



The City of Liberty City Council

Regular Meeting

~ Minutes ~

1829 Sam Houston
Liberty, TX 77575
www.cityofliberty.org

April Gilliland
City Secretary
936-336-3684

Tuesday, May 9, 2023

6:00 PM

City Council Chambers

I. CALL TO ORDER

This meeting was called to order on May 9, 2023 in the City Council Chambers, 1829 Sam Houston Street, Liberty, Texas at 6:01 p.m. by Mayor Carl Pickett.

A.	Attendee Name	Present	Absent	Late	Arrived
	Mayor Carl Pickett	X			
	Mayor Pro Tem Diane Driggers	X			
	Council Member Dennis Beasley	X			
	Council Member Libby Simonson	X			
	Council Member Chipper Smith	X			
	Council Member Tommy Brents	X			
	Council Member Ed Seymour	X			

II. INVOCATION

No invocation was given.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American Flag was led by Police Chief Gary Martin and the pledge to the Texas Flag was led by Public Works Director Damon Jones.

IV. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

Public Comment is reserved for members of the public who would like to address the City Council regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Council may not deliberate or take any action during Citizen's comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The City Council may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

Mayor Pickett welcomed guests and visitors, opening the floor for public comment to those individuals wishing to address the Council. Ms. Terry Woodson of Frontier Waste introduced herself to council members. Ms. Woodson is now the Municipal Marketing Representative for Frontier Waste.

V. PRESENTATIONS / REPORTS

- A. City Manager's Report - City Manager Tom Warner - Topics include, Golf Course, Leadership East Texas, Fire Hydrant Repair/Replacement Project, 2022 & 2023 Street

Rehabilitation Projects, and Electrical Projects.

City Manager Tom Warner reported the following updates:

- Golf Course Opening
- Leadership East Texas Training
- Water/Wastewater Department receiving the Vindicator's Best City Services
- Fire Hydrant Repair/Replacement Project
- Street Rehabilitation Program
- Electrical Projects

B. Finance Report - Assistant City Manager/CFO Naomi Herrington

Assistant City Manager / CFO Naomi Herrington reported on the City's financials as of March 31, 2023.

C. Department Reports

Monthly reports are submitted by departments and are attached to the agenda for the council to review and to comment on or ask questions that they may have. Questions were asked about the Golf Course and the Grand Opening on May 5, 2023.

D. Sam Rayburn Municipal Power Agency - Mayor Pickett

Mayor Pickett, President of the Sam Rayburn Municipal Power Agency, stated that the meeting for SRMPA is held on the third Tuesday of each month in Livingston. May's monthly meeting will be held on Tuesday, May 16, 2023.

E. Mayor, Council and Staff Comments

No comments were made.

VI. CONSENT AGENDA

All consent items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, and if such a request is made, the item will be removed from the Consent Agenda and considered in a normal sequence on the agenda.

Council Member Brents requested Item C of the Consent Agenda be considered in the Regular Session items. A motion was made by Council Member Simonson to approve all remaining items on the consent agenda and seconded by Council Member Beasley. The motion passed 7 to 0 with all present voting yes.

A. Minutes Approval

1. April 11, 2023
2. April 25, 2023

B. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS AUTHORIZING CITY REPRESENTATIVES IN MATTERS PERTAINING TO THE CITY OF LIBERTY'S PARTICIPATION IN THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.**VII. REGULAR AGENDA**

A. Regular Session

1. **AN ORDINANCE BY THE CITY OF LIBERTY, TEXAS CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE GENERAL MUNICIPAL ELECTION HELD ON MAY 6, 2023; FOR THE PURPOSE OF ELECTING THREE COUNCIL MEMBERS TO THE LIBERTY CITY COUNCIL; PROVIDING FOR AN EFFECTIVE DATE.**

This item was tabled pending certified election results from the Liberty County Clerk's Office.

2. Oath of Office to be administered to Council Members.

This item was tabled pending certified election results from the Liberty County Clerk's Office.

3. Council to elect a Mayor Pro Tem

This item was tabled pending certified election results from the Liberty County Clerk's Office.

C. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, SUPPORTING THE ALABAMA-COUSHATTA TRIBE.

The City of Liberty was contacted by a representative from the Alabama-Coushatta Tribe requesting the City's support by offering a resolution that will be presented to the U.S Congress regarding their desire to be controlled under the Indian Gaming Regulatory Act (IGRA).

The Alabama-Coushatta Tribes Reservation is located on approximately 10,200 acres in the Big Thicket of Deep East Texas. The Tribe is a fully functioning sovereign government that employs over 275 people with an additional 550 in our Tribal Enterprise, Naskila Casino. The tribal citizens are proud to be part of our nation's continued development. The Tribes annual regional economic benefit is \$212 million and they pay out \$15.3 million in annual wages to employees who live in nine (9) East Texas Counties. The tribe is also able to provide additional resources for housing, education, and health care for their tribal members.

In 2022, The United States Supreme Court ruled that the Alabama-Coushatta Tribe has the right to play any game on their lands that Texas does not explicitly prohibit, which includes electronic bingo. The Court left open the question of which rules will govern who regulates the Alabama-Coushatta Tribe. For example, will the Alabama-Coushatta Tribe be covered under the Indian Gaming Regulatory Act (IGRA) or will they be self-regulating? IGRA is a regulatory framework that every other gaming tribe in the U.S. (other than the Alabama-Coushatta Tribe of Texas and Ysleta del Sur Pueblo) is under and is designed to provide clear guidance on what type of gaming is allowed to be played and where it can be played. The uncertainty surrounding IGRA leaves open the possibility that the issue could return to the courts. As a result, the Alabama-Coushatta Tribe is once again asking the U.S. Congress in Washington to pass legislation that will affirm that they are covered under IGRA and end any future litigation possibilities, which would provide economic security for the Tribe and for East Texas.

The Tribe would like to add more Resolutions to present to the legislators in Washington showing they have the support of local communities.

As per the request of Council Member Brents, this item was moved to Regular Session and discussed in further detail among council members and staff.

A motion was made by Council Member Smith to approve the resolution supporting the Alabama-Coushatta Tribe and seconded by Council Member Driggers. The motion passed 6 to 1 with Council Member Brents voting no.

4. AN ORDINANCE BY THE CITY OF LIBERTY, TEXAS (“CITY”) AUTHORIZING THE SETTLEMENT OF THE PROPOSED RATE INCREASE OF ENTERGY TEXAS, INC.; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

The following is an update on the status of Entergy Texas, Inc.’s (“ETI” or “Company”) 2022 base rate case currently pending at the Public Utility Commission of Texas (“Commission”). The Company, the Commission Staff, and other intervening parties have reached a final agreement regarding the Company’s request for a base rate increase, including revenue requirement, class allocation, and rate design. The one remaining issue to be decided by the Commission is the Company’s request to own and operate transportation electrification related infrastructure, including electric vehicle charging facilities. As we will describe further below, customers stand to benefit from the terms of the settlement agreement, which we recommend that the city approve. The Company agreed to a revenue requirement increase of \$54 million, which is approximately 58.9% lower than their original requested revenue requirement increase of \$131.4 million. Other key components of the proposed settlement include:

- A return on equity of 9.57% as opposed to ETI’s proposed 10.8% return. This 9.57% profit level is a slight decrease from the Company’s current return on equity of 9.65%.
- Several adjustments to the Company’s proposed depreciation rates by lowering the Company’s depreciation expense by approximately \$23.7 million per year.
- Longer amortization periods for recovery of expenses related to the Company’s pension accounts, self-insurance storm reserve accrual, bad debt recovery related to COVID-19 costs and impacts, and its transition to AMS or “Smart” meters. Lengthening the amortization periods will lower costs to customers by about \$6.5 million per year compared to the Company’s original proposal.
- A reasonable allocation of the revenue requirement between the various customer classes. The breakdown of the settlement revenue requirement between the customer classes can be seen in Table 1, below.
- A smaller increase to the residential fixed monthly customer charge than what was proposed by ETI and Commission Staff. In the past, the Commission has approved a gradualist approach to ratemaking where, for instance, monthly customer charges could be adjusted downward to prevent a dramatic rate increase. Commission staff has recently shifted to setting customer charges strictly according to cost basis, regardless of the impact on customers. To support this policy shift, Commission Staff cited their concern that gradualism may result in improper cost-shifting between rate classes. ETI calculated that a cost-based customer charge in this case would be \$16.33, but the parties ultimately settled on \$14.00 for the monthly residential customer charge. The lower customer charge reduces the risk of “rate shock” and is particularly beneficial for lower-usage customers.

In addition, the reduced return on equity and depreciation rates will continue to benefit customers in expected future interim rate adjustment filings such as Distribution Cost Recovery Factor, Transmission Cost Recovery Factor, and Generation Cost Recovery Rider proceedings. The statutory formulas to calculate these rate adjustments utilize the rate of return and depreciation rates approved in the Company’s most recent base rate case; therefore, keeping these components of base rates as low as possible reduces future interim rate increases.

The rate impact of the proposed settlement on the various customer classes is provided in Table 1. The typical bill amounts shown include the base rate charge, fuel charges and all

applicable riders.

Table 1				
Comparison of Average Monthly Bills for Entergy Texas, Inc.				
Customer Class	Typical Usage	Entergy Present Rates	Entergy Proposed Rates	Proposed Settlement Rates
Residential	1000 kWh	\$140.81	\$154.31	\$147.16
Small General Service	1000 kWh	\$135.97	\$142.48	\$137.50
General Service	50 kW 12,775 kWh	\$1,458.52	\$1,532.86	\$1,483.24
Large General Service	1000 kW 401,500 kWh	\$38,055.87	\$39,480.20	\$38,329.16
Industrial Service	10000 kW 5,480,000 kWh	\$347,283.54	\$362,469.30	\$352,188.26

A motion was made by Council Member Simonson to approve the ordinance authorizing the settlement of the proposed rate increase of Entergy Texas, inc. and seconded by Council Member Beasley. The motion passed 7 to 0 with all present voting yes.

5. AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, AMENDING THE METER INSTALLATION SECTION OF THE CITY'S ELECTRICAL SERVICE REQUIREMENTS.

On April 12, 2022, City Council approved the Electrical Service Requirements which includes a section on meter installation. The Electrical Service Requirements is a part of the City's Electric Operating Procedure Manual. The proposed amendment will clarify the size of electrical service when demand metering is required.

The existing meter installation requirements state:

Commercial services over 200 amps and residential services over 320 amps will require current transformers (CTs) and a CT cabinet for metering electric consumption. The customer is responsible for providing and installing the metering equipment (socket & cabinet). The cabinet shall have provisions for the City meter seal or lock, which is solely for City access. The City will provide the CTs. The customer will install the CTs unless the City determines safety is a concern.

The proposed amendment would state:

Commercial services ~~over~~ 200 amps **or more** and residential services ~~over~~ 320 amps **or more** will require current transformers (CTs) and a CT cabinet for metering electric consumption. **Commercial and residential services listed above are required to have a Demand Meter and** the customer is responsible for providing and installing the metering equipment (socket & cabinet). The cabinet shall have provisions for the City meter seal or lock, which is solely for City access. The City **customer** will provide **and install** the CTs. ~~The customer will install the CTs unless the City determines safety is a concern.~~

A motion was made by Council Member Simonson to approve the ordinance amending the meter installation section of the City's electrical service requirements and seconded by Council Member Driggers. The motion passed 7 to 0 with all present voting yes.

6. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, AWARDED THE BID FOR THE U.S. HIGHWAY 90 WATERLINE PROJECT TO BULL – G CONSTRUCTION, LLC.

The Fiscal Year 2023 Capital Improvement Program included a project to install an 8-inch waterline and appurtenances on the south side of U.S. Hwy 90 from F.M. 2684 to Bowie Street. On April 18, 2023, ten (10) bids were received for this project. The bids ranged from the apparent low bid of \$240,549.00 to a high bid of \$517,432.90. The apparent low bidder was Bull-G Construction, LLC. of Houston, Texas. This contractor is currently working on the City's Fire Hydrant Project. The engineer's estimate of probable cost for the project was \$430,000.00. This project is anticipated to be completed by October 31, 2023.

A motion was made by Council Member Driggers to approve the resolution awarding the bid for the U.S. Highway 90 waterline project to Bull-G Construction, LLC and seconded by Council Member Seymour. The motion passed 7 to 0 with all present voting yes.

7. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, AWARDED THE BID FOR THE ELEVATED TANK REHABILITATION PROJECT TO TANKSCO, INC.

The Fiscal Year 2023 Capital Improvement Program included a project to rehabilitate the existing 200,000, 300,000 and 65,000-gallon elevated tanks (Monta, Palmer & San Jacinto elevated storage tanks). The work includes sandblasting and recoating, within containment, and other improvements including ladders, water level indicators, electrical lighting, wiring and miscellaneous steel repairs. On April 18, 2023, nine (9) bids were received, ranging from the apparent low bid of \$920,300.00 to a high bid of \$1,704,500.00. The apparent low bidder is TanksCo, Inc. of Fort Worth, Texas. The engineer for this project worked with TanksCo on other projects and their work met or exceeded the specifications for the project. The engineer's estimate of probable cost for the project was \$1,500,000.00.

A motion was made by Council Member Simonson to approve the resolution awarding the bid for the elevated tank rehabilitation project to TanksCo, Inc. and seconded by Council Member Beasley. The motion passed 7 to 0 with all present voting yes.

B. Executive Session

At 7:21 p.m., Mayor Pickett closed the open meeting and opened the Executive Session as authorized by Title 5, Chapter 551 of the Texas Government Code.

- 1. Texas Government Code §551.071 - Private Consultation with Attorney**
Discussion with attorney regarding contemplated/pending litigation and/or regarding matters protected by attorney/client privilege.
- 2. Texas Government Code §551.074 - Personnel Matters.**
To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.
 - Liberty Community Development Corporation Members
 - Planning & Zoning Commission Members

C. Reconvene into Regular Session

At 7:57 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

- 1. Consider and take possible action on legal matters discussed in executive session.**
No action was taken

2. Consider and take possible action on personnel matters discussed in the executive session.

No action was taken

VIII. ADJOURNMENT

A. Motion To: Adjourn

With no further business to discuss, Mayor Pickett adjourned the meeting at 7:57 p.m.

Carl Pickett, Mayor

ATTEST:

April Gilliland, City Secretary