

HEWITT TEXAS

NOTICE OF MEETING OF THE GOVERNING BODY

Notice is hereby given that a **Dinner Workshop** meeting of the governing body of the City of Hewitt will be held on the **7th day of October, 2013 at 5:30 PM in Hewitt City Hall, 105 Tampico Drive**, Hewitt, Texas, at which time the following subjects will be discussed:

1. City Manager's update on municipal business:
 - a. Report from City Engineer including review and discussion of Capital Improvement Projects.
 - b. Briefing and discussion concerning proposed Charter revision.
 - c. Briefing and discussion concerning Water Tower painting.
 - d. Briefing and discussion concerning joint workshop with the Planning & Zoning Commission on the regulations of residential accessory structures.
 - e. Briefing and discussion concerning proposed Animal Control Ordinance.
 - f. Briefing and discussion concerning request by Steve Patrick concerning sewer rate charges.
 - g. Briefing and discussion concerning Public Safety Facility Project.
 - h. Briefing and discussion concerning Public Safety operations – Police & Fire
2. Review regular meeting agenda items.
3. Convene Executive Session pursuant to the Open Meetings Act, Chapter 551, Texas Government Code to discuss the following:
 - Pursuant to § 551.071(1)(A), Consultation with Attorney regarding pending or contemplated litigation.
 - Pursuant to § 551.087 – Deliberation regarding Economic Development Negotiations.
4. Close Executive Session.
5. Adjourn.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the governing body of the City of Hewitt, Texas was posted on the Public Notice Board located in front of City Hall at 4:00 AM ~~PM~~ on October 4, 2013.

CITY OF HEWITT


Lydia Lopez, TRMC
City Secretary

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact the Hewitt City Secretary at (254) 666-6171 at least 24 hours prior to the meeting, so that appropriate arrangements can be made.

HEWITT TEXAS

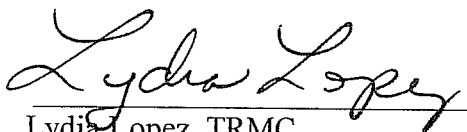
NOTICE OF MEETING OF THE GOVERNING BODY

Notice is hereby given that a **Regular** meeting of the governing body of the City of Hewitt will be held on the **7th day of October, 2013 at 7:00 PM in the City Council Room at Hewitt City Hall, 105 Tampico Drive, Hewitt, Texas**, at which time the following subjects will be discussed:

1. Pledge of Allegiance to the U.S. Flag
2. Presentation of Proclamation in recognition of the 100th Anniversary of the Daughters of the Nile.
3. Special Presentation to outgoing member of the Library Board of Directors – Beth Oakley.
4. Consider approval of minutes of the Council Dinner Workshop/Regular Meeting of September 16, 2013.
5. Hear visitors on matters pertaining to city business.
6. Consider request to grant a special exception to the temporary moratorium on residential accessory structure at 908 Regina Drive.
7. Consider and act on a resolution authorizing a 60 day extension of the temporary moratorium on residential accessory structures.
8. Consider and act on a resolution submitting candidate nominations for the McLennan County Appraisal District Board of Directors for the Years 2014-2015.
9. Consider and act on an ordinance approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2013 Annual Rate Review Mechanism filing and adopting tariffs that reflect rate adjustments consistent with the negotiated settlement.
10. Adjourn.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the governing body of the City of Hewitt, Texas was posted on the Public Notice Board located in front of City Hall at 4:00 AM/PM on October 1, 2013.

CITY OF HEWITT


Lydia Lopez, TRMC
City Secretary

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact the Hewitt City Secretary at (254) 666-6171 at least 24 hours prior to the meeting, so that appropriate arrangements can be made.

HEWITT TEXAS

WORKSHOP ITEM #1 a.

HEWITT TEXAS II

CITY ENGINEER'S REPORT

October 2, 2013

Note: All schedules, dates and references to completion dates are approximate and subject to change.

Street Improvements:

Devonshire Street & Drainage Improvements

The contractor should be paving the street the week of Oct. 7th. They have started on the concrete work related to the detention pond. All work should be complete by the end of October.

I-35 Widening - Utility Adjustments:

Under construction; Lift Station No. 1 – The contractor is waiting for the pump supplier to start-up the pumps. If everything goes smoothly, the new lift station may be in operation by the last of this month. Work is finishing on the sewer and water line relocations and that work should be complete in last of October. This project is under contract with TXDOT as is the completion timeline.

Water Utility Improvements:

Commerce Park Water Plant:

Bids will be received and opened for the construction of the one million gallon elevated storage on October 16th. We will be asking the Council to award a contract at their Oct. 21st meeting.

Wastewater Utility Improvements:

Lift Station No. 2 Replacement:

The contracts have been signed, bonded and insurance provided. We will hold a pre-construction conference the week of October 7th and issue a work order to the contractor.

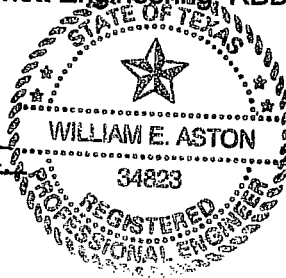
HEWITT TEXAS II

Patriot Court – Street, Drainage and Water/Sewer Utilities:

We are finalizing the plans and specifications. We are working to be ready to advertise for bids in October and ask the Council for award of a contract in November, 2013. We have been coordinating the design of the streets with the site work elevations and drainage for the proposed new police/fire building with Barnett Engineering, RBDR and K4.

By:


William E. Aston, P.E.




Miles W. Whitney, E.I.T.

HEWITT TEXAS II

WORKSHOP ITEM #1 b.

HEWITT TEXAS

MEMORANDUM

FROM: Adam Miles, City Manager
TO: Mayor and City Council
DATE: October 3, 2013
RE: Proposed Charter Amendment Language



Recently, the City Council discussed a proposed measure to place before the voters that would institute term limits on future Council members. This discussion ultimately led to a proposed change to the length of terms as well. Other issues related to this measure were brought up in the discussion.

Based on input received from the Council on September 16, 2013, a ballot proposition to amend the City Charter would have voters consider lengthening the term for a Council member from two (2) years to three (3) years. At the same time, the number of terms would then be limited to two consecutive terms. This concept would also include a provision for appointments to fill unexpired terms as well as a provision to allow a former Council member an opportunity to run again in the future after they sat off for a full term.

In essence, voters would be asked to decide if future Council members would be allowed two (2) consecutive three (3) year full terms.

The following language is an excerpt of what is currently written in the Charter with regards to terms:

Sec. 2.2. Election of council members, terms and compensation.

The governing body of the city shall consist of a council of seven (7) members elected at large by the qualified voters of the city. They shall run for office by place and be elected for a term of two (2) years, or until their successors are duly elected and qualified, except as herein provided. The council members shall draw no compensation as such for their duties, but may be reimbursed for any expenditure made in behalf of the city or expenses incurred in the performance of their duties when approved by the council.

The council, by ordinance at least forty-five (45) days prior to the first general city election following the adoption of this charter, shall divide the city into three (3) wards and shall designate two (2) of the council places for each ward and one of the places at large. The present mayor and council members shall complete their original

terms of office as council members-at-large. The present mayor shall continue to serve as such until the first meeting following the first general city election when a mayor shall be elected as provided herein. In the event any vacancy should exist on the council then such vacancy shall be filled in accordance with law. At the first general city election, a council member-at-large and one council member from each ward shall be elected for two (2) year terms. At the second general city election, one council member from each ward shall be elected for a two (2) year term. Thereafter, three (3) council members shall be elected each even-numbered year and four (4) council members shall be elected each odd-numbered year.

The following is the suggested amended language for your consideration: [Language double underlined denotes changes to the current Charter.]

Sec. 2.2. Election of Council Members, Terms and Compensation.

The governing body of the City shall consist of a Council of seven (7) members elected at large by the qualified voters of the City. They shall run for office by place and be elected for a term of three (3) years, or until their successors are duly elected and qualified, except as herein provided. The council, by ordinance at least forty-five (45) days prior to the first general city election following the adoption of this amendment to the charter, shall divide the city into three (3) wards and shall designate two (2) of the council places for each ward and one of the places at large. The present mayor and council members shall complete their original terms of office as council members-at-large. The present mayor shall continue to serve as such until the first meeting following the first general city election when a mayor shall be elected as provided herein. In the event any vacancy should exist on the council then such vacancy shall be filled in accordance with law.

The 2014 regular election and all subsequent regular elections shall be for a term of office of three (3) years. Starting with the regular election in 2014, no person may be elected to serve on the City Council for more than two (2) consecutive full terms. Terms served pursuant to elections conducted before the 2014 regular election shall not count towards the two consecutive term limitation.

A candidate for Council who has served for two (2) consecutive terms in office must wait a minimum of one (1) term (approximately three [3] years) before becoming eligible to hold office again.

The draft language is written per our understanding of Council's direction. The three (3) year term poses some complications with staggered terms and timing of elections. However, a simple solution would be to leave the terms at two (2) years and set the term limits for three (3) two year terms.

HEWITT TEXAS II

WORKSHOP ITEM #1 c.



Utility Service Company

Benbrook, TX 76116
Phone: (817) 692-8962
Fax (817) 378-4564

600,000 Gallon Ritchie Road Elevated Tank

Hewitt, Texas



Prepared For:

Mr. James Black
Director of Utilities

Prepared By:

Tanner Bruce
Water Systems Consultant
Date: July 2013

General Information

INTRODUCTION

On July 30, 2013, Utility Service Co., Inc. conducted a visual inspection of the 600,000 gallon water tank/tower. The purpose of the inspection was to determine the condition of the **coatings and structure**, and evaluate the tank for compliance with **sanitation** guidelines, **safety & security** regulations and guidelines in accordance with American Water Works Association (**AWWA**), Occupational Safety & Health Administration (**OSHA**), Texas Commission on Environmental Quality (**TCEQ**), the United States Environmental Agency (**EPA**), and the US Dept of Homeland Security (**DHS**) and related state and federal agencies.

The information gained from this inspection will be used to compile recommendations for ongoing maintenance and to offer a contractual agreement to provide this service. In this report, you will find a description of the condition of this tank along with photographs to support the recommendations.

TANK DETAILS

CAPACITY:	600,000 Gallons	DESIGN:	Elevated
INSPECTION DATE:	July 30, 2013	INSPECTOR:	Tanner Bruce
CONSTRUCTION STYLE:	Welded Steel	CONSTRUCTION DATE:	2001
BUILDER:	PHOENIX	HEIGHT/ DIMENSION:	54' Diameter 159' HWL
EXTERIOR COATING:	Acrylic	EXTERIOR LEAD/CHROMIUM PRESENCE:	ND ppm Lead ND ppm Chromium
INTERIOR COATING:	Epoxy	INTERIOR LEAD /CHROMIUM PRESENCE:	ND ppm Lead ND ppm Chromium

Exterior Coatings Conditions

TANK SHELL

The exterior coating system on the tank sidewall is in fair condition. The exterior coating system is exhibiting minimal areas of corrosion, mildew, moderate oxidation and very little delamination of the finish coat. The appearance of the coating system is fair. It appears the exterior coating is providing adequate protection to the steel substrate.

TANK ROOF

The exterior coating system on the roof is in fair condition. The exterior coating system is exhibiting minimal areas of corrosion, mildew, moderate oxidation and very little delamination of the finish coat. The appearance of the coating system is fair. It appears the exterior coating is providing adequate protection to the steel substrate.

Interior Coatings Conditions

ROOF AND AREA ABOVE HIGH WATER LEVEL

The interior coating system on the roof plates and the area above the high water level is exhibiting moderate areas of corrosion primarily at the roof to sidewall corner angle and lap seams. Roof coating in the open panels of the roof is in poor condition. The interior coating is no longer providing adequate protection to the steel substrate.

SIDEWALLS

The interior coating system on the tank sidewall is exhibiting moderate areas of corrosion, blistering was not noted. Sidewall coating overall is in poor condition. The interior coating is no longer providing adequate protection to the steel substrate.

FLOOR

Based on the type of inspection, review of the surfaces below water level was not possible.



Safety/Sanitation/Structural/Security Conditions

SAFETY

Ladders

TCEQ and OSHA standards recommend water tanks/towers be equipped with access ladders. OSHA guidelines recommend safety climbing devices to be installed on all access ladders exceeding 24 feet. TCEQ and Department of Homeland Security recommends a lockable ladder gate to prevent unauthorized access onto the tank/tower.

Interior Access Ladder:

By design, this tank is not equipped with an interior access ladder, however for ongoing maintenance of the interior of tank, it is recommended to install an interior ladder and equipped with a fall prevention device as recommended by OSHA.

Shell Access Hatch

OSHA requires two means of entrance and egress to all confined spaces. AWWA further recommends two means of access on tanks. This tank is not equipped with abolted 30" diameter access hatch which does not comply with OSHA requirements.

Secondary Roof Access Hatch

This tank is equipped with a secondary roof access hatch.
The 2nd roof access hatch was closed and gasketed

Aviation Warning Lights

This tank is equipped with an aviation warning light. At time of inspection, both the bulbs and lens covers were in place, but were not tested for operation testing of the warning light could not be conducted.

- ☒ There are no issues with this component.

Roof Hatch

The roof hatch is 30-inches and meets TCEQ guidelines which require that roof hatches be framed 4" to 6" above the surface of the roof at the opening and that it should be fitted with a solid watertight cover which overlaps the framed opening and extends down around the frame a minimum of two inches to prevent contaminated rainwater from entering the tank. The roof hatch was closed but not locked at the time of our inspection.

- ☒ There are no issues with this component. It is fully in TCEQ compliance.

Roof Vent

TCEQ guidelines require that a tank have a vent, which is both freeze-proof and insect-proof, on the top of the tank to prevent contamination from birds, bats and insects. These guidelines also suggest the screen be protected from direct contact with the elements. The current roof vent design complies with TCEQ requirements. The current vent screen however; does not comply with TCEQ requirements which requires #24 mesh screen material.

Overflow

The overflow complies with TCEQ guidelines, which require the overflow end 12-inches to 24-inches above grade and have a screen and/or flapper gate. The current configuration meets these guidelines. The overflow pipe extends to grade and is equipped with a protective screen or flapper.

Roof Openings

The tank roof does not contain any openings which do not comply with TCEQ guidelines.

- ☒ There are no issues with this component or feature. It is fully in TCEQ compliance.



Foundation

The foundation shows no signs of damage. However, over time minor cracks can increase in size due to freezing/thawing. Cracks in a foundation can also be the result of unequal pressure (single point loading) exerted by the tank. Grouting is critical to minimize this condition. The tank currently has complete grouting between the tank and top surface of the foundation. The top of the concrete foundation is coated as recommended by AWWA & TCEQ. Coating the foundation helps prevent hairline cracks in the concrete from increasing in size, which could pose structural problems.

The foundation appears to be in good condition.

Anchor Chairs and Bolts

The anchor chairs and bolts appear to be tight and in good condition.

- ☒ There are no issues with this component or feature. It appears fully within AWWA compliance.

Security Fence

The Department of Homeland Security recommends all public water supplies be protected by security fencing and locked and should have 'Tampering with this facility is a Federal Offence' signs posted on and around the site. This tank site is protected by a security fence.

Ladder Access

The Dept. of Homeland Security recommended the tank be protected from unauthorized access by way of restricting access onto the tank ladder. The tank currently has no means of preventing unauthorized access onto the tank.

Roof Hatch

The Department of Homeland Security recommends all public water supplies be protected from unauthorized access by locks. The roof hatch was closed but not locked at the time of our inspection



SUMMARY AND RECOMMENDATIONS

SUMMARY

Overall this tower is in fair condition; the exterior and interior coating systems are near the end of their useful protective life. The exterior coating system should be cleaned and overcoated and 2 coats of coatings applied to all surfaces. The interior coating system should be completely removed by abrasive sandblasting and 2 coats of NSF approved coating applied to all interior surfaces. In addition to the exterior and interior coating conditions, several modifications are recommended. The safety and sanitary issues are the most important.

RECOMMENDATIONS

- **The Exterior Coating** should be high-pressure power washed to remove any loose coating, oxidation, and grime. Areas of corrosion should be hand/power tool cleaned, followed by one coat of primer over repaired areas, followed by two full coat of compatible coating over all exterior surfaces.
 - 2 COAT OVERCOAT
 - BLOCK LOGO
- **Interior Epoxy Coating System** should be completely removed and relined with a 2 coat NSF approved epoxy lining system to prevent continued steel loss.
 - SSPC SP-10/NACE No. 2
 - CAULK ROOF SEAMS
- **RECOMMENDED REPAIRS:**
 - Install standard ladder gate
 - Install flexible cable safety climb to access ladder
 - Install interior access ladder with a flexible cable safety climb
 - Install a bolted riser manway
 - Repair or replace a 24-inch steel vent with 24-mesh screen
- **It is recommended all work be done in year 1.**

*Utility Service Co., Inc. does not install or provide site fencing or security warning signs as part of the Full Service Tank Maintenance Program and is not included in any repair or renovation costs.

UTILITY SERVICE

TANNER BRUCE

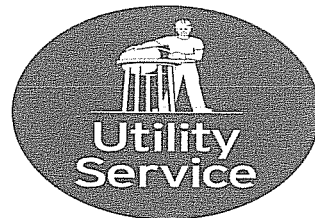
BENBROOK, TX

TEL: 817 – 692 – 8962

FAX: 478 – 987 – 2991

TBRUCE@UTILITYSERVICE.COM

WWW.UTILITYSERVICE.COM

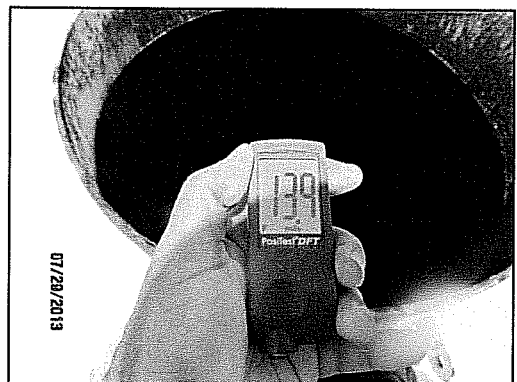
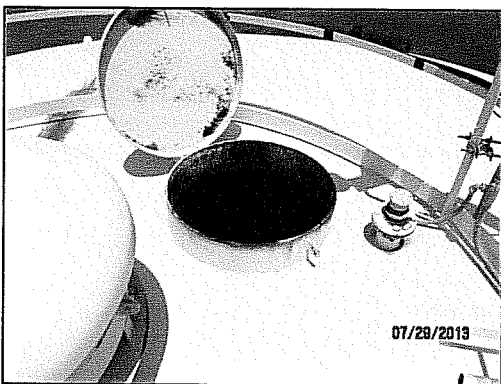
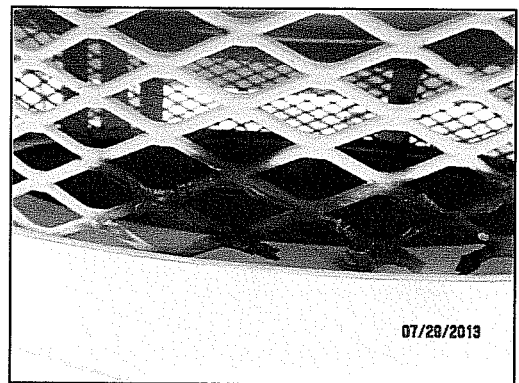
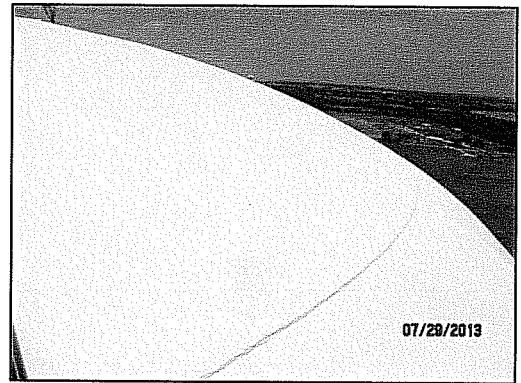
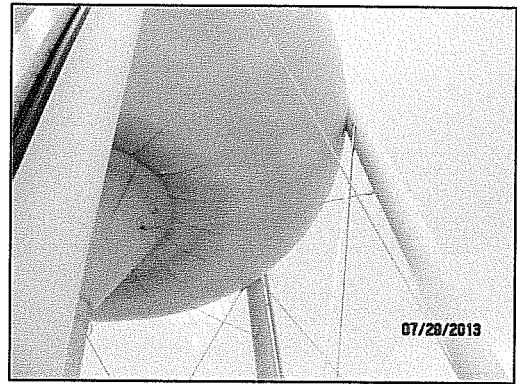
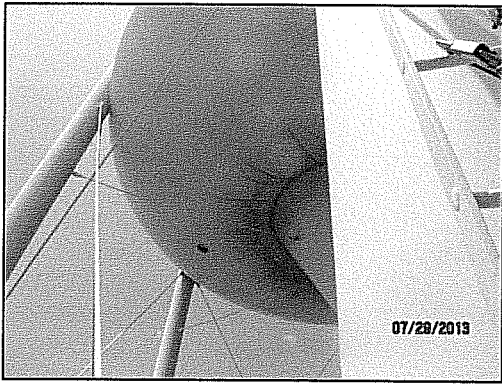


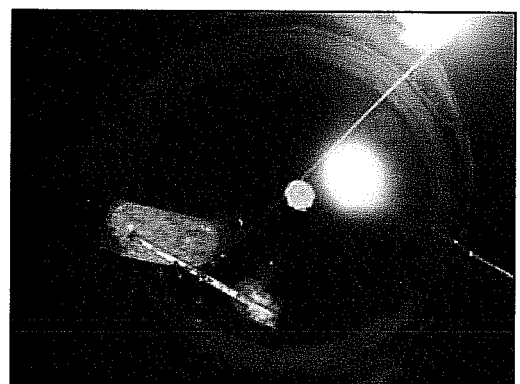
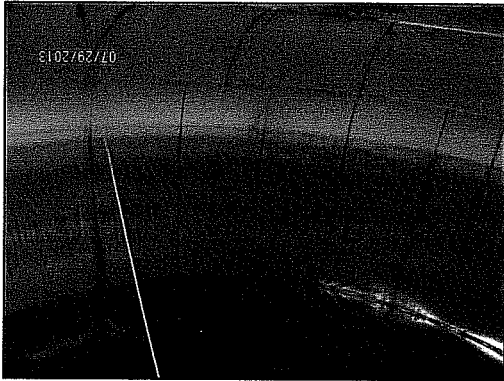
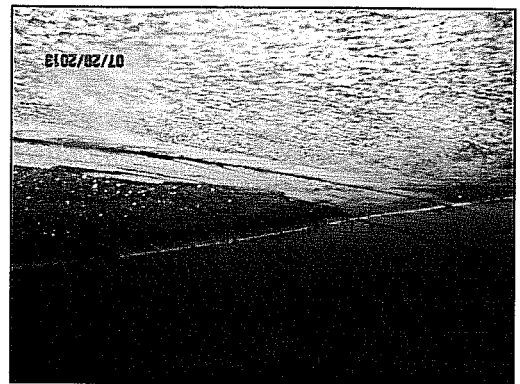
Our Full Service Asset Management Maintenance Program

provides the following tangible benefits for the tank owner:

1. **GASB 34 Modified Approach for Asset Management is an option.** If you choose the GASB 34 modified approach, as recommended by the American Public Works Association, depreciation schedules are not required and the new tanks's net value can remain at its initial high value level. USCI is the ONLY company that provides you this option through our asset management system with documentation to show asset preservation at the new tank's initial condition level.
2. **Regular and systematic Maintenance.** Visual Engineering inspections alternating annually with washout and disinfectant inspections are conducted by our highly trained personnel. A detailed report with appropriate photograph's of the inspection will be provided. This report provides proof of regulatory compliances for various state agencies.
3. **Perputal Tank Protection.** We stand ready to provide needed repairs at ANYTIME including EMERGENCIES, repairs identified during inspections and repairs identified by the tank owner between inspections.
4. **Future Renovations.** Exteriors and interiors will be cleaned and repainted at such time as complete repainting is needed for both the protection of the tank and for cosmetic reasons. Touchups are routinely schueduled as needed during the systematic inspections.
5. **Security Measures.** We install and maintain anti-climb devices on ladders and locks on the roof hatches to prevent unauthorized access by vandals or other intruders. Regular maintence includes replacement of screens to ensure the tank's water is not contaminated.
6. **Ease of Budgeting.** Since total maintenance costs are defined in our FULL SERVICE ASSET MANAGEMENT MAINTENANCE PROGRAM, you know your total costs in advance. We assist your budgeting efforts by providing you annual budget year information six months in advance of the first month of your new fiscal year.
7. **Peace of Mind.** The above benefits translate into eace of mind resulting from years of reliable and clean water tanks for your water customers. One annual fee provides all the above benefits and your tank is protected for decades to come. Your satisfaction is further enhanced by knowing that your records are available at all times from our portal web-based access to monitor your tank service histories.
8. **In Addition** to our FULL SERVICE ASSET MANAGEMENT MAINTENANCE PROGRAM, we have our WATERMIX, which describes our maintenance service for the ENTIRE WATER COMPLEX. Chemical cleaning and a "24/7/365" ACTIVE TANK MIXING SYSTEM (PAX) provide the cleanest water for your customers from your optimally maintained water tank.







City of Hewitt, Tx
Utility Service Full Service Asset Management Program
Projected Schedule of Work and Fees
RITCHIE ROAD 600,000 ELEVATED STORAGE TANK
(5) Year Spread

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
YEAR	2013	2014	2015	2016	2017	2018	2019	2020
RITCHIE ROAD 600,000 ELEVATED STORAGE TANK	Interior / Exterior Renovation w/ Repairs	Visual Inspection, Emergency Service	Washout Inspection, Emergency Service	Visual Inspection, Emergency Service	Washout Inspection, Emergency Service	Visual Inspection, Emergency Service	Washout Inspection, Emergency Service	Visual Inspection, Emergency Service
YEARLY TOTAL	\$ 59,404	\$ 59,404	\$ 59,404	\$ 59,404	\$ 59,404	\$ 25,961	\$ 25,961	\$ 25,961
MONTHLY	\$ 4,950	\$ 4,950	\$ 4,950	\$ 4,950	\$ 4,950	\$ 2,163	\$ 2,163	\$ 2,163

Future Exterior renovations will be done as needed; typical maintenance cycle is 8 to 10 years.
Future Interior renovations will be done as needed; typical maintenance cycle is 10 to 12 years.

Program Benefits:

- Lifetime Warranty on Coatings and Workmanship (under MP)
- Engineering Services included at no additional fee
- Visual Inspection will be conducted annually with detailed report
- Washout Inspection will be conducted every 2nd year with detailed report
- Emergency Service included
- Graffiti removal included
- Future Exterior and Interior Renovations included
- USCI Full Service Asset Management Program allows City to use GASB-34 Modified Accounting Approach

One Time Negotiated Work

Exterior: \$79,365
Interior : \$105,882
All Repairs: \$16,470
TOTAL: \$201,717

** Standard One (1) year warranty, billed upon completion*

To request for contract please contact:
Tanner Bruce -- 817-692-8962 -- tbruce@utilityservice.com

HEWITT TEXAS

WORKSHOP ITEM #1 d.

DRAFT PROPOSED LANGUAGE

Section 9.102. [Residential accessory buildings.]

The following regulations shall govern the location, size, and use of accessory buildings located in residential zoned districts R-1, R-2, R-3, R-4, and R-5.

- A. Permit Required: All residential accessory structures shall require a permit. Fees for permits shall be in accordance with the most recently adopted fee schedule as approved by the City Council.
- B. Site Plan Required: A site plan indicating the proposed location of the accessory building and other structures on the lot shall accompany the permit. Additionally, a description of materials used including color and roofing are required.
- C. Materials: All residential accessory structures and buildings shall be erected or constructed in a manner consistent with the materials and colors, including roof pitch and architectural style, of the main structure.
- D. Lot Coverage: Accessory structures may not occupy more than thirty (30) percent of the rear yard.
- E. Placement of residential accessory buildings: The placement of residential accessory buildings is regulated in accordance with the following:
 - 1. Residential accessory buildings may be detached or attached to the main building but shall not encroach in any required front yard.
 - 2. If detached, no accessory building shall be erected within ten (10) feet of any other building. Exception: A detached residential garage may be erected not less than five (5) feet from the main structure.
 - 3. An accessory building more than five (5) feet from a main building may be erected within two (2) feet of a side or

rear lot line, but must be located at least sixty (60) feet from the front street line as measured from the back of the curb or edge of pavement.

4. Detached Carports: Detached carports may not be erected or placed in any portion of the front or side yard and must be located ten (10) feet or more from any other building. Additionally, detached carports shall not be erected or placed within sixty (60) feet of a public street or right of way, as measured from the back of curb or edge of pavement.

F. Height: The height of residential accessory buildings shall be regulated in accordance with the following:

1. No accessory building shall be erected, constructed, or placed with a roof plate line greater than ten (10) feet in height.
2. Accessory structures shall not be higher than the main building.

G. Masonry: Masonry veneering for residential accessory structures shall be regulated in accordance with the following:

1. Where masonry veneering is required, materials shall be consistent or similar in type and color to the primary residential structure. Unless otherwise stated, all masonry veneering shall have a visible grout line.
2. Accessory buildings in residential zoned districts R-1, R-2, R-3, and R-5 that are larger than 400 square feet or have a door(s) larger than six feet (6') wide shall cover 75 percent of the front and two sides of the structures, excluding doors and windows, with a masonry veneer.
3. In residential zoned district R-4, all residential and accessory buildings shall cover a minimum of 80 percent of each exterior wall of the structures, excluding doors

and windows, with a masonry veneer. The remaining area of each exterior wall, excluding doors and windows, shall use stucco, EIFS, or cast concrete modular siding.

4. Regardless of square footage, any accessory building in residential zoned districts R-1, R-2, R-3, and R-5 with a roof plate line greater than eight (8) feet in height shall have masonry veneering covering 75 percent of the front and two sides, excluding doors and windows.

H. Special requirements for residential accessory structures in neighborhoods or subdivisions developed after 1995.

1. All accessory structures greater than one hundred eighty-two (182) square feet, in residential zoned districts R-1, R-2, R-3, and R-5, shall have masonry veneering covering 75 percent of the front and two sides, excluding doors and windows.
2. Support Columns for attached or detached carports shall be constructed with one hundred percent (100%) masonry veneering.
3. Accessory structures greater than one hundred eighty-two (182) square feet must be site built.

I. Temporary Accessory Buildings: Temporary structures shall be regulated in accordance with the following:

1. Temporary on-site storage containers (ie. Shipping Containers, P.O.D.S., etc...) shall require a permit. A permit may be issued in fifteen (15) day increments with the maximum number of permits issued in one calendar year to a specific address limited to three (3) permits. The City Council may consider an extension to the number of permits on a case-by-case basis.
2. Temporary buildings used for construction purposes only are permitted in any district during the course of construction.

HEWITT TEXAS

WORKSHOP ITEM #1 e.

HEWITT TEXAS

MEMORANDUM

FROM: Jim Barton, Assistant City Manager 
TO: Mayor and City Council
DATE: October 3, 2013
RE: Proposed Animal Control Ordinance

The Waco City Council has encouraged neighboring cities and community leaders to help address the problem of unwanted stray animals particularly those municipalities who use Waco's Animal Shelter. They recently approved an ordinance with strict requirements for spaying and neutering pets. Their efforts are to work toward a "no-kill" designation for the Animal Shelter.

The major changes to the existing ordinance are: 1) Spay/neuter requirements for all cats and dogs; 2) All cats and dogs must be micro-chipped; 3) A clarification of tethering of pets; and 4) An improved definition of animal abandonment. Attached is the draft ordinance prepared for your consideration.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HEWITT, MCLENNAN COUNTY, TEXAS; AMENDING CHAPTER 10 "ANIMALS" OF THE CODE OF ORDINANCES TO REGULATE SPAY AND NEUTERING AND MICROCHIPPING OF DOGS AND CATS, TO ADDRESS TETHERING OF ANIMALS, AND TO REVISE OTHER PROVISIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PENALTY; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

Section 1. That Chapter 10 "Animals" of the Code of Ordinances of the City of Hewitt, Texas, shall be and is hereby amended to read as follows:

Chapter 10 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 10-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means leaving an animal unattended for more than 24 hours, releasing the animal upon public highways or public or private lands, or failure to provide proper or adequate food, water, exercise, shelter or medical care.

Abuse shall mean to mistreat through intent or neglect any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.

Animal shall mean any living creature other than a Homo sapiens. Unless indicated otherwise, the term shall include livestock, fowl, reptiles, amphibians, and wildlife, as well as dogs, cats and other creatures commonly owned as pets.

Animal control officer or animal control office shall mean the officer or office of the city primarily responsible for the enforcement of regulations regarding animals.

Animal shelter shall mean a facility designated by the city council to be used for the impoundment of animals taken up by the animal control officers.

Authority shall mean the local rabies control authority as defined in this section.

Brand shall mean a mark made on the skin of any animal which indicates the ownership of the animal; typically used with livestock.

Cat shall mean the male and the female of any domesticated member of the feline species of animals.

Circus shall mean a commercial variety show featuring animal acts for the public.

Day shall mean a workday and shall exclude Saturday, Sunday and city holidays.

Distance between structures, where a minimum setback or distance between any enclosure for an animal from a residence is required, shall mean the most direct line distance between the two structures, unless otherwise provided.

Dog shall mean the male and the female of any domesticated member of the canine species of animal.

Domestic animal shall mean an animal, such as a dog or cat, that has been tamed and kept by humans as a work animal, food source, or pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors.

Ear tip (cat) shall mean a surgical process performed on a cat during neutering as part of the Trap Neuter Return process by a licensed veterinarian in which a 1/4" diagonal cut is made to remove the point of a cat's ear, and is preferably, but not exclusively, on the cat's left ear.

Fish shall mean any of the cold-blooded animals that extract oxygen from water through the use of gills.

Fowl shall include all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.

Governmental entity shall mean an agency or political subdivision of the state or an agency or department of the federal government.

Harbor shall mean to feed, provide shelter, or otherwise maintain an animal for three or more days.

Health Statement shall mean a statement from a veterinarian stating that an animal is healthy, free from signs of infectious or contagious diseases, and up to date on vaccinations. It shall include: the animal's microchip number, the animal identification such as the species, age or date of birth, sex, sterilization status and breed and must be dated within the last 24 months.

Livestock shall include, regardless of age, sex or breed, horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.

Local rabies control authority shall mean the senior animal control officer, or an officer he designates to act in his place when he is temporarily unable to act for any reason.

Marine animal shall mean any animal, other than a mammal or bird, which lives in a marine environment.

Neutered shall mean any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.

Owner shall mean any person who has purchased or who owns, keeps, maintains, harbors or has care, custody or control of one or more animals.

Performing animals shall mean any spectacle, display, act or event in which animals perform.

Premise shall mean a definite portion of real estate or land, together with any appurtenances or buildings.

Poison shall mean a substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.

Residence shall mean any place of human habitation at any time, day or night, including, but not limited to, any single or multifamily dwelling, church, school, convalescent center or nursing home.

Restrained shall mean any animal secured by a leash of some sort or confined within the property limits of its owner.

Tag shall mean a vaccination tag attached to a collar as required by this chapter or some other permanent identifying device attached to a collar or to an animal.

Tattoo shall mean a permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.

Vaccination shall mean an injection of a rabies vaccine which is approved by the U.S. Department of Agriculture, Veterinary Biologics Division, state veterinarian and administered by a licensed veterinarian or at an approved antirabies clinic.

Veterinarian shall mean any person duly licensed to practice veterinary medicine by the state ACO of veterinary examiners, or who is exempt from such licensing.

Wild animal or *wildlife* shall mean any nondomestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature and other characteristics, constitutes a danger to human life or property. Such creatures shall include, but are not limited to, all animals prohibited by the state or federal law and shall include, but are not limited to, the following animals:

- (1) Class mammalia: Order Carnivora, family felidae (such as lions, tigers, jaguars, leopards and cougars) except commonly accepted domesticated cats and hybrids involving same; family Canidae (such as wolves, coyotes and fox) except domesticated dogs and hybrids involving same; family Mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink and badgers) except ferrets; family Procyonidae (such as raccoons); family Ursidae (such as bears); order Primata (such as monkeys and chimpanzees); and order Chiroptera (such as bats).
- (2) Poisonous reptiles, cobras and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotiladae, Viperidae); Boonslang and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators and their allies (order Loricata).

(3) Brown recluse (*Loxosceles*) and black widow (*Lactrodectus*) spiders.

Zoological park or *zoo* shall mean any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person or under the auspices of a governmental entity.

Sec. 10-2. - Purpose.

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants.

Sec. 10-3. - Enforcement.

- (a) The provisions of this chapter may be enforced by animal control officers, police officers, and such other persons as are designated by the city.
- (b) It shall be unlawful for any person to interfere with, obstruct, resist or oppose any animal control officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties. It shall be unlawful to take or attempt to take any animal from any animal control officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.
- (c) In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter.
- (d) In the enforcement of this chapter, animal control officers and police officers shall have the authority to shoot any animal to protect themselves, to protect a third person or to protect another animal from attack or threat of imminent injury or to prevent such animal from enduring further pain or suffering as a result of disease or injury. They shall also have the authority to tranquilize or trap any animal, fowl, livestock or wildlife.
- (e) Unless specifically provided in this chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this chapter to impose strict liability for violation of the requirements of this chapter.

Sec. 10-4. - Powers and duties of citizens.

Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large (as provided in section 10-92) and may deliver the animal to an animal control officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an animal control officer, the animal shelter, or an animal emergency medical facility, the person must report that he has taken control of the animal to an animal control officer or the animal shelter within 72 hours. If animal is wearing a tag of any kind or has a tattoo, brand, or other

identifying mark, that information shall be included in the report to the animal control officer or animal shelter.

Secs. 10-5—10-30. - Reserved.

Sec. 10-31-35 - Reserved.

Sec. 10-36. - Remedial requirements.

- (a) Where the ACO finds against the person who harbored or owned the animal, it may place certain remedial requirements upon such person. These remedial requirements may include one or more of the following items:
- (1) *Leash and muzzle.* The owner shall not permit the animal to go outside the kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length which is in the physical control of a person 18 years of age or older. Such animal may not be leashed to inanimate objects, such as trees, posts, buildings, etc. Additionally, such animal must be muzzled by a muzzling device sufficient to prevent the animal from biting persons or other animals.
 - (2) *Confinement outdoors.* The animal shall be securely confined in an enclosed and locked pen or kennel except when on a leash and muzzled or when confined indoors. Such pen or kennel must have secure sides and a secure top attached or have sides that measure eight feet from the ground. The structure must be locked with a key or combination lock if an animal held to be dangerous is within the structure. The structure must have a secure bottom or floor attached to the sides of the structure, or the sides of the structure must be embedded in the ground no less than two feet. All structures erected to house the animal must comply with all zoning and building regulations. Such structures must also be adequately lighted and ventilated and be kept in a clean and sanitary condition.
 - (3) *Relocation of confinement area.* The owner may be required to relocate on his property the confinement area in which the animal is kept so that the animal does not annoy, disturb or in some other manner offend neighbors.
 - (4) *Confinement indoors.* The animal may not be kept on a porch, patio or in any part of a house or other structure that will allow the animal to exit such building or structure on its own volition. In addition, no such animal, except a cat, may be kept in a house or structure when the windows or screen doors are the only obstacle preventing the animal from exiting the structure.
 - (5) *Signs.* The owner of an animal held to be dangerous shall display in prominent places on the premises where the animal is kept a sign easily readable by the public which states "Beware of _____." A similar sign shall also be posted on the kennel or pen of the animal.
 - (6) *Insurance.* The ACO may require that the owner acquire insurance in an amount deemed reasonable to insure against bodily injury or property damage caused by the animal.

- (7) *Restitution.* The ACO may require the payment of restitution for damages or injury caused by the animal.
 - (8) *Training.* The ACO may require that the person and animal engage in training necessary to eliminate the problem. The ACO may designate a specific training program to be followed or utilized.
 - (9) *Removal from city.* For an animal other than one held to be dangerous, the ACO may require that the animal be removed from the city.
 - (10) *Limit or prohibit animal ownership.* The ACO may set a limit on the number of animals which an individual may keep on property within the city. This limitation may be imposed for a specified time period or permanently. The ACO may also prohibit the person from acquiring or keeping within the city any other animal for a period of time up to five years. In connection with this prohibition, the ACO may require the person to sell, give away or otherwise humanely dispose of the animals at issue in the hearing.
 - (11) *Spay or neuter.* The ACO may require that an animal which is being returned to an owner or which an owner shall be allowed to keep within the city be spayed or neutered.
 - (12) *Destruction.* The ACO may order that an animal shall be humanely destroyed.
 - (13) *Other.* Such other remedial requirements that under the circumstances the ACO finds will serve the interests of the owner in keeping an animal and gives consideration to the peace, safety, and welfare of the neighborhood as well as the health and welfare of the animal.
- (b) In requiring that remedial requirements be followed, the ACO shall also state a time frame within which the owner must comply with the required action. For good cause, the time period to comply may be extended by the ACO.

Sec. 10-37. - Return of animal.

- (a) If an animal is in the custody of the animal control officer, an inspection of the premises where the animal is to be kept may be made prior to the animal's return if such is necessary to determine if the remedial requirements have been met. The animal control officer shall have the right to inspect such premises in the future at reasonable times to ensure continued compliance with the remedial requirements.
- (b) As a condition of returning an animal which has been in the custody of the animal control officer to its owner, the ACO may require that all or a portion of the expenses incurred by the animal control officer to keep such animal be paid by the owner.

Sec. 10-38. - Reporting significant events.

- (a) The owner of an animal declared dangerous shall report any of the following events within five days to the animal control officer:
 - (1) Permanent removal of the animal from the city.
 - (2) Death of the animal.

- (3) The birth of any offspring, including the number, markings, color and sex.
 - (4) Change of location within the city.
 - (5) Transfer of ownership, including the name and address of the new owner and the location where the animal is to be kept.
- (b) The owner of an animal declared dangerous shall report within 24 hours to the animal control officer the escape of the animal or an attack or biting of a person or other animal.

Sec. 10-39. - Violation of remedial requirements.

It shall be unlawful for the owner of an animal to violate or fail to comply with the remedial requirements placed on him by the ACO (animal control officer). If such person fails to comply or violates any remedial requirement or any other provision of this chapter, the disposition of the animal may be referred back to the ACO for reconsideration. Such reconsideration shall require a hearing as provided for under this chapter. In lieu of seeking reconsideration by the ACO, a complaint for violating the order of the ACO may be filed in the municipal court. In addition to the remedies provided herein, a civil action may be filed to enforce the requirements of this chapter.

Secs. 10-40—10-60. - Reserved.

ARTICLE II. - RABIES CONTROL

Sec. 10-61. - Vaccinations.

- (a) All dogs or cats four months of age or older within the city shall be vaccinated against rabies. Such vaccinations shall be repeated in accordance with state law.
- (b) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such dog or cat a vaccination certificate in a form approved by the state department of health. The veterinarian shall also issue a metal tag with the veterinarian's address and the year of the vaccination stamped thereon. The metal vaccination tag may be fastened to the dog or cat in some manner by the owner.
- (c) It shall be unlawful for any person within the city to own, keep, possess, harbor or allow to remain upon premises under his control any dog or cat which has not been vaccinated as required herein.

Sec. 10-62. - Vaccination of impounded animals.

- (a) After impoundment, all animals which are required to be vaccinated by this article which are redeemed by an owner from the animal shelter must be vaccinated against rabies in accordance with the requirements of this article, or the owner thereof must present a veterinarian's certificate showing a current vaccination.
- (b) In order for an animal not vaccinated in accordance with the requirements of this article to be released, such owner must sign a statement giving the name of the owner and the address

where the animal is to be immediately taken and confined and stating that the owner will have the animal vaccinated in accordance with the requirements of this article. Within seven days of the release of the animal, a certificate of vaccination shall be presented to the animal shelter. Failure to present the vaccination certificate to the animal shelter within the stated time shall be grounds for the immediate return of the animal to the animal shelter, and such animal may be destroyed immediately or otherwise disposed of. Such failure shall also constitute a misdemeanor which may be punished by a fine as set out in section 1-12, except that the minimum fine shall be \$100.00.

Sec. 10-63. - Proof of vaccination.

The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article. To prove that a dog or cat has been vaccinated, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered.

Sec. 10-64. - Counterfeiting; destruction of tags, certificates.

- (a) It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate.
- (b) It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination tag or certificate.

Sec. 10-65. - Reporting rabid animals or rabies exposure.

- (a) It shall be the duty of all animal owners, veterinarians, physicians or any other person to report to the animal control officer all cases of rabies with which he comes in contact or to which his attention has been directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.
- (b) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the animal control officer within 24 hours.

Sec. 10-66. - Animal bites and scratch reports; submission to quarantine.

- (a) Any person who is bitten or scratched by an animal shall report that fact to the animal control officer within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the animal control officer within 24 hours.
- (b) A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the animal control officer within 24 hours any incident where such animal bit or scratched any person.
- (c) The animal committing the act shall be submitted to the animal control officer for quarantine. When the local rabies control authority (Hewitt Animal Control Officer, ACO)

goes to the premises where the animal that bit or scratched any person is being kept, the animal control officer may take immediate custody of the animal. Where suitable arrangements are made, the local rabies control authority may permit the animal to be transferred to another location for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of, or allows an animal to remain on premises under his control. If convicted of violating this section, a minimum fine of \$100.00 shall be imposed by the municipal court.

Sec. 10-67. - Contents of required reports.

When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the animal control officer shall include, if the person making the report knows, the following information:

- (1) The location where the bite or scratch occurred.
- (2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.
- (3) The name and address of any person who was bitten or scratched.
- (4) The name and address of the person who owns, keeps, harbors or has control over the premises where the animal committing the act normally can be found.
- (5) The names and addresses of the persons who own, keep or harbor any other animal exposed to rabies can be found.

Sec. 10-68. - Quarantine and release.

- (a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at the animal shelter. Only with the prior approval of the local rabies control authority may the animal be held in quarantine at any other location.
- (b) Any animal quarantined shall be held for a period of ten days from the date of the bite. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.
- (c) Upon release of an animal from quarantine, if the ownership of the animal is known, such owner has 48 hours to claim the animal. If the ownership of the animal is unknown, the animal may be disposed of as provided in section 10-179 without waiting for an additional 72 hours.

Sec. 10-69. - Submission of head for rabies diagnosis.

- (a) If the animal which bit or scratched a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the state department of health for rabies diagnosis.

- (b) If an animal which is being quarantined becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall then be submitted to a laboratory certified by the state department of health for rabies diagnosis. The head of each animal which dies while in quarantine shall also be submitted for rabies diagnosis.

Sec. 10-70. - Cost of quarantine or rabies diagnosis.

- (a) If, at the end of the required quarantine period, a quarantined animal is found to be free of rabies, the local rabies control authority shall order the release of the animal to the owner if the rabies vaccination provisions of this article have been complied with and any impoundment fees have been paid by such owner.
- (b) If a head is submitted to the state department of health for rabies diagnosis, the cost of removing the head and shipping it shall be paid by the owner of the animal.
- (c) The local rabies control authority may order that all impoundment fees for the quarantine be paid by the person bitten or scratched if:
 - (1) The animal has a rabies vaccination certificate,
 - (2) The animal was on property under the control of the animal's owner when the bite or scratch occurred, and
 - (3) The bite or scratch occurred when the animal was acting to defend its owner or the property, or after provocation.

If the animal is a wild animal, the local rabies control authority may order that all fees be paid by the person who was bitten or scratched. This order may be appealed to the Hewitt City Court except that the appeal must be filed within one day and the Court shall hear the case as soon as possible thereafter.

Secs. 10-71—10-90. - Reserved.

ARTICLE III. - GENERAL REGULATIONS

Sec. 10-91. - Identification for animals.

Except as provided herein, all animals within the city shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl, and snakes.

Sec. 10-92. - Running at large.

- (a) It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal within the city to allow or permit such animal to run or be at large within the city.
- (b) The prohibition against an animal running at large shall not apply to:

- (1) a cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tags; or
 - (2) a cat that can be identified as having an owner or caregiver by collar and tags, microchip, identifying tattoo, or has a left ear tip indicating Trap-Neuter-Return; or
 - (3) if the owner or caregiver can provide documentation of the free-roaming cat's sterilization.
- (c) An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord, or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. An animal inside a vehicle parked in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.
 - (d) The animal control officer for the city may impound any animal observed to be at large, whether the animal is on public or private property. If the animal control officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the animal control officer may impound the animal or issue a citation for the animal running at large.
 - (e) Proof that an animal was found at large in violation of this section, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.

Sec. 10-93. - Animal in heat.

Any person who owns, harbors or keeps any female dog or cat shall, during the period that such animal is in heat or in estrus, shall keep such dog or cat in a secured area that prevents a male dog or cat from having access to such female except for controlled breeding permitted by the owner of the female. Additionally, the female dog or cat shall not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.

Sec. 10-94. - Animal defecation prohibited in certain areas.

- (a) It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly, or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute a prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.
- (b) It shall be a defense to prosecution under this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.

Sec. 10-95. - Wild animals or wildlife.

- (a) No person shall possess, keep or have care, custody or control of a wild animal or wildlife within the city except as provided herein.
- (b) All persons shall be prohibited from selling, giving, transferring or importing into the city any wild animal.
- (c) This section shall not apply to any person involved in temporary wildlife exhibition and who holds the appropriate state and federal wildlife permits, or approved zoological parks, performing animal exhibitions or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.
- (d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

Sec. 10-96. - Nuisance animals.

- (a) As used in this article, a nuisance animal shall be defined as any animal which commits any of the acts listed herein:
 - (1) Molests or chases pedestrians, passersby or passing vehicles, including bicycles.
 - (2) Makes unprovoked attacks on other animals of any kind.
 - (3) Is repeatedly at large; specifically, three or more times per 12-month period.
 - (4) Damages private or public property.
 - (5) Defecates on property not belonging to or under the control of its owner.
 - (6) Barks, whines, howls, crows, crackles or makes any noise excessively and continuously, and such noise disturbs a person of ordinary sensibilities.
 - (7) Is unconfined when in heat.
- (b) If the animal control officer determines that any animal is a nuisance, the animal control officer may issue an order requiring that the owner meet certain remedial requirements to correct the conduct of the animal. The order shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file an appeal to this order as provided in article II of this chapter.
- (c) Persons residing within 600 feet of a person who harbors or keeps an animal which they believe to be a nuisance may initiate an action before the ACO.

Sec. 10-97. - Honeybees.

No person shall construct, place or maintain any beehive within 300 feet of any residence other than that of the owner except with the consent of the occupants of all such residences.

Sec. 10-98. - Pens and coops; location.

- (a) All fowl and rabbits shall be kept within a pen, coop or hutch. A fenced yard shall not qualify as a pen or coop.
- (b) Any person keeping or harboring any animal, other than livestock or fowl, shall locate any pen, coop, hutch, or other housing at least 50 feet from any residence, excluding the residence of the person keeping or harboring the animals.

Sec. 10-99. - Livestock.

- (a) It shall be unlawful for any person owning or having care, custody or control over any livestock, to:
 - (1) Cause or permit any livestock to be pastured, herded, staked or tied in any street, lane, alley, park or other public place; or
 - (2) Tie, stake or pasture or permit the tying, staking or pasturing of any animal upon any private property within the city without the consent of the owner or occupant of such property; or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property; or
 - (3) Permit any livestock to be or remain during the nighttime secured by a stake, or secured in any manner other than by enclosing such animal in a pen, corral or barn sufficient and adequate to restrain such livestock.
- (b) It shall be unlawful for any person to keep or harbor any livestock or fowl within the city in a pen or other enclosure situated at any point closer than 200 feet to any residence, excluding the residence of the person keeping or harboring the livestock. This section does not apply to a person who keeps or harbors livestock or fowl on property five acres or larger in size.

Sec. 10-100. - Storage of feed.

All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal.

Secs. 5-101. -Abandonment.

- (1) A person commits the crime of animal abandonment if the person leaves a domestic animal or an equine unattended for more than 24 hours, releases the animal upon public highways or public or private lands, or fails to provide proper or adequate food, water, exercise ,shelter or medical care.
- (2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

- (3) The release of an ear tipped cat into an area where food, shelter and monitoring are provided on a regular basis does not constitute abandonment within the meaning of this ordinance.

Secs. 10-102. —10-120. - Reserved.

ARTICLE IV. - ANIMAL PROTECTION PROVISIONS

Sec. 10-121. - Animals in motor vehicles.

No person shall leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence endanger the animal's health, safety or welfare. An animal control officer, or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the animal shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from a vehicle.

Sec. 10-122. - Duty of motor vehicle operator to report accident involving animals, fowl, livestock.

Any person who, as the operator of a motor vehicle within the city, strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.

Sec. 10-123. - Tethered animals.

(a) It shall be unlawful for any person to tether, chain or fasten any animal in such a manner as to permit it to be upon any public sidewalk or street or to leave it unattended while tethered, chained or fastened on public property.

(b) An owner of an animal commits an offense if he tethers the animal or allows the animal to be tethered in any manner or by any method that:

- (1) allows the animal to become entangled;
- (2) does not allow the animal access to food, water, and appropriate shelter if outside; or

(3) does not meet the requirements for tethering under Subsection (c) of this section.

(c) The following requirements apply to an animal tethered within the city:

(1) The animal must be properly fitted with and wearing a harness or collar made of leather or nylon.

(2) The tether must be attached to the animal's harness or collar and not directly to the animal's neck.

(3) The tether must be at least 10 feet long and does not allow the animal to exit the property.

Sec. 10-123.1. – Proper Restraint.

(a) An owner of an animal commits an offense if he fails to restrain the animal at all times in a fenced yard, in an enclosed pen or structure, or by a tether or leash.

(b) It is a defense to prosecution under Subsection (a) that:

- (1) the animal was a dog in an off-leash area;
- (2) the animal was a dog and was tethered in a manner complying with Section 10-123 of this chapter; or
- (3) the animal was an ear tipped cat.

Sec. 10-124. - Selling dyed animals.

No animal or fowl of any kind that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or given as a prize, premium or advertising device or displayed in any store, shop, carnival or other public place.

Sec. 10-125. - Giving animals as prizes or inducements.

(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.

(b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H or similar project.

Sec. 10-126. - Trapping.

It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed, leg-hold trap to be used for the capture of any animal. This

section is not intended to prohibit the prudent use of traps on one's own property to control rodents.

Sec. 10-127. - Molesting animals.

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

Sec. 10-128. - Pens and enclosures; sanitary requirements; minimum cage size; overcrowding.

- (a) The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas and enclosures of any kind in a sanitary condition. This shall include the following:
 - (1) All animal wastes shall be disposed of promptly and all pens and enclosures shall be cleaned as needed to prevent odors, and not draw insects or other vermin or create a nuisance.
 - (2) The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.
 - (3) Some standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas and other vectors.
- (b) Cages, pens, or enclosures used to confine animals shall be of sufficient size to maintain all of the animals within such pen or enclosures comfortably and in good health.

Sec. 10-129. - Negligent care.

- (a) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink, shade, adequate shelter or veterinary care as may be necessary for diseased or injured animals.
- (b) To provide adequate shelter for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:
 - (1) The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.
 - (2) If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.
 - (3) Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.
- (c) A notice of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to appear at the municipal court may be issued or before a complaint may be filed with the municipal court. Any person issued a notice of violation may appeal that notice to the city judge.

Sec. 10-130. - Animal in state of pain or suffering.

- (a) If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the city or its agent may dispose of the animal in any humane manner without complying with the three-day (72-hour) waiting period as set out in section 10-179
- (b) If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the animal control officer may dispose of the animal in a humane manner.

Sec. 10-131. - Sale of animals in public place.

- (a) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away or convey the ownership of any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center or outdoor public place.
- (b) It shall be unlawful for any person to display any animal for a commercial purpose on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place.
- (c) This section shall not apply to any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals or any organization recognized by the animal authority.
- (d) Any animal being conveyed in a manner in violation of this Code shall be subject to seizure and impoundment at the discretion of the authority and subject to applicable codes for disposition of impounded animals.

Sec. 10-132. - Animal fights and fighting paraphernalia.

- (a) It shall be unlawful for any person to intentionally, knowingly, recklessly, or with criminal negligence use, or allow or permit to be used, property that he owns or has control over for the purpose of conducting animal fights. For purposes of this section, "animal" shall mean a domesticated living creature and wild living creature previously captured, other than a dog.
- (b) It shall be unlawful for any person to possess animal fighting equipment within the City of Hewitt, Texas. As used herein, the term "animal fighting equipment" means any equipment used for training, handling, housing, feeding, or transporting fighting animals. The term also includes animals being used, trained, or bred for fighting or intended to be used, trained, or bred for fighting.

Sec. 10-133. - Slaughtering of animals.

Animals may be slaughtered for human or animal consumption within the City of Hewitt, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.

Sec. 10-134. - Use of poisonous substances.

- (a) It shall be unlawful for any person to administer poison to an animal belonging to another without legal authority or the owner's effective consent.
- (b) It shall be unlawful for any person to recklessly or with criminal negligence injure another's animal by leaving a poisonous substance of any kind in any place within the city.
- (c) The provisions of subsection (a) and (b) shall not apply to an exterminator using poisons as part of a pest control program, nor shall it apply to persons using commercial insecticides and rodent baits used to control insects and wild rodents. For purposes of this section, the term "exterminator" shall mean an individual licensed by the Texas Structural Pest Control Board, unless he or she is exempt from such licensing.

Sec. 10-135. - Health Statement Required for Transfer or Sale of Dogs and Cats.

- (a) The owner of any dog or cat that is sold or exchanged for valuable consideration or given away must provide to the new owner prior to completion of the transaction a health statement, as defined herein, from a licensed veterinarian issued within 30 days prior to the sale or exchange.
- (b) The original health statement must be given to the purchaser.
- (c) Copies of the health statement must be retained by the veterinarian and original owner/seller for a minimum of three years.

Secs. 135—150. - Reserved.

ARTICLE V. - DANGEROUS ANIMALS

Sec. 10-151. - Purpose of article.

It is the intention of this article to provide a means of dealing with an animal that is dangerous or, by its conduct, has indicated that it may represent a danger in the future. In interpreting the definitions contained in this article and in implementing its provisions, the animal control officer shall recognize the right of a person to use an animal as a protector or as a guard; however, the animal control officer shall also take into consideration the right of a neighborhood to be free from fear that an animal may leave the premises of its owner or keeper and attack and injure a person or other domestic animal.

Sec. 10-152. - Dangerous animals.

- (a) A dangerous animal shall be defined as an animal which:
 - (1) Has inflicted injury on a human being without provocation on public or private property; or
 - (2) Has killed or severely injured a domestic animal without provocation while off the owner's property; or

- (3) Is trained or harbored for fighting which may be determined based on whether the animal exhibits behavior and/or bears physical scars or injuries which indicate that the animal has been trained or used for the purpose of fighting.
- (b) If an animal acts as stated in subsection (a)(1) or (a)(2) of this section or is trained or harbored for fighting, the animal control officer shall impound the animal immediately if it is at large; or, if it is in the possession of some person, the animal control officer may issue a notice requiring that the animal be taken to a designated location for impoundment. An animal which is impounded shall not be released until a final determination is made on the disposition of the animal.
- (c) Notice shall be given to the owner that the animal control officer has determined that the animal is a dangerous animal. This notice shall also set out the remedial requirements which the owner must comply with. This notice shall be given to the owner by personal service or by certified mail, return receipt requested. The owner shall have five working days from receipt of the notice to file a letter with the city secretary stating that he shall comply with the remedial requirements as stated in the notice or that he disagrees with the determination that the animal is dangerous or the remedial requirements and that he requests a hearing in municipal court.
- (d) If the owner of a dangerous animal cannot be determined after reasonable efforts to do so and after holding the animal for 72 hours, the animal may be disposed of in a humane manner. If the owner of a dangerous animal which has been impounded cannot be located for the delivery service of the notice required herein either in person or by mail, the animal may be disposed of in a humane manner after all reasonable effort has been made to locate such owner.
- (e) If the animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the animal control officer may again review the situation and prescribe additional or different remedial requirements.

Sec. 10-153. - Potentially dangerous animals.

- (a) If the animal control officer or a neighborhood believes that an animal has exhibited behavior indicating that it represents a potential danger, the animal control officer may initiate an action before the city judge to determine whether or not the animal is potentially dangerous. Pending the outcome of such hearing, the animal must be securely confined in a humane manner either on the premises of the owner, with a licensed veterinarian or at the animal shelter.
- (b) An animal may be defined as "potentially dangerous" if it has engaged in the following conduct:
 - (1) When unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack; or
 - (2) Has a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals.

- (c) If an animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the ACO may again review the situation and prescribe additional or different remedial requirements.

Sec. 10-154. - Exceptions.

- (a) No animal may be declared dangerous or potentially dangerous if the threat, injury or damage was sustained by a person who at the time:
 - (1) Was committing a willful trespass or other tort upon the premises occupied by the owner of the animal; or
 - (2) Was teasing, tormenting, abusing or assaulting the animal or has in the past been observed or reported to have teased, tormented, abused or assaulted the animal; or
 - (3) Was committing or attempting to commit a crime.
- (b) The provisions of this article shall not apply to animals under the control of a law enforcement or military agency.
- (c) The provisions of this article shall not apply to a dog whose conduct has brought it within the coverage of the V.T.C.A., Health and Safety Code ch. 822, to the extent that said chapter preempts local regulation of the dog's conduct.

Secs. 10-155—10-175. - Reserved.

ARTICLE VI. - IMPOUNDMENT

Sec. 10-176. - Impoundment generally.

It shall be the duty of the local rabies control authority, the animal control officer or their agents to seize and impound all animals found in violation of any provision of this chapter.

Sec. 10-177. - Tampering with animal shelter or impoundment vehicle.

It shall be unlawful for any person in the city without proper authority to break into, open, pull down the enclosure of or make any opening into any enclosure belonging to or used by the city to impound or keep animals. It shall also be unlawful for any person to turn out or release, or cause to be turned out or released, or aid or abet the turning out or release of any animal from the animal shelter, from an impoundment vehicle or from any enclosure used by the city for the impoundment of animals.

Sec. 10-178. - Redemption of impounded animal.

Except as may be provided elsewhere in this chapter, the owner of any animal impounded in accordance with this chapter may reclaim such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the city or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner

does not pay these fees, the animal will become the property of the City after three days, whereby the City may transfer ownership to another individual or rescue group, or the City or its agent may humanely destroy the animal.

Sec. 10-179. - Disposition of dogs and cats.

If a dog or cat that is not micro chipped is not claimed by its owner within 72 hours of impoundment, the city or its agent may dispose of the dog or cat by transferring ownership to an appropriate home through adoption or placing the animal with an appropriate rescue group or by humanely euthanizing it.

Sec. 10-180. - Disposition of other animals.

- (a) If the animal has some type of brand indicating ownership, the animal control officer or his agent shall make a search for the owner of the animal in the county register of recorded brands. If the search does not reveal the owner, and if there is no other information from which an effort to locate the owner of the animal can be made, a notice of the impoundment of the animal shall be published in a newspaper of general circulation in the county at least twice during the next 15 days and posted in a public place at city hall and at such other places as are deemed reasonable by the animal control officer.
- (b) The notice referred to in subsection (a) of this section regarding the impoundment of an animal shall include the following information: the location where the animal was found; the location where the animal has been impounded; and a description of the animal, including its breed, if known, color, sex, size, markings of any kind and other identifying characteristics. The notice shall also state the date by which the animal must be claimed or it will be sold or otherwise disposed of.
- (c) If the owner of the animal is identified and is given notice, either orally or in writing, that the animal has been impounded at the animal shelter, the owner must reclaim the animal as provided for in section 10-178 within three days of such notice or within 15 days of impoundment, whichever time period is shorter. If the owner of the animal is not identified or not given notice of the impoundment, the animal shall be held for redemption for three days after the date of the final advertisement required by subsection (a) of this section. If an animal is not reclaimed as provided herein, the city shall have title to the animal and shall cause the animal to be sold by it or an agent at a sale conducted at the animal shelter or at a public auction licensed by the United States Department of Agriculture. Title shall be considered vested in the city for the purposes of passing good title, free and clear of all claims, to the purchaser at the sale. A purchaser may take possession of the animal upon payment of the purchased price.
- (d) Within one year after the date of the sale of an animal under this article, the original owner may recover the net proceeds from the sale of the animal if such owner provides the animal control officer with satisfactory proof of ownership. The net proceeds from the sale shall be the funds remaining after subtracting all costs and expenses incurred in the impoundment

and sale of the animal. If the funds are not claimed within this time period, they shall be considered to have been forfeited to the city.

- (e) If an animal cannot be sold as prescribed in this section, the city or its agent may either give the animal to some person capable of humanely caring for it or humanely euthanize the animal.
- (f) No animal owner may be permitted to adopt his or her own animal, he or she must comply with the provisions of section 10-178 in order to reclaim an animal that has been impounded pursuant to state law or this chapter.

Sec. 10-181. - Fees.

The city council by resolution or as part of the annual budget shall approve a list of fees to redeem any animal impounded by the city. Such fees may include a fee for capturing the animal and a daily ACO fee.

Secs. 10-182—10-204. - Reserved.

ARTICLE VII. - MICROCHIPS

Sec. 10-205. - Definitions.

The following definitions shall apply throughout this chapter:

Microchip means a small radio frequency identification device that is inserted between the shoulder blades of an animal and is inert until activated by a scanner. The microchip provides specific information about an animal's identity.

Sec. 10-206. - Microchip required.

- (a) All dogs or cats in the City of Hewitt corporate City Limits must be micro chipped.
- (b) All dogs or cats will be micro chipped prior to leaving the animal shelter.
- (c) All impounded dogs or cats shall have a microchip inserted between its shoulder blades before being released to its owner. The owner of the dog or cat shall pay the cost for this procedure in addition to the impoundment fees.
- (d) Any dog or cat that is adopted from the animal shelter shall have a microchip inserted between its shoulder blades and the animal's new owner shall pay the cost for this procedure.
- (e) The microchip fee is not refundable and may be used only for the dog or cat for which it was issued.
- (f) Subsections (a) and (b) do not apply to a community ear tipped cat.

ARTICLE VIII. - Reserved

ARTICLE IX. SPAY/NEUTER

Sec. 10-210.

- (a) All dogs or cats, in the City of Hewitt corporate City Limits shall be spayed/neutered. The owner of such animals must retain documentation of the spay/neuter of their animals.
- (b) All dogs or cats impounded within the corporate city limits of the City of Hewitt, will be spayed/neutered prior to being released to the owner. The cost to spay/neuter the animal shall be paid by the owner along with the impound fees.
- (c) The following animals will not be spay/neutered as directed under subsection (a):
 - (1) The animal is under four (4) months of age;
 - (2) A licensed veterinarian certifies that the dog or cat should not be spayed/neutered for health reasons or is permanently non-fertile; or
 - (3) The animal is a trained animal used by or under the authority of a governmental agency in police or rescue work.
 - (4) Animals transferred to another animal shelter that provides a written agreement to the City of Hewitt that the animal will be sterilized before being placed into a new home located within the corporate limits of the City of Hewitt.
 - (5) animals, picked up for the first time, belonging to a breeder that has:
 - (a) the animal's microchip number; and
 - (b) a copy of the animal's health statement; and
 - (c) paid the fee for first offense and all other fees associated with the impoundment of the animal. Should the animal be impounded a second time it will be spay/neutered prior to being released to the owner.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Hewitt, which shall be a fine of not less than \$1.00 and no more than \$500.00, and each day a violation exists shall be a separate offense.

Section 4. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other

section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 5. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Hewitt, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 6. That this ordinance shall take effect upon its passage as provided by the City Charter of the City of Hewitt.

Section 7. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 8. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED AND APPROVED THIS _____ **day of** _____, 2013.

CITY OF HEWITT, TEXAS

Ed Passalugo, Mayor,

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

Charlie Buenger, City Attorney

HEWITT TEXAS II

WORKSHOP ITEM #1 f.

HEWITT TEXAS

MEMORANDUM

FROM: Adam Miles, City Manager
TO: Mayor and City Council
DATE: October 3, 2013
RE: Wastewater usage fee for new homes



The City received a request from local homebuilder Steve Patrick concerning charges for wastewater for homes under construction. A copy of his letter is included for your reference. In the letter Mr. Patrick cites recent utility bills for homes he has under construction.

Currently, as new homes are being constructed Hewitt has included the first 3,000 gallons of water with the building permit. This practice goes back several years and was intended primarily to cover water used for concrete and some of the "up front" needs of construction. After the initial 3,000 gallons are used the builder then pays for water and wastewater from that point forward.

It is important to note that the water usage is not the issue. Homebuilders will typically need water during construction and to begin a new lawn. Homebuilders understand the water is a cost of getting a new home ready for the market. Water needed for starting a lawn can be several thousand gallons.

The issue that Mr. Patrick has expressed is related to the wastewater portion of a utility bill. Because there is no way to accurately measure sewer flow, Hewitt's wastewater charge is based largely on the amount of gallons of water consumed. There is a minimum base wastewater fee that will increase with water usage. The city has set a maximum charge for wastewater that is based on 20,000 gallons of water.

Typically, most of the water used at new homes during construction is for landscaping. During construction, most homebuilders do not allow other contractors to use the restrooms, wash dishes, or take showers. In other words, there is not a lot of wastewater flow from homes under construction. Until occupied, most new homes have very little sewage flow.

Mr. Patrick is asking the city to consider waiving the sewer portion of the utility bill until the time the new home has been through a final inspection with a certificate of occupancy (CO) from the city. This issue is being presented to the Council for future deliberation.

Oct 2, 2013

City of Hewitt;

Dear Sirs,

I paid 4 water bills yesterday and all 4 had sewer charges. The amount varies on water meter reading.

House A was final bill - no issue

House B New, Vacant, never lived in, with new yard. Final C.O. NOT ISSUED

House C, New Vacant, fixtures just set new yard, FINAL C.O. NOT ISSUED yet.

House D. Post Shetrock Stage with sewer not even connected.

I suggest a more fairness policy on charging builders sewer charges before final C.O. is issued. No people are imparting the sewer until after house sells. Please work with the builders towards a more fair policy. Thank you!

Steve Pahr

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: October 7, 2013

AGENDA ITEM #: 2

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Special presentation of proclamation in recognition of the 100th Anniversary of the Daughters of the Nile.

STAFF RECOMMENDATION/ITEM SUMMARY:

This proclamation was requested by Library Board Member Mary Anna Roach who is a member of the organization. The purpose is to celebrate the 100th Anniversary of this organization and recognize its philanthropic and volunteer efforts for Shriners Hospitals.

ATTACHMENTS:

Proclamation

**OFFICIAL
MAYOR'S PROCLAMATION
CITY OF HEWITT, TEXAS**

Whereas, the Daughters of the Nile is a benevolent international organization of women of good character founded in 1913 in Seattle, Washington; and

Whereas, Daughters of the Nile is comprised of 138 Temples throughout the United States and Canada, with over 28,000 members; and

Whereas, members are committed to supporting the important work of Shriners Hospitals for Children, the one of a kind international pediatric specialty health care system that provides all care without financial obligations to patients or their families; citizens; and

Whereas, through this dedication the philanthropic fund raising and volunteer efforts have made a vital contribution to the quality of health care provided to the Shriners Hospitals for children.

Whereas, this great organization, Daughters of the Nile, is celebrating its 100th Anniversary in 2013.

Therefore, I, Ed Passalugo, by virtue of the authority vested in me as Mayor of the City of Hewitt, Texas, do hereby proclaim October 30, 2013 as "*Daughters of the Nile Day*" and urge all citizens to learn more about this organization and celebrate the vital philanthropic service provided by the Daughters of the Nile.

Signed and sealed this 7th day of October, 2013.

Ed Passalugo, Mayor

Attest:

Lydia Lopez, City Secretary

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: October 7, 2013

AGENDA ITEM #: 3

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Special recognition of outgoing member of the Library Board of Directors – Beth Oakley.

STAFF RECOMMENDATION/ITEM SUMMARY:

Mrs. Oakley was originally appointed in June of 1999. She served 12 years as a member of this Board. Ms. Oakley will be present to receive an award in recognition of her outstanding service to the City of Hewitt.

ATTACHMENTS:

None



COUNCIL AGENDA ITEM FORM

MEETING DATE: October 7, 2013

AGENDA ITEM #: 4

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider approval of minutes of the City Council Dinner Workshop/Regular Meeting of September 16, 2013.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a draft copy of the minutes of the meeting. Please review and advise if any corrections are needed.

ATTACHMENTS:

Draft minutes

HEWITT TEXAS

MINUTES OF A CITY COUNCIL DINNER WORKSHOP/MEETING HEWITT CITY HALL – 105 TAMPICO DRIVE September 16, 2013 - 5:30/7:00 PM

Members Present: Mayor Ed Passalugo (presiding); Mayor Pro Tem Wilbert “Walky” Wachtendorf; Council Members James Vidrine, Ronnie McNiel and Alex Snider

Members Absent: Council Members Bill Fuller and Travis Bailey

Staff Present: City Attorney Charlie Buenger, City Engineer Bill Aston, Engineer In Training (EIT) Miles Whitney, City Manager Adam Miles, Assistant City Manager James Barton; Finance Director Lee Garcia Utilities Director James Black, Library Director Waynette Ditto, Deputy Police Chief Tuck Saunders, Fire Chief Lance Bracco, HR/Civil Service Director Susana Garcia-Gilmore, and City Secretary Lydia Lopez

Staff Absent: Police Chief Jim Devlin

Workshop – 5:30 PM

1. City Manager presented an update on municipal business:
 - a. Report from City Engineer including review and discussion of Capital Improvement Projects.
 - b. Briefing and discussion concerning Public Safety Facility Project including update from RDBR, PLLC, Architects and K4 Construction. David Wright, RDBR, and Construction Manager at Risk Keith Helpert, K4 Construction presented updates.
 - c. Briefing and discussion concerning possible Charter revision. (Consensus of the Council was to have staff bring back language relative to three, three-year term limits.)
 - d. Briefing and discussion concerning official opening of the Disc Golf Course in Hewitt Park, September 21, 2013.
 - e. Briefing and discussion concerning joint workshop with the Planning & Zoning Commission on the regulations of residential accessory structures.
 - f. Briefing and discussion concerning Public Safety operations – Police & Fire. Fire Chief Bracco informed the Council on activities for Fire Prevention Week in October and briefed them about a recent informal meeting of local fire chiefs, County officials and 9-1-1 Emergency Assistance District regarding response to calls in unincorporated areas.
2. The regular meeting agenda items were reviewed.

3. Adjourn. *A motion was made by Bill Fuller and seconded by James Vidrine to adjourn the meeting at 6:12 p.m.*

NOTE: The Executive Session was held after the Regular meeting.

REGULAR SESSION – 7:00 PM

1. **PLEDGE OF ALLEGIANCE TO THE U.S. FLAG** - Mayor Passalugo invited former Council Member Charlie Turner to lead the Pledge of Allegiance.
2. **PRESENTATION OF PROCLAMATION IN RECOGNITION OF “SEPTEMBER LIBRARY CARD SIGN-UP MONTH”**. Mayor Passalugo presented the proclamation to members of the Library Board of Directors and Friends of Hewitt Public Library.
3. **CONSIDER APPROVAL OF MINUTES OF THE SPECIAL CALLED DINNER WORKSHOP/MEETING OF AUGUST 26, 2013**. *A motion was made by Wilbert “Walky” Wachtendorf and seconded by Alex Snider to approve the minutes as submitted but allow for additional corrections; all five in favor, motion passed.*
4. **HEAR VISITORS ON MATTERS PERTAINING TO CITY BUSINESS**. Donald Brideschge, 924 Cheyenne Trail, appeared to request additional lighting at the Hewitt Park walking track. No one else appeared.
5. **CONSIDER AWARD OF BID FOR PROPOSED 2013 REPLACEMENT OF LIFT STATION NO. 2 TO PURCELL CONTRACTING IN THE AMOUNT OF \$201,500**. *A motion was made by James Vidrine and seconded by Wilbert “Walky” Wachtendorf to award bid to Purcell Contracting; all five in favor, motion passed.*
6. **CONSIDER REQUEST TO GRANT A SPECIAL EXCEPTION TO THE TEMPORARY MORATORIUM ON RESIDENTIAL ACCESSORY STRUCTURE AT 204 OKLAHOMA AVENUE**. *A motion was made by Alex Snider and seconded by Wilbert “Walky” Wachtendorf to grant special request; four in favor, one (Vidrine) in opposition, motion passed.*
7. **CONSIDER REQUEST TO GRANT A SPECIAL EXCEPTION TO THE TEMPORARY MORATORIUM ON RESIDENTIAL ACCESSORY STRUCTURE AT 1222 OAK MANOR CIRCLE**. *A motion was made by Alex Snider and seconded by James Vidrine to grant special request; all five in favor, motion passed.*

8. **CONSIDER AUTHORIZING A TWELVE MONTH EXTENSION OF THE PUBLICITY AND TOURISM AGREEMENT BETWEEN THE CITY OF HEWITT, TEXAS AND THE GREATER HEWITT CHAMBER OF COMMERCE.** *A motion was made by Ronnie McNiel and seconded by Alex Snider to approve; all five in favor, motion passed.*
9. **CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADOPT AND IMPLEMENT THE APPROVED MCLENNAN COUNTY HAZARD MITIGATION PLAN AS IT RELATES TO THE CITY OF HEWITT.** *A motion was made by Wilbert "Walky" Wachtendorf and seconded by Ronnie McNiel to approve resolution; all five in favor, motion passed.*
10. **ADJOURN.** *A motion was made by Wilbert "Walky" Wachtendorf and seconded by Alex Snider to adjourn the meeting at 7:12 p.m., all five in favor, motion passed.*

EXECUTIVE SESSION

Mayor Passalugo convened the Executive Session at 7:14 pm pursuant to the Open Meetings Act, Chapter 551, Texas Government Code to discuss the following:

- Pursuant to § 551.071(1)(A), Consultation with Attorney regarding pending or contemplated litigation.
- Pursuant to § 551.087 – Deliberation regarding Economic Development Negotiations.

Close Executive Session. *A motion was made by Alex Snider and seconded by Ronnie McNiel to close the executive session at 8:05 p.m.*

Approved: October 7, 2013

Lydia Lopez, City Secretary

Ed Passalugo, Mayor

HEWITT TEXAS

ITEM #5 – HEARING OF VISITORS

CITIZEN PARTICIPATION AT MEETINGS

1. All citizens are encouraged to discuss matters of concern with the staff and individual council members prior to placing items on the agenda. Many times this will expedite a resolution or allow proper investigation of the matter for presentation to the entire council.

NO CITIZEN NOR STAFF MEMBER MAY SPEAK NOR OTHERWISE INTERRUPT ANY MEETING UNTIL RECOGNIZED BY THE PRESIDING OFFICER.

2. To maintain decorum at public hearings, the mayor will ask the citizens present if they wish to speak for or against the item on the agenda. If so, they will be given an opportunity to do so at the proper time, when recognized by the chair. If more than five citizens wish to address the council on any single agenda item, those citizens are advised to select spokespersons to present their case.
3. Citizens who wish to bring up a matter that pertains to city business or address an item on the agenda may do so, but only under the agenda item "Hear Visitors." **The council is prohibited by law from discussing or acting on any item that has not been posted on the agenda.**
4. **Citizens addressing the city council on items not on the agenda shall be limited to five minutes each. Total time for presentations on any one item or topic shall be limited to twenty-five minutes. The city council members shall not enter into discussion on any subject not properly placed on the agenda; however, the council members may ask questions for clarification purposes.**
5. As a general rule, citizens may not participate in the discussion of the council workshop session.

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: October 7, 2013

AGENDA ITEM #: 6

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider request to grant a special exception to the temporary moratorium on residential accessory structures at 908 Regina Drive.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a request for a permit by homeowner Jeffrey Brent Lummus. Mr. Lummus is requesting a special exception to the temporary moratorium placed on residential accessory structures on his property located at 908 Regina Drive. Mr. Lummus is installing a storage building.

The following is an excerpt of the ordinance outlining the appeal process:

D. Special Exceptions

Exceptions for relief of hardship caused by this Temporary Moratorium may be made in writing to the City Council. Special Exceptions may be granted by the City Council when the City determines in writing that one or more of the conditions listed below are satisfied:

1. Undue Hardship

- a. The applicant shall otherwise suffer undue hardship, that being something beyond or in addition to financial hardship;
- b. The current regulations are adequate to address the particular type of development and construction proposed by the applicant through the proper channels;
- c. It is in the public interest to allow a limited exception to the Temporary Moratorium in the particular instance; and
- d. Authorizing the special exception will not adversely impact neighboring properties.

2. Pending Projects

- a. Complete applications for the required regulatory approvals for the proposed project were on file with the City on or before the Effective Date of this Temporary Moratorium

E. Appeals Process

An application for an exception must be submitted to include project summary, a letter to the City Council explaining the situation and any respective plats or drawings for placement on the agenda for consideration at the next available City Council meeting.

Staff recommends approval of this request.

ATTACHMENTS:

Building Permit Application
Drawing

CITY OF HEWITT
BUILDING PERMIT APPLICATION

Type of Permit Requested Residential Accessory Building

Description of proposed use/work (Be specific and detailed)
10X12 Storage Bldg on poured slab (poured in 1992). Purchased
'Tuff Shed' from Home Depot for \$3,484⁰⁰ on 9/19/13. Hardie
Siding/Timerline Roof Height 10'6"

Project Address 908 Regina Dr.

Subdivision Gross Yowell **Lot** _____ **Block** 900

Valuation of Work \$ 3220⁰⁰ **Square Footage of Project** 120^{sq} feet

PROPERTY OWNER

Name Jeffrey Brent Lummus

Address 908 Regina Dr **City, State, Zip Code** Hewitt, TX 76643

Phone 254-666-2869 **Email** blummus@txfb-ins.com

CONTRACTOR

Tax ID Number _____ **Master License #** _____ (If applicable)

Name Mike DePuy **Business Name** Tuff Shed / Home Depot

Address 5605 W. Waco Dr **City, State, Zip Code** Waco, TX 76710

Phone 214-335 **Email** M DePuy@tuffshed.com

I HEREBY CERTIFY THAT I AM AN AUTHORIZED AGENT OF THE OWNER, AND HAVE THE OWNER'S CONSENT TO ENTER ONTO THE PROPERTY TO COMPLETE THE WORK. AFTER CLOSE REVIEW OF THIS APPLICATION, I FURTHER CERTIFY THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. THE WORK SHALL COMPLY WITH ALL PROVISIONS OF LAWS AND ORDINANCES, WHETHER SPECIFIED OR NOT. THE GRANT OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY FEDERAL, STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION. I HAVE SUBMITTED ALL THE NECESSARY PLANS AND DOCUMENTS FOR REVIEW. ALSO, I AM AWARE THAT THE REVIEW PROCESS CAN TAKE UP TO 10 BUSINESS DAYS.

Signature of Applicant Jeffrey Brent Lummus **Date** 9/18/13

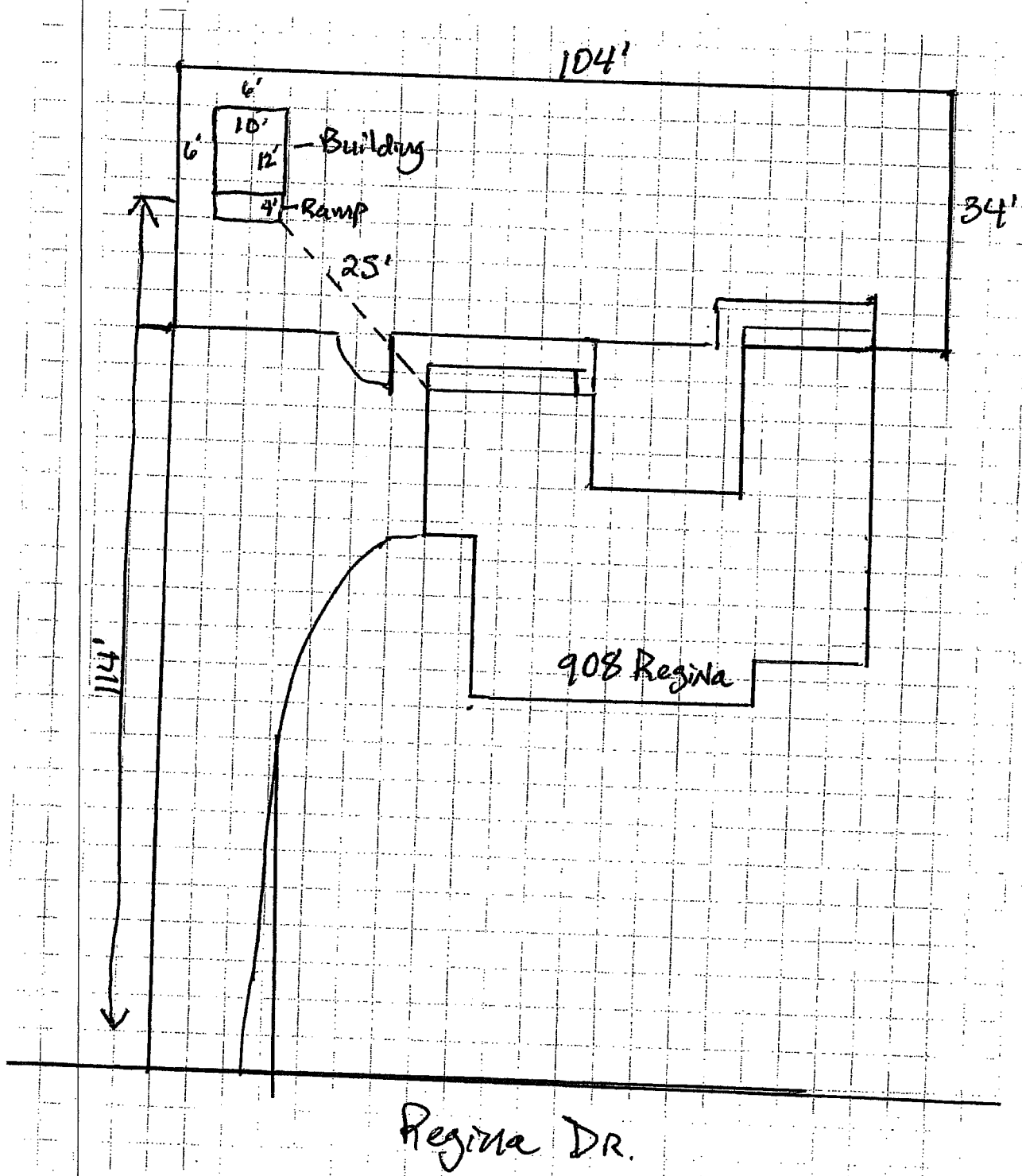
Printed Name _____

Approval needed by inspector for Alcohol Permit; Auction/Sales Permit; Carport Permit; Commercial Accessory Building; Commercial Building Permit-New; Commercial Building Permit-Temporary 72 hour; Commercial Remodeling Permit; Deck Permit; Demolition Permit; Duplex Permit; Fence Permit; Flatwork Permit; Garage Enclosure; Land Clearing Filling or Grading Permit; Mobile Home Move in Permit; Multi-Family Building Permit; Patio Cover; Residential Accessory Building Permit; Residential Building Permit; Residential Remodeling Permit; Sign Permit; Fire Protection Systems; Swimming Pool Permit; Hot tub/spas Permit, this list may not be all inclusive.

BUILDING DEPARTMENT

103 N Hewitt Drive • P.O. Box 610 • Hewitt, Texas 76643 • Tel: 254.666.6173 • Fax: 254.666.3741

Email: buildingdept@cityofhewitt.com • Website: www.cityofhewitt.com • MyGov



HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: October 7, 2013

AGENDA ITEM #: 7

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider and act on a resolution authorizing a 60 day extension of the temporary moratorium on residential accessory structures.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City Council approved an ordinance establishing temporary moratorium concerning new permits for residential accessory buildings. As drafted, the ordinance would prohibit all residential accessory structures described in Section 9.102 of Appendix A – Zoning, of the Code of Ordinances of the City of Hewitt. The proposed temporary moratorium would be for a period of 60 days. The original 60 day period is set to expire; therefore, Council is asked to approve an extension to the moratorium for an additional 60 day period.

ATTACHMENTS:

Draft resolution

RESOLUTION NO. 2013-10-07-1

WHEREAS, the City Council approved Ordinance No. 2013-08-12-1 that established a temporary moratorium on building permits for residential accessory building.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS:

That the City Manager shall be authorized to extend the Temporary Moratorium on building permits for residential accessory buildings including detached garages and carports in the City of Hewitt for an additional period of 60 days for the purpose of (1) review current policies on the acceptance and approval of submissions for construction of the aforementioned structures; (2) develop and activate standard regulations and processes; (3) revise land use ordinances in order to provide clarity and regulation.

That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

PASSED AND APPROVED this the 7th day of October, 2013.

Ed Passalugo, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

O. Charles Buenger, City Attorney



COUNCIL AGENDA ITEM FORM

MEETING DATE: September 16, 2013

AGENDA ITEM #: 8

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider and act on a resolution submitting candidate nominations for the McLennan County Appraisal District Board of Directors for the Years 2014-2015.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a letter by Chief Appraiser Andrew J. Hahn, Jr. explaining voting entitlements for eligible taxing unit to nominate candidates for the five (5) positions on the McLennan County Appraisal District Board of Directors. The attached resolution nominates the five existing members who have agreed to serve during the 2014-2015 term.

Staff recommends approval of the resolution nominating the 2014-2015 Board of Directors.

ATTACHMENTS:

Draft Resolution

2014-2015 BOARD OF DIRECTORS TAXING UNIT VOTING PROCEDURES

McLennan CAD Taxing Units:

It is time again to deliver the voting entitlements, for eligible taxing units, to nominate candidates for the five (5) positions on the McLennan County Appraisal District Board of Directors.

Each taxing unit is entitled to nominate, by resolution adopted by its governing body (sample enclosed), one candidate for **each** of the five (5) positions to be filled on the board of directors. The presiding officer of the governing body of the taxing unit shall submit the name and address of the unit's nominee(s) to the chief appraiser **before** October 15th. Before October 30th, the chief appraiser shall prepare a ballot listing the candidates and shall deliver a copy of the ballot to the presiding officer of each taxing unit that is entitled to vote.

The governing body shall determine its vote by resolution and submit it to the chief appraiser before December 16th. Your voting entitlement may be cast for one candidate or distributed among any number of candidates as the governing body chooses. The chief appraiser will count the votes, declare the five (5) candidates who receive the largest cumulative vote totals elected, and submit the results before December 31st to each governing body.

Please mark these important dates on your calendar for the governance of the McLennan County Appraisal District:

- Before **October 15** Your governing body submits nominee names and addresses, by resolution, to the chief appraiser.
- Before **October 30** The chief appraiser will prepare and deliver a ballot to the presiding officer of your taxing unit.
- Before **December 15** Your governing body will vote by resolution and return the ballot to the chief appraiser.
- Before **December 31** The chief appraiser will send the results of the election to each governing body and to the candidates.

There is a very small window of time to consider this issue. Please make plans at your scheduled meetings to consider and act on this matter. Your vote is very important to the continued dedicated leadership of this board.

I have asked our current board members about their interest in serving another term. Billy Hubert, Randy Riggs, John Embry, Ivan Green and Allen Sykes have expressed that they would be willing to serve during the 2014-2015 term. Please contact me if you have any questions.

Respectfully submitted,



Andrew J. Hahn, Jr. RPA, RTA
Chief Appraiser

September 6, 2013-kpustejovsky

MCLENNAN COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS ELIGIBILITY

Eligibility:

To be eligible to serve, a person must have resided in the appraisal district for at least two (2) years immediately preceding the date of taking office. The person may not be an employee of a taxing entity served by the appraisal district, but may be an elected official or a member of the governing body. A person may not be appointed if related within the second degree of consanguinity (blood) or affinity (marriage) to either an appraiser who appraises property for use in the appraisal district's appraisal review board proceedings or a tax representative who represents taxpayers for compensation before the appraisal district's appraisal review board. Owing delinquent taxes for more than 60 days after the date the person knew or should have known of the delinquency disqualifies a person from serving on the CAD board of directors.

Term:

All directors, other than the county tax assessor collector, serve a two (2) year term beginning on January 1 of an even-numbered year.

Meetings:

Meetings are held at least once a calendar quarter at the convenience of the majority of the board.

Compensation:

Directors may not receive a salary, per diem, or other compensation. The appraisal district may reimburse for reasonable and necessary expenses incurred in the performance of a director's duties if included in the appraisal district budget.

General Statement of Functions:

The board of directors has the following primary responsibilities:

- Establish the appraisal district's appraisal office;
- Adopt the appraisal district's annual operating budget;
- Contract for necessary services;
- Hire a chief appraiser;
- Hire a taxpayer liaison officer (districts in counties having a population of over 125,000);
- Appoint appraisal review board members; and
- Make general policy on the appraisal district's operation.

The board's authority over appraisals is limited. The board does not appraise property or review values on individual properties. The board has no authority to officially review ARB decisions. The board does have some authority over appraisals through its duties to contract and budget.

TAXING UNIT	2012 TAX LEVY	PERCENT OF TOTAL LEVY	CALCULATED 2014-2015 TERM VOTES
SCHOOL DISTRICTS			
AXTELL ISD	1,072,045	0.354828%	18
BOSQUEVILLE ISD	1,960,914	0.649028%	32
BRUCEVILLE-EDDY ISD	1,612,485	0.533704%	27
CHINA SPRING ISD	8,197,540	2.713243%	136
CONNALLY ISD	6,807,588	2.253193%	113
CRAWFORD ISD	1,730,565	0.572787%	29
GHOLSON ISD	365,165	0.120863%	6
HALLSBURG ISD	586,255	0.194040%	10
LA VEGA ISD	8,518,930	2.819617%	141
LORENA ISD	4,745,712	1.570748%	79
MART ISD	805,200	0.266507%	13
McGREGOR ISD	3,273,280	1.083399%	54
MIDWAY ISD	50,148,391	16.598241%	830
MOODY ISD	1,277,296	0.422763%	21
OGELSBY ISD	6,912	0.002288%	0
RIESEL ISD	6,833,442	2.261750%	113
ROBINSON ISD	6,535,638	2.163182%	108
VALLEY MILLS ISD	596,859	0.197550%	10
WACO ISD	54,466,207	18.027363%	901
WEST ISD	4,062,581	1.344643%	67
COUNTY			
MCLENNAN COUNTY	51,582,732	17.072983%	854
CITIES			
BELLMEAD	926,210	0.306559%	15
BEVERLY HILLS	278,574	0.092203%	5
BRUCEVILLE-EDDY	235,735	0.078024%	4
CRAWFORD	190,794	0.063149%	3
GHOLSON	61,108	0.020226%	1
HALLSBURG	8,079	0.002674%	0
HEWITT	3,269,331	1.082091%	54
LACY-LAKEVIEW	964,375	0.319191%	16
LORENA	497,254	0.164582%	8
MART	397,467	0.131555%	7
McGREGOR	1,288,362	0.426425%	21
MOODY	246,934	0.081731%	4
RIESEL	172,772	0.057185%	3
ROBINSON	2,472,344	0.818303%	41
VALLEY MILLS	2,212	0.000732%	0
WACO	52,196,262	17.276051%	864
WEST	648,000	0.214477%	11
WOODWAY	3,831,048	1.268010%	63
MCLENNAN COMMUNITY COLLEGE	19,258,149	6.374111%	319
TOTAL	302,130,747	100%	5,000

***THIS IS THE 1ST YEAR FOR MCC TO PARTICIPATE IN THE BOD ELECTIONS PER LEGISLATIVE ACTION.**

RESOLUTION NO. 2013-10-07-2

**RESOLUTION OF CANDIDATE NOMINATIONS FOR THE
McLENNAN COUNTY APPRAISAL DISTRICT BOARD OF
DIRECTORS FOR THE YEARS 2014-2015.**

WHEREAS, Section 6.03 (f) of the Texas Property Tax Code, requires that each taxing unit entitled to vote may nominate by resolution one candidate for each of the five positions to be filled and submit those nominations to the Chief Appraiser of the McLennan County Appraisal District before October 15, 2013.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS:

That the Council submits the following nomination(s) for Board of Directors of the McLennan County Appraisal District for 2014-2015:

1. Billy Hubert
2. Randy Riggs
3. John Embry
4. Ivan Green
5. Allen Sykes

That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

PASSED AND APPROVED this the 7th day of October, 2013.

Ed Passalugo, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

O. Charles Buenger, City Attorney



COUNCIL AGENDA ITEM FORM

MEETING DATE: October 7, 2013

AGENDA ITEM #: 9

SUBMITTED BY: Lee Garcia, Finance Director

ITEM DESCRIPTION:

Consider and act on an Ordinance approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2013 annual rate review mechanism filing and adopting tariffs that reflect rate adjustments consistent with the negotiated settlement.

STAFF RECOMMENDATION/ITEM SUMMARY:

The ACSC Executive Committee recommends that ACSC members take action to approve the Ordinance authorizing the negotiated settlement and authorizing new rate tariffs.

On May 21, 2012, the City acted to deny Atmos Mid-Tex from taking action on their proposed increase of \$28 million under the GRIP surcharge process.

In early 2013, the City approved the RRM approach to rate calculation for the next five years.

In July 2013, Atmos Mid-Tex re-filed for an increase of \$22.7 million under the RRM mechanism.

As a result of negotiations, the ACSC was able to reduce that increase to \$16.6 million. Staff recommends adoption of the ordinance approving this negotiated settlement.

ATTACHMENTS:

Staff Report
Ordinance



STAFF REPORT

The City of Hewitt, Texas, along with approximately 164 other cities served by Atmos Energy Mid-Tex Division ("Atmos Mid-Tex"), is a member of the Atmos Cities Steering Committee ("ACSC").

On or about July 15, 2013, Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism ("RRM") tariff renewed by the City of Hewitt in 2013 as a continuation and refinement of the previous RRM rate review process.

This is the first annual filing under the renewed RRM tariff.

The original RRM filing by Atmos Mid-Tex sought a \$22.7 million rate increase system-wide based on an alleged test year cost of service revenue deficiency of \$25.7 million.

The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates.

The proposed Ordinance and attached rate tariffs are the result of negotiations between ACSC and Atmos Mid-Tex to resolve issues raised by ACSC during the review and evaluation of Atmos Mid-Tex's RRM filing.

The Ordinance resolves the Atmos Mid-Tex's RRM filing by authorizing additional revenues of \$16.6 million system-wide.

For purposes of comparison, this negotiated result is about \$11 million *less* than what ACSC's consultants calculated that Atmos would have been entitled to if Atmos had filed a case under the Gas Reliability Infrastructure Program ("GRIP") rather than an RRM case.

The settlement is estimated to increase the average residential customer's bill by approximately \$0.74 per month. This is an increase in the consumption rate, not in the base charge. Attached to this document is an Average Bill Comparison of base rates for residential, commercial, industrial, and transportation customers.

The ACSC Executive Committee and ACSC legal counsel recommend that all ACSC Cities adopt the Ordinance implementing the rate change.

The following pages provide the background of the RRM process and additional information regarding the proposed Ordinance.

RRM Background:

The RRM tariff was originally approved by ACSC Cities as part of the settlement agreement to resolve the Atmos Mid-Tex 2007 system-wide rate filing at the Railroad Commission.

In early 2013, the City of Hewitt adopted a renewed RRM tariff for an additional five years. Atmos Mid-Tex's July 2013 filing was made pursuant to the renewed RRM tariff.

The RRM tariff and the process implementing that tariff were created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the legislatively-authorized GRIP surcharge process. ACSC has opposed GRIP because it constitutes piecemeal ratemaking, does not allow any review of the reasonableness of Atmos' expenditures, and does not allow participation by cities or recovery of cities' rate case expenses. In contrast, the RRM process has allowed for a more comprehensive rate review and annual adjustment as a substitute for GRIP filings. ACSC's consultants have calculated that had Atmos filed under the GRIP provisions, it would have received additional revenues from ratepayers in excess of \$28 million.

Purpose of the Ordinance:

Rates cannot change without the adoption of rate ordinances by cities. No related matter is pending at the Railroad Commission. The purpose of the Ordinance is to approve rates (shown on "Attachment A" to the Ordinance) that reflect the negotiated rate changes pursuant to the RRM process and to ratify the recommendation of the ACSC Executive Committee.

As a result of the negotiations, ACSC was able to reduce the Atmos Mid-Tex's requested \$22.7 million RRM increase to \$16.6 million.

Approval of the Ordinance will result in the implementation of new rates that increase Atmos Mid-Tex's revenues effective November 1, 2013.

Reasons Justifying Approval of the Negotiated Resolution:

Consultants working on behalf of ACSC Cities have investigated the support for the Atmos Mid-Tex's requested rate increase. While the evidence does not support the \$22.7 million increase requested, ACSC's consultants agree that Atmos Mid-Tx can justify an increase in revenues of some lesser amount. The agreement on \$16.6 million is a compromise between the positions of the parties.

The alternative to a resolution of the RRM filing would be a GRIP filing by the Atmos Mid-Tex based upon the Railroad Commission's decision in the 2012 rate case. A GRIP filing would entitle the Atmos Mid-Tex to receive more than \$28 million in additional revenues with ACSC being precluded from reviewing the reasonableness of the GRIP filing.

The ACSC Executive Committee recommends that ACSC members take action to approve the Ordinance authorizing new rate tariffs.

No Changes to Residential Customer Charges:

For the first annual filing under the revised RRM tariff, Atmos Mid-Tex has agreed to forgo any change to the base residential customer charge of \$17.70.

Therefore, for the 2013 RRM, the result of the filing will not increase the residential customer charge. The increase to the residential class will be applied to the commodity (natural gas consumption) component of the rates.

Explanation of "Be It Ordained" Paragraphs:

1. This paragraph approves all findings in the Ordinance.
2. This section adopts the attached tariffs ("Attachment A") in all respects and finds the rates set pursuant to the attached tariffs to be just, reasonable and in the public interest. Note that only new tariffs or existing tariffs being revised are attached to the Ordinance. Existing tariffs not being changed in any way are not attached to the Ordinance.
3. This section requires the Atmos Mid-Tex to reimburse ACSC for reasonable ratemaking costs associated with reviewing and processing the RRM application.
4. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
5. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
6. This section is a savings clause, which provides that if any section(s) is later found to be unconstitutional or invalid, that finding shall not affect, impair or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
7. This section is a "most favored nations" clause. It provides that if Atmos Mid-Tex settles with other parties on better terms than agreed to with the ACSC Cities, the ACSC Cities (including the City of Hewitt) will automatically receive the benefit of those better terms.
8. This section provides for an effective date upon passage.
9. This paragraph directs that a copy of the signed Ordinance be sent to a representative of Atmos Mid-Tex and legal counsel for ACSC.

**ATMOS ENERGY CORP., MID-TEX DIVISION
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2012**

Line		Residential Rates				November 1, 2013	
					CURRENT	PROPOSED	CHANGE
1	Rate R @ 41.7 Ccf						
2	Customer charge				\$ 17.70		
3	Consumption charge	41.7	CCF	X \$ 0.04172	= 1.74		
4	Rider GCR Part A	41.7	CCF	X \$ 0.32167	= 13.41		
5	Rider GCR Part B	41.7	CCF	X \$ 0.16324	= 6.81		
6	Subtotal				\$39.66		
7	Rider FF & Rider TAX				2.68		
8	Total				\$42.34		
9							
10	Customer charge				\$ 17.70		
11	Consumption charge	41.7	CCF	X \$ 0.05831	= 2.43		
12	Rider GCR Part A	41.7	CCF	X \$ 0.32167	= 13.41		
13	Rider GCR Part B	41.7	CCF	X \$ 0.16324	= 6.81		
14	Subtotal				\$40.35		
15	Revenue-related Tax Reimbursement				2.73		
16	Total				\$43.08		\$0.74
17							1.75%
18							
19	Rate C @ 327.2 Ccf						
20	Customer charge				\$ 34.72		
21	Consumption charge	327.2	CCF	X \$ 0.06589	= 21.56		
22	Rider GCR Part A	327.2	CCF	X \$ 0.32167	= 105.24		
23	Rider GCR Part B	327.2	CCF	X \$ 0.11765	= 38.49		
24	Subtotal				\$200.01		
25	Revenue-related Tax Reimbursement				13.54		
26	Total				\$213.55		
27							
28	Customer charge				\$ 35.75		
29	Consumption charge	327.2	CCF	X \$ 0.06893	= 22.55		
30	Rider GCR Part A	327.2	CCF	X \$ 0.32167	= 105.24		
31	Rider GCR Part B	327.2	CCF	X \$ 0.11765	= 38.49		
32	Subtotal				\$202.03		
33	Revenue-related Tax Reimbursement				13.68		
34	Total				\$215.71		\$2.16
35							1.01%

**ATMOS ENERGY CORP., MID-TEX DIVISION
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2012**

	<u>Rate 1 @ 3955 MMBTU</u>	<u>Industrial</u>	<u>CURRENT</u>	<u>PROPOSED</u>	<u>CHANGE</u>
36					
37	Customer charge		\$ 600.00		
38	Consumption charge	1,500 MMBTU	370.95	620.00	
39	Consumption charge	2,455 MMBTU	444.88	384.75	
40	Consumption charge	0 MMBTU	0.00	461.33	
41	Rider GCR Part A	3,955 MMBTU	1,302.79	0.00	
42	Rider GCR Part B	3,955 MMBTU	1,024.63	1,302.79	
43	Subtotal		\$3,743.25	1,024.63	
44	Revenue-related Tax Reimbursement	\$ 3,743.25	253.38	\$3,793.50	
45	Total		\$3,996.63	256.78	\$53.65
46					1.34%
47	Customer charge				
48	Consumption charge	1,500 MMBTU		620.00	
49	Consumption charge	2,455 MMBTU		384.75	
50	Consumption charge	0 MMBTU		461.33	
51	Rider GCR Part A	3,955 MMBTU		0.00	
52	Rider GCR Part B	3,955 MMBTU		1,302.79	
53	Subtotal			1,024.63	
54	Revenue-related Tax Reimbursement	\$ 3,793.50		\$3,793.50	
55	Total			256.78	\$53.65
56					1.34%
57	<u>Rate 1 @ 3955 MMBTU</u>	<u>Transportation</u>	<u>CURRENT</u>	<u>PROPOSED</u>	<u>CHANGE</u>
58	Customer charge		\$ 600.00		
59	Consumption charge	1,500 MMBTU	370.95		
60	Consumption charge	2,455 MMBTU	444.88		
61	Consumption charge	0 MMBTU	0.00		
62	Rider GCR Part B	3,955 MMBTU	1,024.63		
63	Subtotal		\$2,440.46		
64	Revenue-related Tax Reimbursement	\$ 2,440.46	165.19		
65	Total		\$2,605.65		
66					
67	Customer charge			\$ 620.00	
68	Consumption charge	1,500 MMBTU		384.75	
69	Consumption charge	2,455 MMBTU		461.33	
70	Consumption charge	0 MMBTU		0.00	
71	Rider GCR Part B	3,955 MMBTU		1,024.63	
72	Subtotal			\$2,490.71	
73	Revenue-related Tax Reimbursement	\$ 2,490.71		168.59	\$53.65
74	Total			\$2,659.30	2.06%
75					

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS, APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S 2013 ANNUAL RATE REVIEW MECHANISM 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; PROVIDING A MOST FAVORED NATIONS CLAUSE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

WHEREAS, the City of Hewitt, 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"), a coalition of approximately 164 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; 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 Gas Reliability Infrastructure Program (“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, in 2013, ACSC and the Company negotiated a renewal of the RRM tariff process for an additional five years; and

WHEREAS, the City passed an ordinance renewing the RRM tariff process for the City for an additional five years; and

WHEREAS, the RRM renewal tariff contemplates reimbursement of ACSC Cities’ reasonable expenses associated with RRM applications; and

WHEREAS, on or about July 15, 2013, the Company filed with the City its first annual RRM filing under the renewed RRM tariff, requesting to increase natural gas base rates by \$22.7 million; and

WHEREAS, ACSC coordinated its review of Atmos Mid-Tex’s RRM filing through its Executive Committee, assisted by ACSC attorneys and consultants, to resolve issues identified by ACSC in the Company’s RRM filing; and

WHEREAS, the ACSC Executive Committee, as well as ACSC’s counsel and consultants, recommend that ACSC Cities approve the attached rate tariffs (“Attachment A” to this Ordinance), which will increase the Company’s revenues by \$16.6 million; 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 HEWITT, 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 RRM 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 if ACSC determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in Atmos' 2013 RRM filing would be more beneficial to the ACSC Cities than the terms of the attached tariffs, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally and automatically accrue to the ACSC Cities, including the City, without the need for City to take any further action. If this automatic adjustment occurs, Atmos Mid-Tex shall promptly thereafter file with the City an amended tariff documenting the adjustment to rates.

Section 8. 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 November 1, 2013.

Section 9. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Manager of 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 _____ day of _____, 2013.

Ed Passalugo, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM:

Charles Buenger, City Attorney

Attachment A

**Atmos Mid-Tex Tariffs
Effective November 1, 2013**

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 17.70 per month
Rider CEE Surcharge	\$ 0.02 per month ¹
Total Customer Charge	\$ 17.72 per month
Commodity Charge – All Ccf	\$0.05831 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation And Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2013.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 35.75 per month
Rider CEE Surcharge	\$ 0.10 per month ¹
Total Customer Charge	\$ 35.85 per month
Commodity Charge – All Ccf	\$ 0.06893 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation And Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2013.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 620.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2565 per MMBtu
Next 3,500 MMBtu	\$ 0.1879 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0403 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 620.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2565 per MMBtu
Next 3,500 MMBtu	\$ 0.1879 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0403 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
- R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
- HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
- NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
- ADD = billing cycle actual heating degree days.
- BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.97	0.1318	96.50	0.5659
Austin	11.05	0.1262	189.59	0.7195
Dallas	13.13	0.1832	171.84	0.8797
Waco	9.78	0.1262	117.60	0.5774
Wichita Falls	10.99	0.1297	107.70	0.5041

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and a Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.