

REGULAR CITY COUNCIL MEETING

SEPTEMBER 6, 2011

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, September 6, 2011 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 SANDRA WILSON
COUNCILMEMBER #3 RICKY JORDAN
COUNCILMEMBER #4 JACK JONES
COUNCILMEMBER #5 D.J. ORY**

1. Call to order.

Mayor Hal Richards called the meeting to order.

2. Invocation.

Mayor Pro tem Jack Jones gave the opening prayer.

3. Discuss and Consider Approval of City Council Special Meeting Workshop Minutes of August 11, 2011 and Regular City Council Meeting Minutes of August 16, 2011 and Special Meeting Workshop Minutes of August 18, 2011.

Deputy Mayor Pro tem Sandra Wilson made a motion to approve City Council Special Meeting Workshop Minutes of August 11, 2011 and Regular City Council Meeting Minutes of August 16, 2011 and Special Meeting Workshop Minutes of August 18, 2011. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

4. Hear Remarks from Visitors

Stephanie Thomas – 607 Rosehill Road, Terrell, Texas came before Council to complain about code enforcement action taking her two (2) vehicles.

Mayor Hal Richards recognized Valente Briones for attending the Council Meeting.

PUBLIC HEARING

- 5. Conduct a Public Hearing to Receive Comment for the Purpose of Considering Councilmember District Populations and Boundaries Based Upon the 2010 Census, and the Consideration of Proposed Plans for Revised Councilmember District Boundaries. The City Council will Receive Public Comments on the Proposed Councilmember District Boundaries and Re-districting Plans.**

El ayuntamiento de la Ciudad de Terrell, Tejas tendrá una audiencia pública en las cámaras de ayuntamiento de la ciudad, situados en 201 E. Nash Street, Terrell, Tejas a las 7:00 en punto P.M., el martes, septiembre 6, 2011, con el fin de considerar las poblaciones y los límites del distrito de Miembros del Concilio y fronteras basados en el Censo 2010, y la consideración de los planes propuestos para el boundarie revisado del distrito del ayuntamiento. El ayuntamiento recibirá los comentarios públicos sobre los planes de fronteras propuestas del distrito de Miembro de Concilio de la ciudad.

Jeremy Ullman and Jacob Limon representing Knight and Partners gave opening comments to Council regarding a Public Hearing to Receive Comment for the Purpose of Considering Councilmember District Populations and Boundaries Based Upon the 2010 Census, and the Consideration of Proposed Plans for Revised Councilmember District Boundaries. The City Council will Receive Public Comments on the Proposed Councilmember District Boundaries and Re-districting Plans. Mayor Hal Richards opened a Public Hearing to Receive Comment for the Purpose of Considering Councilmember District Populations and Boundaries Based Upon the 2010 Census, and the Consideration of Proposed Plans for Revised Councilmember District Boundaries. No one spoke for or against Proposed Plans for Revised Councilmember District Boundaries. Mayor Hal Richards closed the Public Hearing.

- 6. a.) Conduct a Public Hearing to Receive Comment Regarding the Fiscal Year 2011-2012 Budget.**

John Rounsavall, City Secretary/Finance Director gave opening comments to Council Regarding the Fiscal Year 2011-2012 Budget. Mayor Hal Richards opened a Public Hearing to receive Comment Regarding the Fiscal Year 2011-2012 Budget. No one spoke for or against the Fiscal Year 2011-2012 Budget. Mayor Hal Richards closed the Public Hearing.

- b.) Discuss and Consider Approval of Ordinance No. 2501 – Approval Fiscal Year 2011-2012 Budget.**

Councilmember D.J. Ory made a motion to approve Ordinance No. 2501 – Approving the Fiscal Year 2011-2012 Budget on first reading. The motion was seconded by Deputy Mayor Pro tem Sandra Wilson. Ayes – all; Nays –none. Motion carried.

Mayor Hal Richards stated the following for the record:

“The measures that have been taken to live within our means have been led by Mr. Edwards, Mr. Rounsavall and the senior leaders of our city staff. I think many people would be surprised to understand that most of the ideas at conserving our reserves have not been put forth as a result of demands of the Council or citizens but they have been initiated by Mr. Edwards and it is exemplary leadership, I think, and it’s a lot different than a lot of people would understand how things really work. Mr. Edwards, I appreciate your leadership. Mr. Rounsavall, as always you have done a great job and Council, I appreciate the attention that you all have paid to this as well.”

ORDINANCE NO. 2501

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS APPROVING AND ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND ENDING SEPTEMBER 30, 2012; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET; APPROPRIATING AND SETTING ASIDE THE NECESSARY FUNDS OUT OF THE GENERAL AND OTHER REVENUES FOR SAID FISCAL YEAR FOR THE MAINTENANCE AND OPERATION OF THE VARIOUS DEPARTMENTS AND FOR VARIOUS ACTIVITIES AND IMPROVEMENTS OF THE CITY; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

NEW BUSINESS

7. Discuss and Consider Approval of Ordinance No. 2502 – Setting the Tax Rate for 2011.

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Ordinance No. 2502 – Setting the Tax Rate for 2011. Mayor Pro tem Jack Jones made a motion to approve Ordinance No. 2502 – Setting the Tax Rate for 2011 on first reading. The motion was seconded by Deputy Mayor Pro tem Sandra Wilson. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2502

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, FIXING THE TAX RATE OF ALL TAXABLE PROPERTY WITHIN THE CITY OF TERRELL, TEXAS, FOR THE YEAR 2011 AND LEVYING AND ORDERING COLLECTION FOR THE YEAR 2011 AND PROVIDING TO SECURE THE PAYMENT OF TAXES ASSESSED.

8. Discuss and Consider Bid and Award of Contract for Reconstruction of Approximately 5-10 Homes Under the Department of Housing and Community Affairs Housing Rehabilitation Reconstruction Assistance Program – HRA 2011-12.

Debbie Zajac, Director of Housing presented to Council for discussion and consideration and Award of Contract for Reconstruction of Approximately 5-10 Homes Under the Department of Housing and Community Affairs Housing Rehabilitation Reconstruction Assistance Program – HRA 2011-12. Deputy Mayor Pro tem Sandra Wilson made a motion to reject all bids for Reconstruction of Approximately 5-10 Homes Under the Department of Housing and Community Affairs Housing Rehabilitation Reconstruction Assistance Program – HRA 2011-12. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nayses – none. Motion carried.

9. Discuss and Consider Approval of Resolution No. 703 - Establishing a Fund Balance Policy for the City of Terrell and Providing an Effective Date.

John Rounsavall, City Secretary/Finance Department presented to Council for discussion and consideration Resolution No. 703 – Establishing a Fund Balance Policy for the City of Terrell and Providing an Effective Date. Councilmember D.J. Ory made a motion to approve Resolution No. 703 - Establishing a Fund Balance Policy for the City of Terrell and Providing an Effective Date. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nayses – none. Motion carried.

RESOLUTION NO. 703

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, ESTABLISHING A FUND BALANCE POLICY FOR THE CITY OF TERRELL AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a Fund Balance Policy is a key element of financial stability of the City of Terrell by setting guidelines for maintaining a fund balance; and

WHEREAS, the maintenance of adequate levels of unassigned fund balance will mitigate financial risk to the City that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and other similar circumstances; and

WHEREAS, unassigned fund balance is an important measure of economic stability; and

WHEREAS, the City Council desires to establish a Fund Balance Policy to ensure that the City maintains adequate fund balances in the City's various operating funds with the capacity to provide sufficient cash flow for daily needs; secure and maintain investment grade bond ratings; offset significant economic downturns or revenue shortfalls and provide for unforeseen expenditures related to emergencies.

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

SECTION 1

The City Council has reviewed the City of Terrell Fund Balance Policy (Revised for GASB 54) as shown on the attached Exhibit "A", and

SECTION 2

The City Council hereby adopts the City of Terrell Fund Balance Policy (Revised for GASB 54) as shown on the attached Exhibit "A" as the City's Fund Balance Policy.

SECTION 3

All Resolutions or parts of Resolutions in force with provisions relating to this Resolution, which are inconsistent or in conflict with the terms or provisions contained herein, are hereby repealed to the extent of any such conflict only. The non-conflicting sections, sentences, paragraphs, and phrases shall remain in full force and effect.

SECTION 4

This Resolution shall become effective immediately upon its passage and approval.

APPROVED AND ADOPTED at a regular meeting of the Terrell City Council on this _6th day of September, 2011.

Exhibit "A"

City of Terrell Fund Balance Policy Revised for GASB 54

Purpose

The purpose of this policy is to establish a key element of the financial stability of the City of Terrell by setting guidelines for fund balance. Unassigned fund balance is an important measure of economic stability and it is essential that the City maintain adequate levels of unassigned fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and other similar circumstances. This policy will ensure the City maintains adequate fund

balances in the City's various operating funds with the capacity to:

- 1 Provide sufficient cash flow for daily financial needs,
- 2 Secure and maintain investment grade bond ratings,
- 3 Offset significant economic downturns or revenue shortfalls, and
- 4 Provide funds for unforeseen expenditures related to emergencies.

Definitions

Fund Equity – A fund's equity is generally the difference between its assets and its liabilities.

Fund Balance – The fund equity of a governmental fund for which an accounting distinction is made between the portions that are spendable and nonspendable. Fund balance is classified into five categories:

- 1) Nonspendable fund balance** – includes the portion of net resources that cannot be spent because of their form (i.e. inventory, long-term loans, or prepaids) or because they must remain in-tact such as the principal of an endowment.

- 2) Restricted fund balance** – includes the portion of net resources on which limitations are imposed by creditors, grantors, contributors, or by laws or regulations of other governments (i.e. externally imposed limitations). Amounts can be spent only for the specific purposes stipulated by external resource providers or as allowed by law through constitutional provisions or enabling legislation. Examples include grant awards and bond proceeds.

- 3) Committed fund balance** – includes the portion of net resources upon

which the City Council has imposed limitations on use. Amounts that can be used only for the specific purposes determined by a *formal action* of the City Council. Commitments may be changed or lifted only by the Council taking the same *formal action* that originally imposed the constraint. The formal action must be approved before the end of the fiscal year in which the commitment will be reflected on the financial statements.

4) Assigned fund balance – includes the portion of net resources for which an *intended* use has been established by the City Council or the City Official authorized to do so by the City Council. Assignments of fund balance are much less formal than commitments and do not require formal action for their imposition or removal. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed which indicates that resources are, at a minimum, intended to be used for the purpose of that fund.

5) Unassigned fund balance – includes the amounts in the general fund in excess of what can properly be classified in one of the other four categories of fund balance. It is the residual classification of the general fund and includes all amounts not contained in other classifications. Unassigned amounts are technically available for any purpose. Negative residual amounts for all other governmental funds are reported in this classification.

Policy

Committed Fund Balance

The City Council is the City's highest level of decision-making authority and the formal action that is required to be taken to

establish, modify, or rescind a fund balance commitment is a resolution approved by the Council at the City's Council meeting. The resolution must either be approved or rescinded, as applicable, prior to the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may be determined in the subsequent period (i.e. the Council may approve the calculation or formula for determining the amount to be committed).

Assigned Fund Balance

The City Council authorizes the City Manager as the City Official responsible for the assignment of fund balance to a specific purpose as approved by this fund balance policy.

Minimum Unassigned Fund Balance

The City's goal is to achieve and maintain an unassigned fund balance in the general fund equal to 18.00% of expenditures. The City considers a balance of less than 8.00% to be cause for concern, barring unusual or deliberate circumstances. In the event that the unassigned fund balance is calculated to be less than the policy stipulates, the City shall plan to adjust budget resources in subsequent fiscal years to restore the balance.

Replenishment of Minimum Fund Balance Reserves

If unassigned fund balance unintentionally falls below 8.00% or if it is anticipated that at the completion of any fiscal year the projected unassigned fund balance will be less than the minimum requirement, the City Manager shall prepare and submit a plan to restore the minimum required level as soon as economic conditions allow. The plan shall detail the steps necessary for the replenishment of fund balance as well as an

estimated timeline for achieving such.

These steps may include, but are not limited to, identifying new, nonrecurring, or alternative sources of revenue; increasing existing revenues, charges and/or fees; use of year end surpluses; and/or enacting cost saving measures such as holding capital purchases, reducing departmental operating budgets, freezing vacant positions, and/or reducing the workforce. The replenishment of fund balance to the minimum level shall be accomplished within a three-year period. If restoration of the reserve cannot be accomplished within such a period without severe hardship to the City, then the Council shall establish an extended time line for attaining the minimum balance.

Order of Expenditure of Funds

When multiple categories of fund balance are available for expenditure (for example, a construction project is being funded partly by a grant, funds set aside by the City Council, and unassigned fund balance), the City will first spend the most restricted funds before moving down to the next most restrictive category with available funds.

Appropriation of Unassigned Fund Balance

Appropriation from the minimum unassigned fund balance shall require the approval of the Council and shall be utilized only for one-time expenditures, such as capital purchases, and not for ongoing expenditures unless a viable revenue plan designed to sustain the expenditure is simultaneously adopted.

The Council may appropriate unassigned fund balances for emergency purposes, as deemed necessary, even if such use decreases the fund

balance below the established minimum.

Monitoring and Reporting

The Director of Finance shall be responsible for monitoring and reporting the City's various reserve balances. The City Manager is directed to make recommendations to the Council on the use of reserve funds both as an element of the annual operating budget submission and from time to time throughout the fiscal year as needs may arise.

Compliance with the provisions of the policy shall be reviewed as a part of the annual operating budget adoption process and subsequent review will be included in the annual audit and financial statement preparation procedures.

10. Discuss and Consider Approval of Ordinance No. 2503 – Amending Chapter 5, Business Regulations, Section 15: Wrecker Service; Providing for Repeal of Conflicting Ordinances; Providing for Severability and Providing an Effective Date.

Jody Lay, Chief of Police presented to Council for discussion and consideration Ordinance No. 2503 - Amending Chapter 5, Business Regulations, Section 15: Wrecker Service; Providing for Repeal of Conflicting Ordinances; Providing for Severability and Providing an Effective Date. Mayor Pro tem Sandra Wilson made a motion to approve Ordinance No. 2503 – Amending Chapter 5, Business Regulations, Section 15: Wrecker Service; Providing for Repeal of Conflicting Ordinances; Providing for Severability and Providing an Effective Date on first reading. The motion was seconded by Councilmember D.J. Ory. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2503

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY TEXAS AMENDING CHAPTER 5, BUSINESS REGULATIONS, SECTION 15, WRECKER SERVICE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

11. Discuss and Consider Appointments to Terrell Municipal Airport Board.

Councilmember Ricky Jordan made a motion to appoint Bill Jenkins to replace the unexpired term of Peter Esposito. The motion was seconded by Deputy Mayor Pro tem Sandra Wilson. Ayes – all; Nays – none. Motion carried. Ayes – all; Nays – none. Motion carried.

Mayor Pro tem Jack Jones made a motion to re-appoint Jerry Gibson to the Airport Board. The motion was seconded by Deputy Mayor Pro tem Sandra Wilson. Ayes – all; Nays –none. Motion carried.

CONSENT AGENDA

14. Discuss and Consider Adoption of Ordinance No. 2499 - Approving an Amendment to various sections of the Zoning Ordinance No. 2444, adopted December 1, 2009, to add a new Executive Estate Single-family District, high quality design elements for single-family residential development and other minor revisions in accordance with the original recommendations of the Comprehensive Plan, Ordinance 2118, adopted on September 3, 2002.

Terry Capehart, Director of Municipal Development presented to Council for discussion and consideration Ordinance No. 2499 - Approving an Amendment to various sections of the Zoning Ordinance No. 2444, adopted December 1, 2009, to add a new Executive Estate Single-family District, high quality design elements for single-family residential development and other minor revisions in accordance with the original recommendations of the Comprehensive Plan, Ordinance 2118, adopted on September 3, 2002 for adoption on second reading. Councilmember D.J. Ory made a motion to approve Ordinance No. 2499 - Approving an Amendment to various sections of the Zoning Ordinance No. 2444, adopted December 1, 2009, to add a new Executive Estate Single-family District, high quality design elements for single-family residential development and other minor revisions in accordance with the original recommendations of the Comprehensive Plan, Ordinance 2118, adopted on September 3, 2002. The motion was seconded by Deputy Mayor Pro tem Sandra Wilson. Ayes – all; Nays – none. Motion carried.

ZONING ORDINANCE – ORDINANCE NO. 2499

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE (CHAPTER 13) OF THE REVISED CODE OF ORDINANCES, CITY OF TERRELL, ADOPTED ON THE 3rd DAY OF AUGUST 2010, TOGETHER WITH ALL AMENDMENTS THERETO; REVISING AND UPDATING PORTIONS OF SECTIONS 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 32, 33, 34, 35, 36, 37, 38, 41 AND 44; ADDING AN EXECUTIVE ESTATE RESIDENTIAL DISTRICT (EE-32); IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE PLANNING AND ZONING COMMISSION; ESTABLISHING AND PROVIDING ZONING REGULATIONS; CREATING USE DISTRICTS IN ACCORDANCE WITH THE COMPREHENSIVE PLAN APPROVED BY THE CITY COUNCIL; REGULATING WITHIN SUCH DISTRICTS THE HEIGHT OF BUILDINGS AND STRUCTURES, THE SIZE OF YARDS COURTS AND OPEN SPACES, AND THE HEIGHT, BULK, EXTERIOR ELEVATIONS AND USE OF BUILDINGS AND LAND FOR NONRESIDENTIAL,

RESIDENTIAL AND OTHER PURPOSES; SPECIFYING MINIMUM REQUIREMENTS FOR OFF-STREET PARKING OF MOTOR VEHICLES AND OFF-STREET LOADING AREAS; PROVIDING MINIMUM REQUIRED FLOOR AREAS FOR DWELLING UNITS AND THE TYPE OF EXTERIOR CONSTRUCTION WITHIN CERTAIN ZONING DISTRICTS; REGULATING THE DENSITY OF DWELLINGS AND OTHER STRUCTURES AND THE PERCENTAGE OF EACH LOT THAT MAY BE OCCUPIED BY STRUCTURES; ADOPTING PERFORMANCE STANDARDS FOR NONRESIDENTIAL USES; ESTABLISHING THE BASIS FOR CREATING A BUILDING SITE; PROVIDING FOR APPROPRIATE PLAN APPROVALS; PROVIDING FENCE AND WALL REGULATIONS; PROVIDING SPECIAL ACCESS STANDARDS; ADOPTING A ZONING DISTRICT MAP AND MAKING IT A PART OF THIS ORDINANCE, TOGETHER WITH ALL SYMBOLS, MARKINGS AND TABLES APPEARING ON SAID MAP AND WITHIN THE ORDINANCE; CREATING A ZONING BOARD OF ADJUSTMENT AND DEFINING ITS POWERS AND DUTIES; CREATING A PLANNING AND ZONING COMMISSION AND DEFINING ITS POWERS AND DUTIES; PROVIDING FOR NON-CONFORMING USES AND A METHOD OF DISCONTINUANCE THEREOF; DEFINING CERTAIN TERMS AS USED WITHIN THIS ORDINANCE; PROVIDING FOR A CERTIFICATE OF OCCUPANCY AND COMPLIANCE; PROVIDING FOR ALL REFERENCES TO ZONING DISTRICTS IN THE CITY CODE OF ORDINANCES AND OTHER CITY ORDINANCES TO BE SUPERSEDED BY THOSE DISTRICTS LISTED HEREIN; AUTHORIZING PUBLICATION OF THE DESCRIPTIVE CAPTION AND PENALTY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH AND EVERY OFFENSE; PROVIDING A SAVINGS CLAUSE AND A REPEALER CLAUSE; AND PRESERVING RIGHTS IN PENDING LITIGATION REGARDING VIOLATIONS UNDER THE EXISTING ORDINANCE.

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

PASSED AND APPROVED by the City Council of the City of Terrell, Texas on the 16th day of August, 2011.

PASSED AND ADOPTED by the City Council of the City of Terrell, Texas on the 6th day of September, 2011.

12. **Discuss And Consider Adoption of Ordinance No. 2497 - An Ordinance Of The City Council Of The City Of Terrell, Texas, (“City”) Approving A Negotiated Resolution Between The Atmos Cities Steering Committee (“Acsc” Or “Steering Committee”) And Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” Or “Company”) Regarding The Company’s Fourth Annual Rate Review Mechanism (“Rrm”) Filing In All Cities Exercising Original Jurisdiction; Declaring Existing Rates To Be Unreasonable; Adopting Tariffs That Reflect Rate Adjustments Consistent With The Negotiated Settlement And Finding The Rates To Be Set By The Attached Tariffs To Be Just And Reasonable; Requiring The Company To Reimburse Cities’ Reasonable Ratemaking Expenses; Repealing Conflicting Resolutions Or Ordinances; Determining That This Ordinance Was Passed In Accordance With The Requirements Of The Texas Open Meetings Act; Adopting A Savings Clause; Declaring An Effective Date; And Requiring Delivery Of This Ordinance To The Company And The Steering Committee’s Legal Counsel.**

Mayor Pro tem Jack Jones made a motion adopt Ordinance No. 2497 - An Ordinance Of The City Council Of The City Of Terrell, Texas, (“City”) Approving A Negotiated Resolution Between The Atmos Cities Steering Committee (“Acsc” Or “Steering Committee”) And Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” Or “Company”) Regarding The Company’s Fourth Annual Rate Review Mechanism (“Rrm”) Filing In All Cities Exercising Original Jurisdiction; Declaring Existing Rates To Be Unreasonable; Adopting Tariffs That Reflect Rate Adjustments Consistent With The Negotiated Settlement And Finding The Rates To Be Set By The Attached Tariffs To Be Just And Reasonable; Requiring The Company To Reimburse Cities’ Reasonable Ratemaking Expenses; Repealing Conflicting Resolutions Or Ordinances; Determining That This Ordinance Was Passed In Accordance With The Requirements Of The Texas Open Meetings Act; Adopting A Savings Clause; Declaring An Effective Date; And Requiring Delivery Of This Ordinance To The Company And The Steering Committee’s Legal Counsel on second reading. The motion was seconded by Deputy Mayor Pro tem Sandra Wilson. Ayes – all; Nayes –none. Motion carried.

ORDINANCE NO. 2497

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, (“CITY”) APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC” OR “STEERING COMMITTEE”) AND ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX” OR “COMPANY”) REGARDING THE COMPANY’S FOURTH ANNUAL RATE REVIEW MECHANISM (“RRM”) FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES’ REASONABLE RATEMAKING EXPENSES; REPEALING CONFLICTING

RESOLUTIONS OR ORDINANCES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

WHEREAS, the City of Terrell, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"), a coalition of approximately 154 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area (such participating cities are referred to herein as "ACSC Cities"); and

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

WHEREAS, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM Tariff; and

WHEREAS, the 2008 Settlement Agreement contemplates reimbursement of ACSC Cities' reasonable expenses associated with RRM applications; and

WHEREAS, the Steering Committee and Atmos Mid-Tex agreed to extend the RRM process in reaching a settlement in 2010 on the third RRM filing; and

WHEREAS, on or about April 1, 2011, the Company filed with the city its fourth annual RRM filing, requesting to increase natural gas base rates by \$15.7 million; and

WHEREAS, ACSC coordinated its review of Atmos Mid-Tex's RRM filing by designating a Settlement Committee made up of ACSC representatives, assisted by ACSC attorneys and consultants, to resolve issues identified by ACSC in the Company's RRM filing; and

WHEREAS, independent analysis by ACSC's rate expert concluded that Atmos Mid-Tex is unable to justify an increase over current rates except for undisputed costs of \$6.6 million to cover the steel service line replacement program initiated in 2010; and

WHEREAS, the ACSC Settlement Committee, as well as ACSC lawyers and consultants, recommend that ACSC Cities approve the attached rate tariffs ("Attachment A" to this Ordinance), which will increase the Company's revenue requirement by \$6.6 million to extend current recovery of incremental direct costs of the steel service line replacement program authorized by ACSC Cities in ordinances passed in 2010; and

WHEREAS, the attached tariffs implementing new rates are consistent with the negotiated resolution reached by ACSC Cities and are just, reasonable, and in the public interest.

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

Section 1. That the findings set forth in this Ordinance are hereby in all things approved.

Section 2. That the City Council finds the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs which are attached hereto and incorporated herein as Attachment A, are just and reasonable and are hereby adopted.

Section 3. That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC Cities in processing the Company's rate application.

Section 4. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 5. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 7. That this Ordinance shall become effective from and after its passage with rates authorized by attached Tariffs to be effective for bills rendered on or after September 1, 2011.

Section 8. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED this 16th day of August, 2011.

PASSED AND ADOPTED this 6th day of September, 2011.

13. Discuss and Consider Adoption of Ordinance No. 2498 - Approving an Amendment to Section 5 of the Comprehensive Plan and Future Land Use Map to add new residential density models in accordance with the original recommendations of the Comprehensive Plan, Ordinance 2118, adopted on September 3, 2002.

Deputy Mayor Pro tem Sandra Wilson made a motion to adopt Ordinance No. 2498 - Approving an Amendment to Section 5 of the Comprehensive Plan and Future Land Use Map to add new residential density models in accordance with the original recommendations of the Comprehensive Plan, Ordinance 2118, adopted on September 3, 2002. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2498

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE OFFICIAL COMPREHENSIVE PLAN AND FUTURE LAND USE PLAN, ORDINANCE NO. 2118 ADOPTED ON SEPTEMBER 3, 2003, IN ORDER TO ESTABLISH NEW RESIDENTIAL DENSITY MODELS TO ENCOURAGE HIGH QUALITY RESIDENTIAL NEIGHBORHOODS IN THE EXTRATERRITORIAL JURISDICTION (ETJ) AND CITY LIMITS OF TERRELL, KAUFMAN COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN UPDATE TO THE OFFICIAL THOROUGHFARE MAP.

ARTICLE I.

WHEREAS, the Planning and Zoning Commission of the City of Terrell, Texas, and the governing body of the City of Terrell, Texas, in compliance with the Charter of the City of Terrell, Texas and State law with reference to granting of changes to the Comprehensive Plan and Future Land Use Plan, Ordinance No. 2118 have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, and to the persons interested and situated in the affected area and in the vicinity thereof, the governing body of the City of Terrell, Texas, is of the opinion that said amendments to the official Comprehensive Plan and Future Land Use Plan are in the best interest of the general welfare of the public and should be made in order to promote high quality residential developments that are aesthetically pleasing, yet meet the diverse housing market needs of the City of Terrell, Kaufman County, Texas; and

WHEREAS, the Comprehensive Plan, Section 3, Goals and Objectives, Goal 3 states: “To encourage development of high quality residential neighborhoods that are aesthetically pleasing, yet meet the diverse housing market needs of the community.” ; and

Whereas, Objective 3.01 states, “Consider development of design guidelines for future single-family and/or multi-family developments to ensure provision of safe, attractive places for people to live.” Objective 3.02 states, “Identify areas on the Future Land Use Plan that are appropriate for a variety of residential densities (e.g., low, medium, and high) and lot sizes.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Terrell, Texas:

THAT the official Comprehensive Plan and Future Land Use Plan, Ordinance No. 2118, of the City of Terrell, Texas, be, and the same is hereby amended so as to delineate the new recommended housing densities (see Exhibit ‘A’) and their preferred locations as shown on the revised Future Land Use Plan and other being shown on Exhibit ‘B’, hereinafter provided. It is directed that the Comprehensive Plan and Future Land Use Plan of the City of Terrell, Texas, be changed to reflect the amendments established by this Ordinance.

That the above amendments shall be used only in the manner and for the purposes allowed by the Comprehensive Plan to guide future land development as amended heretofore, and as amended herein.

ARTICLE II.

All ordinances or part of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE IV.

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such case provides.

PASSED AND APPROVED this the 16th day of August, 2011.

PASSED AND ADOPTED this the 6th day of September, 2011.

EXHIBIT A

SECTION 5, BEGINNING ON PAGE 5-10 OF THE COMPREHENSIVE PLAN, ORDINANCE 2118, IS AMENDED AS FOLLOWS:

Low Density Residential (Single-Family) – (second paragraph shall read):

“The recommended density for the ‘Low Density Residential’ category should not exceed 2.7 dwelling units per acre with a recommended minimum lot size of 16,000 square feet. Low density single-family residential development is considered to be the transitional area between urban development and rural development where infrastructure, such as, roadways, water and sewer services are limited and cannot support higher density development without severe constraints on available capacity. Higher densities can only be supported if a developer’s agreement is executed with the City in which major upgrades to the existing infrastructure is proposed in order to mitigate the increased demand on such services created by the development or if such services are extended over time as a natural outgrowth of the urban center of the city into a new undeveloped area.”

Medium-Low Density Residential (Single-Family) – (new category):

“The recommended density for the ‘Medium-Low Density Residential’ category should not exceed 5.8 dwelling units per acre with a recommended minimum lot size of 7,500 square feet. Medium-Low density single-family residential development is considered to be an integral part of a neighborhood center surrounding local retail, professional office, or other local services typically located in the proximity of an intersection of two thoroughfares. A neighborhood center is described as approximately a ten minute walk to the local retail center or approximately within a 1,500 foot radius of the thoroughfare intersection. The purpose of this density model is to create long term sustainable economic viability and stability for both the residential and nonresidential land uses. Easy access to the thoroughfares and close proximity to water and sewer services provides for efficient delivery of services, safe traffic and pedestrian oriented neighborhoods which further reduces traffic on local streets.”

Medium Density Residential (Single-Family) – (revise entire section as follows):

“The recommended density for the ‘Medium Density Residential’ category should not exceed 7.2 dwelling units per acre with a recommended minimum lot size of 6,000 square feet. Medium density single-family residential development is considered to be an infill single-family detached residential land use ideally suited for neighborhood revitalization of older neighborhoods in which the housing has begun to decline and numerous vacant lots present an opportunity for development of affordable housing to stabilize the neighborhoods. Constraints of existing lot size, vested land uses, block length and the character of the surrounding neighborhoods dictate that a smaller minimum lot size is required to efficiently redevelop these areas and incentivize revitalization. New development utilizing this density model should be located within the current city limit boundaries in close proximity to larger regional retail centers, schools, and churches or used as a transition between high density residential such as multi-family or townhouse development and medium low density single-family residential in order to help balance the demand on the public infrastructure.”

Medium-High Density Residential (Single-Family) – (new category):

“The recommended density for the ‘Medium-High Density Residential’ category should not exceed 12 dwelling units per acre with a recommended minimum lot size of 3,000 square feet. Medium-High density single-family residential development is an attached single-family residential also known as Townhouse development which also includes duplexes. Medium-High Density Townhouse development is ideally suited to be located near the Central Business District, new town centers, employment centers, schools (especially colleges), golf courses, parks or other amenities whose success is dependent upon pedestrian oriented traffic. Live-work units, mixed development, transit oriented development and other expressions of this Medium-High Density design model utilizing Urban SMART growth principles should be considered in future planned developments or infill development proposals.”

High Density Residential (Multi-Family) – (revise section as follows):

“The recommended maximum density for the ‘High Density Multi-family Residential’ category is 22 dwelling units per acre with a maximum project size of 15 acres for apartments and a

maximum density of 10 dwelling units per acre with a maximum project size of 15 acres for a manufactured home park. Under the original 1961 Zoning Ordinance uses were cumulative which meant the more intense the land use district the more uses were allowed in the district including many uses which are incompatible. Most of the existing multi-family units in Terrell were built in nonresidential districts in which the multi-family use is no longer allowed. New areas need to be identified which are suitable for multi-family uses which are in close proximity to other uses which would benefit from the higher density development, such as, retail, employment centers or educational campuses. The amount of land that has been developed for multi-family land use is similar to that which has been for duplex and townhomes - that is, approximately one percent. It is recommended that the City generally continue to maintain its existing land use percentage and housing unit percentage of high density residential use. In terms of future multi-family development, the following guidelines should be applied:

- High Density Multi-Family Residential Uses are intended to be a direct support to large retail, employment or education centers and apartment complexes should be located in close proximity to such uses. Free standing traditional apartment complexes are to be discouraged where pedestrian connections to retail, employment or schools are difficult or impossible which creates high traffic impacts on the local street system.
- Multi-family complexes should be designed to accommodate ground floor businesses, such as, small retail, office, service uses or live/work units in which the owners or employees of such businesses can live in the same complex where they are employed. Parking for the patrons of the first floor businesses should be located in the front of the buildings with convenient access to the adjacent streets while resident parking is located in the interior or rear of the complex.
- SMART Growth urban design elements should be considered in any development plan in which multi-family residential uses are considered in order to help create a sustainable, efficient and economically viable project.
- The proposed multi-family tract should be located along a collector or major thoroughfare (i.e., not directly along local residential streets).
- The tract should not be less than approximately ten acres in size; this will help to ensure that the complex is large enough to have an office on-site and that the complex will be well-maintained.
- If the tract is adjacent to single-family residential dwellings, transition areas (green space, buffer areas, medium density development, etc.) should be incorporated into the project.
- Based upon the density of the complex, an appropriate amount of usable open space should be required of such developments.
- The average number of dwelling units for high density residential areas should be approximately 15, with a maximum of 22 units per acre. The City may also want to incorporate “density bonuses”, allowing a higher number of units per acre for specific amenities, such as garages and landscaping, live/work units, or mixed uses as part of a large retail development.

Future Land Use Legend

-  **Low Density Residential**
-  **Medium Low Density Residential**
-  **Medium Density Residential**
-  **Medium High Density Residential**
-  **High Density Residential**
-  **Manufactured Homes**
-  **Public/Semi-Public**
-  **Parks & Open Space**
-  **Retail**
-  **Central Business District**
-  **Mixed Use**
-  **Commercial**
-  **Office**
-  **Industrial**
-  **Highway Corridor**
-  **Floodplain**

-  **Terrell City Limits**
-  **Terrell ETJ**

15. **Discuss and Consider Adoption of Ordinance No. 2500 – Approving an Amendment to the Subdivision Regulations Ordinance No. 2255, adopted January 18, 2005, in accordance with Chapter 212 of the Texas Local Government Code.**

Councilmember Ricky Jordan made a motion to adopt Ordinance No. 2500 – Approving an Amendment to the Subdivision Regulations Ordinance No. 2255, adopted January 18, 2005, in accordance with Chapter 212 of the Texas Local Government Code. The motion was seconded by Deputy Mayor Pro tem Sandra Wilson. Ayes – all; Nays – none. Motion carried.

SUBDIVISION REGULATIONS - ORDINANCE 2500

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING
THE SUBDIVISION REGULATIONS, ORDINANCE NO. 2255, OF**

THE CITY OF TERRELL, TEXAS, AS ADOPTED ON JANUARY 18, 2005; ADOPTING NEW SUBDIVISION REGULATIONS FOR THE CITY OF TERRELL; EXTENDING THE SUBDIVISION REGULATIONS INTO THE CITY'S EXTRATERRITORIAL JURISDICTION IN ACCORDANCE WITH THE INTERLOCAL AGREEMENT, AUTHORIZED UNDER HOUSE BILL 1445, ENACTED BY THE TEXAS LEGISLATURE DURING ITS 77TH LEGISLATIVE SESSION, EXECUTED BETWEEN KAUFMAN COUNTY AND THE CITY OF TERRELL ON JANUARY 30, 2002; ADOPTING SUBCHAPTER B, CHAPTER 212 OF THE TEXAS LOCAL GOVERNMENT CODE WHICH ALLOWS FOR THE REQUIREMENT OF DEVELOPMENT PLATS IN THE CITY AND WITHIN ITS EXTRATERRITORIAL JURISDICTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.

THIS ORDINANCE IS HEREBY ADOPTED AS THE SUBDIVISION ORDINANCE OF THE CITY OF TERRELL, TEXAS. THE PREVIOUS SUBDIVISION REGULATIONS OF THE CITY, ORDINANCE NUMBER 2255, AS ADOPTED ON JANUARY 18, 2005, TOGETHER WITH AMENDMENTS THERETO, IS HEREBY REPEALED AND REPLACED BY THIS ORDINANCE, WHICH SHALL READ AS FOLLOWS:

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THIS 16TH DAY OF AUGUST, 2011.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THIS 6TH DAY OF SEPTEMBER, 2011.

END OF CONSENT AGENDA

16. Receive City Manager's Reports and Correspondence - Correspondence Regarding Staff Appreciation.

City Manager Torry Edwards presented to Council City Manager's Reports and Correspondence.

17. Adjourn into Executive Session in Accordance with Section 551 of the Texas Government Code to Discuss the Following:

- e.) **Section 551.071 – Consultation with Attorney.**
- f.) **Section 551.087 – Economic Development Negotiations.**
- g.) **Section 551.072 – Real Estate Matters.**

This item was passed.

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

This item was passed.

19. 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