

**BELTON CITY COUNCIL MEETING
DECEMBER 21, 2010**

The Belton City Council met in regular session with the following members present: Mayor Jim Covington, Mayor Pro Tem Marion Grayson, Councilmembers Clifton Peters, David K. Leigh, Wayne Carpenter, Craig Pearson, and John Agan. There were no members absent. Staff present were John Messer, Sam Listi, Connie Torres, Les Hallbauer, Mike Rhoden, Roy Harmon, Karen Evans, Byron Sinclair, Jerri Gauntt, Kim Kroll, Sandy Slade, and Denny Lassetter.

The Pledge of Allegiance to the U.S. Flag was led by IT Director Denny Lassetter, the Pledge of Allegiance to the Texas Flag was led by City Attorney John Messer, and the Invocation was given by Councilmember John Agan.

The Mayor called the meeting to order at 5:32 p.m.

Public comments. The Mayor welcomed Donald Nicholas from State Representative Ralph Sheffield's office.

Receive Child Safety Fee funding from Bell County.

Bell County Judge Jon Burrows and Tax Assessor-Collector Sharon Long presented the City with its share of Child Safety Fee funding received from October 2009-September 2010 in the amount of \$20,713.56.

Consent Agenda

Councilmember Leigh made a motion to approve the consent agenda as presented. The motion was seconded by Councilmember Pearson and the following items were unanimously approved:

Minutes of the previous meeting. Approved as presented.

Consider appointments to the following boards and commissions:

- A. Tax Increment Reinvestment Zone (TIRZ) Board of Directors – Reappointed David K. Leigh, Clifton Peters, Blair Williams, Jon Burrows, and Richard Cortese for additional two-year terms.
- B. TIRZ Board Chair – Reappointed David K. Leigh to serve as Chair of the TIRZ Board for a one-year term.
- C. Housing Board of Adjustments & Appeals – Appointed Bill West to fill Emil Studinka's unexpired term due to relocation.

Consider authorizing the City Manager to execute Change Order No. 2 to the contract with Patin Construction, LLC, for the Avenue D Roadway Improvements Project.

Approved Change Order No. 2 for the Avenue D project for a net addition of \$45,109. Funds will come from 2008 project capital bond funds, and completion date is revised to February 10, 2011. Changes generally shown below:

Part A (Delete): Project Control – Removes \$32,000 from the total \$40,000 allowed in the original contract reserved for work due to unknown conditions discovered after the project began.

Part B (Add): Drainage – Due to the need for a retaining wall required along the south right-of-way of Avenue D to avoid excessive erosion of the adjacent Scarborough property.

Part C (Add): Miscellaneous Items

- 1. 500 linear feet of TxDOT guard rail to be installed along each side of Avenue D (250' on each side) adjacent to headwalls and wing walls of the multiple box culvert to protect vehicular traffic from running off the roadway into the drainage swale created by the culvert.
- 2. Encasement of a utility line in conjunction with construction of the left turn lane and traffic signal at the intersection of Avenue D and Loop 121.
- 3. 4" thick stamped color integrated concrete with reinforcing that will be placed in the long median (20' wide) near the intersection of Loop 121 and Avenue D.
- 4. Striping required due to TxDOT requirements regarding construction of the Loop 121 left turn lane and traffic signal.

Consider an ordinance amending the FY 2010 budget for arbitrage rebate on 2005 General Obligation bonds.

Approved the following captioned ordinance authorizing a budget amendment due to arbitrage rebate paid for the 2005 General Obligation bonds:

ORDINANCE NO. 2010-54

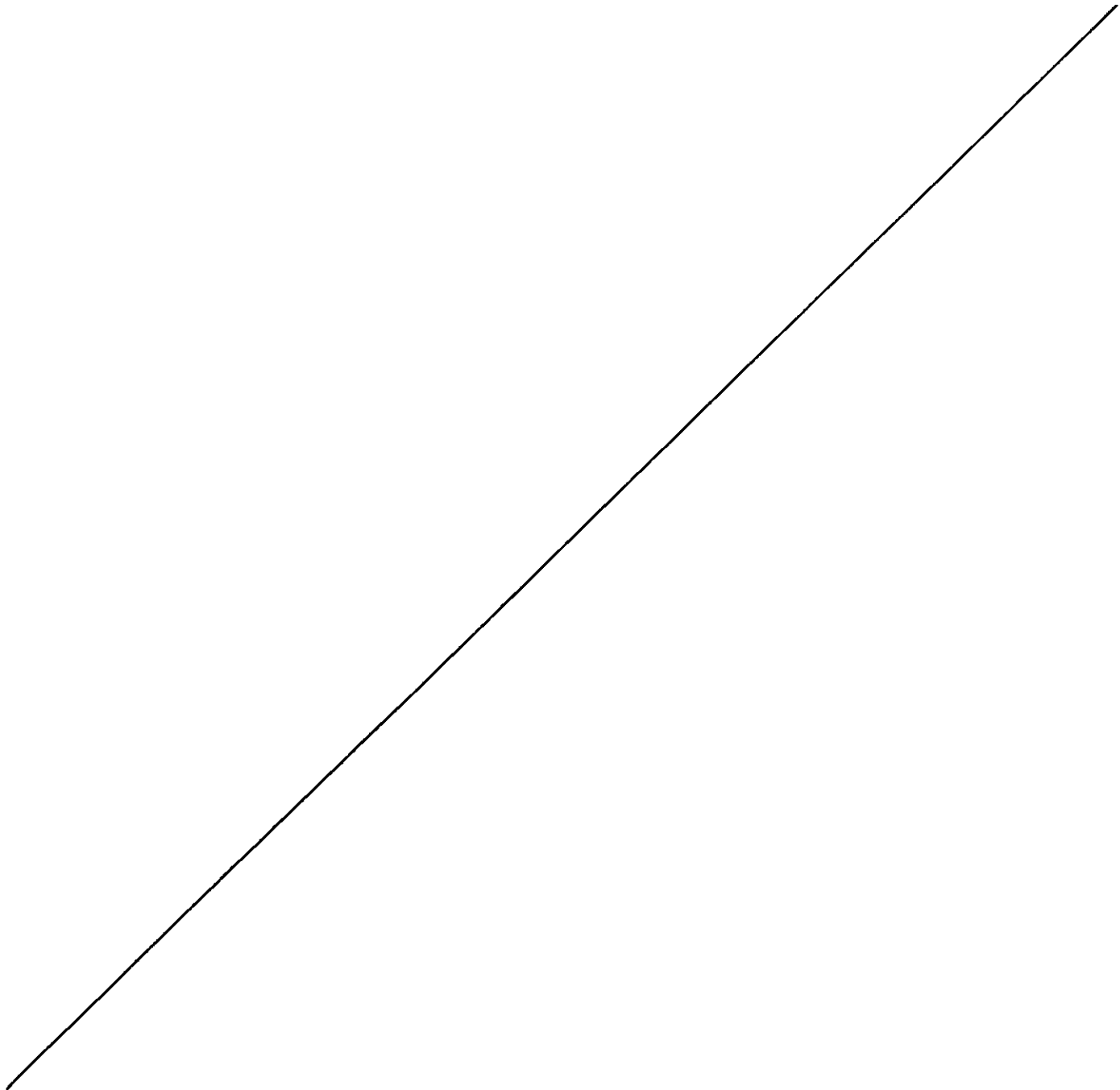
AN ORDINANCE AMENDING THE ANNUAL BUDGET OF THE CITY OF BELTON FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010.

Consider an ordinance pertaining to the possession, sale, delivery, distribution and manufacture of the substance commonly known as “K2”, “K-2” or “Spice”, in the city limits of Belton.

Adopted the following captioned ordinance to aid in preventing use of these potentially dangerous substances:

ORDINANCE NO. 2010-55

AN ORDINANCE OF THE CITY OF BELTON, TEXAS AMENDING CHAPTER 14, “OFFENSES AND MISCELLANEOUS PROVISIONS” OF THE CODE OF ORDINANCES OF THE CITY OF BELTON, TEXAS, PERTAINING TO THE POSSESSION, SALE, DELIVERY, DISTRIBUTION AND MANUFACTURE OF THE SUBSTANCE COMMONLY KNOWN AS “K2”, “K-2” AND “SPICE” BY ADDING CERTAIN DEFINITIONS AND REQUIREMENTS, ESTABLISHING VIOLATIONS AND DEFENSES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES FOR VIOLATIONS; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.



Consider authorizing staff to open a safe deposit box at the City's depository bank and designate signatories thereto.

Authorized City staff to open a safe deposit box account at First State Bank, and designated Denny Lassetter, Dave Bumpus, and Cristy Daniell as signatories. The box will be used to provide off-site storage of computer back-up tapes.

Consider a resolution authorizing the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an Electric Supply Agreement for deliveries of electricity and necessary, related services.

Approved the resolution captioned below, authorizing CAPP to negotiate and execute a revised contract on behalf of the City. (The City's current electric contract runs through December 2013, with energy prices locked in for five years since negotiated in 2008. CAPP informed the City of the opportunity to reduce next year's prices and achieve savings by extending the existing contract, which could produce immediate savings and price stability for the next eight years. CAPP's best estimate is that 2011 prices would drop by approximately 1 cent per kWh from its current rate for Belton, located in the North Zone.)

RESOLUTION NO. 2010-18

A RESOLUTION OF THE CITY OF BELTON, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AND NECESSARY RELATED SERVICES AGREEMENT WITH NEXT ERA FOR A FIXED PRICE PER KWH THAT IS LOWER THAN CONTRACT RATES FOR 2011-2013, SAID EXTENSION TO CONTINUE UNTIL DECEMBER 31, 2018; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2011 OR AS SOON AFTER FINALIZATION OF A CONTRACT AS POSSIBLE; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS THROUGH DECEMBER 31, 2018.

Consider authorizing Letter of Agreement with Atmos Energy providing clarifications of franchise fees as a component of gross revenues, and approving an adjustment in rates.

Authorized the Letter of Agreement adding franchise fees to the definition of gross revenues, with an effective date of January 1, 2009, and approving an adjustment in rates.

(In January 2009, Atmos Energy discontinued including franchise revenue collected from customers in its calculation of gross revenue subject to franchise payments to Texas cities. After several cities questioned the company's interpretation, Atmos is willing to include franchise fees in the definition of gross revenues with the understanding that such fees will be recovered from customers. To include "fee on fee" in gross revenues, Atmos is offering a revision to existing franchise agreements, to clarify the City's intent to include franchise fees in the definition of gross revenues. Since the City chooses to backdate its election, Atmos will remit a make-up payment for January 1, 2009 to present, when franchise fees were not included in gross revenues. The election to include "fee on fee" will impact customers by raising the amount billed above the percentage reflected in the agreement in order to recover the franchise fees paid on franchise fees. For average Belton customers, the revision would have the following effect: average residential customers using 4.5 Mcf (4,500 cubic ft.) per month would realize an approximate increase of \$0.24/month, and average commercial customers using 32.4 Mcf (32,400 cubic ft.) per month would realize an approximate increase of \$2.00/month. Per Atmos' calculation, the likely resulting incremental payment to the City would be a total of approximately \$10,000 for the effected time period.)

Conduct review of Tax Increment Reinvestment Zone (TIRZ) Annual Report for 2010.

Approved the TIRZ annual report for 2010, following approval by the TIRZ Board at its meeting on December 13th.

Miscellaneous

At 5:45 p.m. the Mayor announced the Council would go into executive session and relocated to the Smith Room for the closed meeting.

Executive Session pursuant to the provisions of the Texas Open Meetings Act, Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, in accordance with the authority contained in Section 551.071, to consult with the City Attorney.

**Belton City Council Meeting
December 21, 2010 – Page 4**

At 7:15 p.m. the Council returned to the Wright Room and the Mayor reopened the meeting to consider the following item:

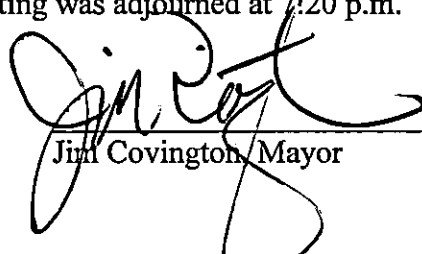
Consider authorizing the City Manager to execute a Municipal Utility District Consent Decree for the La Cachette Development, a 540 acre tract located east of FM 1670 and south of US Highway 190.

The City Manager explained summary information regarding this item was presented during the executive session and has been provided to the Developer. He recommended the Council approve the elements for the MUD and the Consent Decree. Special Legal Counsel Barney Knight, Knight & Associates, recommended the Council approve the MUD Consent Decree by adopting the Consent Resolution and authorizing the City Manager to execute the Consent Decree for the MUD.

Councilmember Leigh asked when disannexation would occur since part of the MUD is outside the city limits and disannexation was included as a component in the agreement. Mr. Listi indicated the Developer will make a request for disannexation in the future.

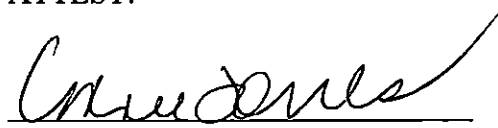
The City Attorney clarified both documents contain the Mayor's signature block, and Mr. Knight indicated he would modify the documents for the Mayor's signature on the Consent Resolution, and the City Manager's signature on the Consent Decree. Upon motion by Councilmember Pearson, seconded by Councilmember Leigh, the Council unanimously approved the Consent Resolution and MUD Consent Decree as recommended.

There being no further business, the meeting was adjourned at 7:20 p.m.



Jim Covington, Mayor

ATTEST:



Connie Torres, City Clerk