

June 16, 2014

On this the 16th day of June 2014 6:00 P.M., the City Commission of the City of Hereford, Texas, convened in a regular session in the Commission Chamber, in the City Hall, the meeting being open to the public and notice of said meeting having been given as prescribed by Chapter 551 of the Government Code, with the following members being present and in attendance, to-wit:

Robert D. Josserand, Mayor
 Jose A. Garza, Commissioner Place One
 Angie Alonzo, Commissioner Place Two
 Charlie Kerr, Commissioner Place Three
 Linda Cumpston, Commissioner, Place Four
 Sam Metcalf, Commissioner Place Six
 Rick L. Hanna, City Manager
 Suzanne Finch, City Secretary

Absent: Cathy Bunch, Commissioner Place Five
 Slater C. Elza, City Attorney

Lynda Work was in attendance from the Hereford Brand to witness the proceedings. Also in attendance were Audie Sciumbato (Attorney Underwood Law Firm), Assistant City Manager Steve Bartels, John Hamilton and Butch Davis (Parkhill, Smith, & Cooper), Joni Kleinschmidt (Riney & Mayfield, LLP), Officer Dustin Tucker, and Seletta Gholson.

Mayor Josserand voiced the invocation and then called upon Commissioner Metcalf to lead the Pledge of Allegiance to the United States flag. He then called the meeting to order, welcomed those in attendance, and introduced each item on the agenda.

REGULAR HEARINGS:

ITEM 1 - Consider approval of minutes for the May 19th, 2014 Regular Meeting.

Commissioner Cumpston made the motion to accept the minutes as presented. Commissioner Garza seconded the motion and it passed with the following vote of the Commission - Mayor Josserand aye; Commissioner Garza aye; Commissioner Alonzo aye; Commissioner Kerr aye; Commissioner Cumpston aye; Commissioner Metcalf abstained.

ITEM 2 - Consider approval of minutes for the May 19th, 2014 Special Meeting.

Commissioner Kerr made the motion to accept the minutes as presented. Commissioner Alonzo seconded the motion and it passed with the unanimous vote of the City Commission.

ITEM 3 - Consider approval of minutes for the June 2nd, 2014 Special Meeting.

Commissioner Garza made the motion to accept the minutes as presented. Commissioner Cumpston seconded the motion and it passed with the unanimous vote of the City Commission.

ITEM 4 - Consider first reading of franchise agreement with Southwestern Public Service (d/b/a Xcel Energy).

Mayor Josserand called upon Attorney Sciumbato to read the pertinent parts of Ordinance No. 08.04.14 noting this is the first of the three required readings.

ORDINANCE NO. 08.04.14

FRANCHISE AGREEMENT

AN ORDINANCE GRANTING TO SOUTHWESTERN PUBLIC SERVICE COMPANY ("SPS") D/B/A XCEL ENERGY THE RIGHT, PRIVILEGE AND FRANCHISE TO CONDUCT WITHIN THE CITY OF HEREFORD, TEXAS, AN ELECTRICAL LIGHTING AND POWER BUSINESS AND TO ENTER UPON, ERECT, CONSTRUCT, MAINTAIN, EXTEND, REPAIR, REPLACE AND REMOVE IN, UNDER UPON, WITHIN, OVER, ABOVE, ACROSS AND ALONG ANY AND ALL OF THE PRESENT AND FUTURE PUBLIC ROADS, HIGHWAYS, STREETS, LANES, AND ALLEYS OF THE CITY OF HEREFORD, A SYSTEM OF POLES, POLE LINES, TOWERS, DISTRIBUTION LINES, TRANSMISSION LINES, WIRES, GUYS, CABLES, CONDUITS, TRANSFORMERS, AND OTHER DISTRIBUTION AND TRANSMISSION EQUIPMENT, FACILITIES AND APPURTENANCES NECESSARY OR PROPER FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY INTO, IN, WITHIN, FROM, ACROSS, AND THROUGH THE CITY OF HEREFORD AS NOW EXISTING, OR AS SAID CITY LIMITS MAY HEREAFTER BE EXTENDED; AND GRANTING SPS, ITS SUCCESSORS AND ASSIGNS, THE AUTHORITY TO USE SUCH FOR THE PURPOSE OF TRANSMISSION, DISTRIBUTION, DELIVERY AND SALE OF ELECTRICITY TO THE CITY, AND TO THE INHABITANTS OF THE CITY, OR ANY OTHER PERSON OR PERSONS, FIRMS OR CORPORATIONS, WHEREVER LOCATED WITHIN OR WITHOUT THE CITY LIMITS OF HEREFORD, FOR USE BY SUCH PURCHASER OR PURCHASERS FOR ANY PURPOSE AUTHORIZED BY LAW FOR WHICH ELECTRICITY MAY BE USED OR FOR ANY OTHER PURPOSE OR USE WHICH IS OR MAY BECOME NORMAL OR CUSTOMARY IN THE RETAIL ELECTRIC INDUSTRY IN TEXAS; PROVIDING THAT THIS FRANCHISE SHALL BE EFFECTIVE FOR A PERIOD OF TEN (10) YEARS COMMENCING AUGUST 1ST, 2014; PROVIDING FOR THE TEMPORARY REMOVAL, RAISING OR LOWERING BY SPS OF ITS WIRES AND OTHER APPURTENANCES; PROVIDING FOR THE RIGHT TO, AND CONDITION OF, THE OPENING OF PAVEMENTS AND SIDEWALKS BY SPS; RETAINING ALL RIGHTS OF CITY TO REGULATE THE LOCATION OF SPS'S FACILITIES IN, UPON, ALONG, UNDER AND OVER THE STREETS, ALLEYS AND OTHER PUBLIC PLACES OF CITY, AS WELL AS TO REQUIRE THE RELOCATION OF SAME; PROVIDING FOR EFFICIENT ELECTRICAL SERVICE AND THE MAINTAINING OF SPS'S FACILITIES; PROVIDING FOR THE USE BY CITY FOR THE PURPOSES SPECIFIED OF POLES AND CONDUITS OF SPS; PROVIDING COMPENSATION, AND METHOD OF PAYMENT OF SUCH, TO THE CITY FOR THE USE BY SPS OF THE STREETS, ALLEYS AND PUBLIC WAYS OF THE CITY; PROVIDING FOR THE MAINTAINING OF RECORDS BY SPS WITH RIGHT OF INSPECTION BY CITY RESERVING TO CITY ALL POWERS OF REGULATION; PROHIBITING ASSIGNMENT EXCEPT BY CONSENT BY CITY EXCEPT IN CERTAIN CASES; GIVING CITY'S CONSENT TO THE CUTTING AND TRIMMING BY SPS OF CONFLICTING TREES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS FRANCHISE SHALL NOT BE EXCLUSIVE; MAKING MISCELLANEOUS PROVISIONS RELATIVE TO THIS GRANT OF FRANCHISE; REPEALING ALL PREVIOUS ELECTRICAL LIGHTING AND POWER FRANCHISE ORDINANCES; PROVIDING FOR THE ACCEPTANCE OF THIS FRANCHISE ORDINANCE BY SPS

Mayor Jossierand asked for any comments on the reading; there were none.

Mayor Josserand went into Executive Session at 6:10 p.m. (pursuant to Government Code §551.072) noting all members were present except Commissioner Bunch.

EXECUTIVE SESSION:

ITEM 5 - Discuss pending litigation on 15th Street Project. (Provided by Title 5, Chapter 551 Government Code §551.071 Consultation with Attorney)

Mayor Josserand ended the Executive Session at 6:55 p.m. noting no action was taken on this item.

REGULAR HEARINGS:

ITEM 6 - Consider authorizing Riney & Mayfield, LLP to file suit on behalf of the City of Hereford against Fuller and Sons Construction on the 15th Street Project.

Commissioner Metcalf made the motion to authorize Riney & Mayfield, LLP to file suit on behalf of the City of Hereford against Fuller and Sons Construction and the bonding company [Westfield Insurance Company] on the 15th Street Project. Commissioner Alonzo seconded the motion and it passed with the unanimous vote of the Commission.

ITEM 7 - Consider cancelling the July 7th, 2014 meeting.

(No action was taken on this item due to time constraints - the Commission had to adjourn to attend a public hearing scheduled for 7:00 p.m. at the Community Center this afternoon.)

ITEM 8 - Announcements and comments from Mayor and City Commissioners.

(There were no comments from the Mayor and City Commissioners.)

ITEM 9 - Announcements and comments from City Staff.

(There were no comments from City Staff.)

ITEM 10 - Public Comments.

(There were no public comments.)

There being no further business before the Commission, the meeting was adjourned at 6:55 p.m.

APPROVED:


ROBERT D. JOSSERAND, MAYOR
CITY OF HEREFORD, TEXAS

ATTEST:


SUZANNE FINCH, CITY SECRETARY