1, 2009 and extending up to December 31, 2013.

Section 5:

That a copy of the resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

PRESENTED AND PASSED on this 4th day of November, 2008, by a vote of 5 ayes and 0 nays at a regular meeting of the City Council of the City of Terrell, Texas.

7. Discuss and Consider Approval of Ordinance No. 2387 – An Ordinance Amending Chapter 12 of the Code of Ordinances by Adding a New Section 12-17: Establishing an Identity Theft Prevention Program.

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Ordinance No. 2387 – An Ordinance Amending Chapter 12 of the Code of Ordinances by Adding a New Section 12-17: Establishing an Identity Theft Prevention Program. Councilmember Ricky Jordan made a motion to approve Ordinance No. 2387 - An Ordinance Amending Chapter 12 of the Code of Ordinances by Adding a New Section 12-17: Establishing an Identity Theft Prevention Program on first reading. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2387

AN ORDINANCE BY THE CITY OF TERRELL, TEXAS, AMENDING CHAPTER 12 CODE OF ORDINANCES BY ADDING A NEW SECTION 12-17 ESTABLISHING AN IDENTITY THEFT PREVENTION PROGRAM, TO SET OUT DEFINITIONS, POLICIES AND PROCEDURES FOR IMPLEMENTATION OF THE IDENTITY THEFT PREVENTION PROGRAM; TO PROVIDE A REPEALING CLAUSE, TO PROVIDE A SAVINGS AND SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

8. Discuss and Consider December Meeting Schedule.

Council agreed to meet on December 2, 2008 and will hold a pre-meeting if necessary on the same date. Deputy Mayor Pro tem Don Thurman made a motion to approve meeting December 2, 2008 only. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nayses – none. Motion carried.

CONSENT AGENDA

There were no items on Consent Agenda.

END OF CONSENT AGENDA

9. Receive City Manager's Reports and Correspondence:

- a.) **City Council Fall Retreat – November 13-14, 2008.**
- b.) **Update Regarding Terrell Citizens University.**
- c.) **Update Regarding Hospital Lease.**

City Manager Torry Edwards presented Reports and Correspondence to Council.

10. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government to Discuss Section 551.071 – Consultation with Attorney – Nona Smith v. the City of Terrell, Texas .

Council adjourned into Executive Session.

11. Reconvene into Regular Session and Consider Action, if any, on Item Discussed in Executive Session.

There was no action taken in Executive Session.

12. Adjourn.

There were no other matters discussed or acted on at this meeting. There being no further business the meeting was adjourned.

Hal Richards, Mayor

Attest:

John Rounsavall, City Secretary