

**REGULAR MEETING**

**February 7, 2012**

**7:00 p.m.**

A Public Hearing was held concerning the Final Notice and Order of Condemnation Order on Kerens OT, Block 72, North 25' of lot 4, located at 206 S. Colket Avenue.

No one present to comment

There being a quorum present, Mayor Saunders called the meeting to order at 7:05 p.m.

Council members present: Rick Neumayer, Brett Latta, Greg Allen, Ann Fessenden and Tyrone Martin

Absent: None

Neumayer made a motion to approve the Consent Agenda to include the Minutes to the last meeting and budget review and payment of bills. Fessenden seconded the motion. Votes:

**For** – Neumayer, Latta, Allen, Fessenden and Martin

**Against** – None

**Passed** – 5-0

**Public Comment:**

- Monte Thacker addressed the council showing his appreciation of the Kerens Police Department for all the help they have given him as principal of Kerens High School.

The council discussed updates to Kerens City Code of Ordinances Chapter 8 Traffic Code.

- Council decided that additional 4-way stops at the intersections of SW Second and SW Fourth at Goodman, Bonner, and Throckmorton as well as at SW Third and SW Fifth at Humphreys would control traffic better than lowering the speed limit. Ordinances will be brought for first reading at the March meeting.
- pedestrian crossings on S. Colket in the downtown area would not be pursued any further.

The following Ordinance was read for the first time for consideration:

**ORDINANCE**

**AN ORDINANCE OF THE CITY OF KERENS, TEXAS,  
AMENDING THAT SECTION OF THE CODE OF ORDINANCES,  
CITY OF KERENS, TEXAS CHAPTER 8, SECTION 4 - A -  
TRAFFIC CONTROL SIGNS**

**Be it Ordained by the City Council of the City of Kerens, Texas:**

**THAT** a Stop Sign will be added at the north and south side of SE Second Street at its intersection with S Ferguson Avenue controlling east and west bound traffic on SE Second Street;

**SEVERABILITY**

If any provision, section, subsection, sentence, clause or phrase of this ordinance, or

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the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Kerens, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any portion or provision.

Latta made a motion to set the second and final reading of the Ordinance for the March Regular Meeting. Neumayer seconded the motion. Votes:

**For** – Neumayer, Latta, Allen, Fessenden, and Martin

**Against** – None

**Passed** – 5-0

Neumayer made a motion to approve Mayor Saunders appointment of James Martin and Carol Cottrell to the Board of Commissioners of the Housing Authority of the City of Kerens. Latta seconded the motion. Votes:

**For** – Neumayer, Latta, Allen, Fessenden, and Martin

**Against** – None

**Passed** – 5-0

Neumayer made a motion to award the construction contract for addition drainage improvements under Drainage Improvement Grant #729147 to the apparent low bidder, J&K Excavation, for their base bid in the amount of \$45,745.70, contingent on approval by TDRA. Latta seconded the motion. Votes:

**For** – Neumayer, Latta, Allen, Fessenden, and Martin

**Against** – None

**Passed** – 5-0

The following resolution was read for consideration:

**RESOLUTION NO. 02072012**

**RESOLUTION BY THE CITY OF KERENS, TEXAS (“CITY”) SUSPENDING THE EFFECTIVE DATE FOR NINETY DAYS IN CONNECTION WITH THE RATE INCREASE FILING OF ATMOS ENERGY CORPORATION ON OR ABOUT JANUARY 31, 2012; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE**

**WHEREAS**, Atmos Energy Corporation (“Atmos” or “Company”) filed a Statement of Intent with the City on or about January 31, 2012 to change its rate schedules within the corporate limits of this municipality, specifically to increase its system-wide,

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annual revenue requirement by approximately \$49.0 million which is an increase in base-rate revenue exclusive of cost of gas of approximately 12%; and

**WHEREAS**, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 104, §103.001 et seq. of GURA has exclusive original jurisdiction over Atmos’ rates, operations, and services within the municipality; and

**WHEREAS**, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating Atmos’ rate request and its changes in tariffs it is prudent to coordinate the City’s efforts with a coalition of similarly situated municipalities; and

**WHEREAS**, the City, in matters regarding applications by Atmos to change rates, has in the past joined with other local regulatory authorities to form the Atmos Texas Municipalities (“ATM”), and hereby continues its participation in ATM; and

**WHEREAS**, Atmos’ rate request consists of a voluminous amount of information including Atmos’ rate-filing package, pre-filed direct testimony, exhibits, schedules, and workpapers; and

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

**WHEREAS**, it is not possible for the City to complete its review of Atmos’ filing by March 6, 2012; and

**WHEREAS**, the City will need an adequate amount of time to review and evaluate Atmos’ rate application to enable the City to adopt a final decision as a local regulatory authority with regard to Atmos’ requested rate increase; and

**WHEREAS**, the City will require the assistance of specialized legal counsel and rate experts to review the merits of Atmos’ application to increase rates; and

**WHEREAS**, to the extent Atmos seeks review at the Railroad Commission of Texas of the City’s final decision regarding Atmos’ statement of intent to change rates, or should Atmos submit a statement of intent to the Railroad Commission to increase rates in the environs of the City, the decision of the Railroad Commission of Texas could have an impact on the rates paid by the City and its citizens who are customers of Atmos and in order for the City’s participation to be meaningful it is important that the City promptly intervene in such proceeding at the Railroad Commission of Texas.

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

**Section 1.** The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

**Section 2.** Atmos' proposed effective date for its proposed increase in rates is hereby SUSPENDED for ninety days beyond March 6, 2012.

**Section 3.** The statutory suspension period may be further extended if Atmos does not provide timely, meaningful, and proper public notice of its request to increase rates, or if its rate-filing package is materially deficient.

**Section 4.** The City shall participate in a coalition of cities known as the Atmos Texas Municipalities or as "ATM" and authorizes intervention in proceedings related to Atmos' Statement of Intent before the Railroad Commission of Texas and related proceedings in courts of law; and

**Section 5.** The City hereby orders Atmos to pay the City's rate case expenses as provided in the Gas Utility Regulatory Act and that Atmos shall do so on a monthly basis and within 30 days after submission of the City's invoices for the City's reasonable costs associated with the City's activities related to this rate review or to related proceedings involving Atmos before the City, the Railroad Commission of Texas, or any court of law.

**Section 6.** Subject to the right to terminate employment at any time, the City retains and authorizes the law firm of Herrera & Boyle, PLLC to act as Special Counsel with regard to rate proceedings involving Atmos before the City, the Railroad Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of Atmos' rate application subject to approval by the steering committee of the ATM.

**Section 7.** The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to Atmos for reimbursement.

**Section 8.** A copy of this resolution shall be sent to Atmos Energy Mid-Tex, care of Mr. David Park, Vice President Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240; and to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Ave., Suite 1250, Austin, Texas 78701.

**Section 9.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 10.** This resolution shall become effective from and after its passage.

Latta made a motion to pass and approve the resolution as presented. Neumayer seconded the motion. Votes:

**For** – Neumayer, Latta, Allen, Fessenden, and Martin  
**Against** – None

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**Passed – 5-0**

Mayor Saunders read the following Order of Election:

**ORDER OF ELECTION FOR MUNICIPALITIES**

**An election is hereby ordered to be held on May 12, 2012 for the purpose of:**  
(date)

Election of three (3) aldermen to serve two-year terms

**Early voting by personal appearance will be conducted each weekday at**

City Hall – 200 S. Colket Ave – Kerens, Texas  
(location)

**between the hours of 8:00 a.m. and 4:00 p.m. beginning on April 30, 2012 and ending on May 8, 2012**  
(date)

**Applications for ballot by mail shall be mailed to:**  
Roshael Rose

\_\_\_\_\_

(Name of Early Voting Clerk)

P. O. Box 160

\_\_\_\_\_

(Address)

Kerens, TX 75144

\_\_\_\_\_

(City) (Zip Code)

**Applications for ballots by mail must be received no later than the close of business on May 4, 2012**

After some discussion about Allied Waste request for a rate increase, the following Ordinance was read for first consideration:

**ORDINANCE**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF KERENS, TEXAS, AMENDING CHAPTER 5 SECTION 1 PART A REVISING MONTHLY RATES AND CHARGES FOR SERVICES FURNISHED BY THE CITY'S SANITATION DEPARTMENT; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH; PRESCRIBING A DATE SUCH RATES AND CHARGES SHALL BECOME EFFECTIVE**

**WHEREAS**, The City Council of the City of Kerens, Texas has determined it necessary to revise the monthly rates and charges of the City's Sanitation Department to meet increased obligations payable from the revenues of said Department; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERENS, TEXAS;**

SECTION 1: REFUSE REGULATIONS

That the monthly rates and charges of the City's Sanitation Department shall be and are hereby revised and established to be as follows:

GARBAGE AND TRASH SERVICE CHARGE

Residential	.....	\$9.50 per month
Business	.....	\$13.50 per month

The rates and charges herein provided for the Sanitation Department shall be effective as of April 1, 2012.

Neumayer made a motion to set the second and final reading of the Ordinance for the March Regular Meeting. Latta seconded the motion. Votes:

- For** – Neumayer, Latta, Allen, Fessenden, and Martin
- Against** – None
- Passed** – 5-0

**Operations**

- **Property Inspections** – Chief Miers stated that Officer Covey's report shows 5 occupancy inspections, 1 voluntary demolition of a structure, and 8 junk vehicles abated.
- **Water Dept.** – Scott updated the council with information on the appeal process that NCWR is processing
- **Sewer Dept.** – jetter had to have a new hose this month.
- **Street Dept.** – Equipment repairs continue. New mower was delivered last week..
- **Police Dept.** – Chief Miers reported that his department has been busy the last couple of weeks. Several incidents with minors. He also reported that although NCSO declined to participate, the interviewing committee met with five applicants and narrowed them down to two for background checks. New weapons were received from military surplus. Don is filling in until a new officer is hired.
- **Animal Control** – a lot of cats and several dogs were caught this month.
- **Court** – no problems. Warrant Roundup is scheduled for this month. New security camera system has been ordered.
- **Tax Dept.** – This month's report not yet received, but 53.18% of current property taxes collected as of December 31, 2011.
- **Office** – no problems
- **Grants** – Mayor Saunders stated that he is looking for money to redo downtown buildings and Overlook with help from Representative Joe Barton's office.
- **Economic Development** – No new information.
- **Long Range Planning** – Pam Carroll has had trailer loads of trees and shrubs donated for Kerens beautification.

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Neumayer made a motion to adjourn the meeting. Latta seconded the motion.  
Votes:

**For** – Neumayer, Latta, Allen, Fessenden, and Martin

**Against** – None

**Passed** – 5-0

With no further business to transact, Mayor Saunders adjourned the meeting at 8:05 p.m.

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**Jeffrey Saunders, Mayor**

**Attest:**

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**Cindy Scott, City Secretary**