

Regular Council Meeting February 23, 2021

Mayor Dusty Cornelius called the regular meeting to order at 7:01 pm with the following council members present: Brad Thornhill, Alva Rodriguez, Doyle Parrish, Jim Justus, Abel Reyna, and Heidi Hays. Also present were: City Administrator Amy Wallace, City Secretary Cheyanne Flores, Public Works Director Chase Longo, Chief of Police John Wilson, Derek Hamilton of SDR Investments, LLC, and Jonathon Farley.

Approve January 19, 2021 Minutes: Abel Reyna made a motion to approve the January 19, 2021 minutes with corrections made. Heidi Hays seconded the motion. Motion carried.

Approve January Accounts Payable: Brad Thornhill made a motion to approve the January Accounts Payable, excluding D&H Spraying and Landscape Accounts Payable. Doyle Parrish seconded the motion. Motion carried.

Approve D & H Spraying & Landscape Accounts Payable: Heidi Hays made a motion to approve the D&H Spraying and Landscape Accounts Payable. Abel Reyna seconded the motion. Motion carried.

Public Forum: No one came forward.

Police Report: Chief of Police John Wilson presented the monthly police report.

Public Works Report: Public Works Director Chase Longo presented the monthly public works report.

Schedule Public Hearing for FY 2021-2022 Budget: Jim Justus made a motion to schedule the public hearing for March 16, 2021. Heidi Hays seconded the motion. Motion carried.

Approve Crosby County Pioneer Memorial Museum Board Member Fran Taylor Koch: Doyle Parrish made a motion to approve the appointment of Fran Taylor Koch to the Crosby County Pioneer Memorial Museum Board. Heidi Hays seconded the motion. Motion carried. After further discussion of the requirements to serve on the CCPMM board according to the ordinance, Brad Thornhill made a motion to rescind the original motion. Alva Rodriguez seconded the motion. Motion carried. No further action.

Approve Police Department Cleaning Custodian: No action.

Approve K.W. Sharp Harmony Software Bid: Doyle Parrish made a motion to approve the K.W. Sharp Harmony Software bid of \$13,150.00. Alva Rodriguez seconded the motion. Motion carried.

Approve Resolution 02-2021 Amending and Extending Mayor's Second Declaration of Local Disaster: Brad Thornhill made a motion to approve Resolution 02-2021 Amending and Extending Mayor's Second Declaration of Local Disaster. Abel Reyna seconded the motion. Motion carried.

RESOLUTION NO. 02-2021

ADOPTING EXECUTIVE ORDER GA-32 AND

EXTENDING DECLARATION OF LOCAL DISASTER

WHEREAS, a novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

WHEREAS, COVID-19 continues to spread and to pose an increasing, imminent threat of disaster throughout City of Crosbyton and beyond; and

WHEREAS, on March 17, 2020, the Mayor of the City of Crosbyton, Dusty Cornelius, declared a local state of disaster for public health emergency pursuant to Section 418.108(a) of the Texas Government Code, based upon the need for extraordinary measures to contain COVID-19 and to prevent its spread throughout the City of Crosbyton with such declaration being extended by Resolutions of the City Council of the City of Crosbyton; and

WHEREAS, on February 4, 2021, the Governor of the State of Texas renewed his state-wide disaster proclamation for an additional thirty (30) days, certifying that COVID-19 poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, the Governor of the State of Texas has stated that, due to improved medical treatments for COVID-19 patients, substantial increases in testing, abundant supplies of personal protective equipment, and Texans' adherence to safe practices like social distancing, hand sanitizing, and use of face coverings, the spread of COVID-19 and the number of new COVID-19 cases and hospitalizations have steadily and significantly declined since late July; and

WHEREAS, on October 7, 2020, the Governor of the State of Texas issued Executive Order GA-32, superseding Executive Order GA-30, further expanding the reopening of businesses, activities, nursing homes and related facilities, and services throughout most of Texas; and

WHEREAS, the Declaration of Local Disaster extended in the latest Resolution of the City Council is set to expire at 11:59 p.m. on February 16, 2021; and

WHEREAS, due to the evolving circumstances and the issuance of Executive Order GA-32 and the desire of the City of Crosbyton to continue to safely re-open businesses in the City of Crosbyton due to evolving circumstances and pursuant to Texas Government Code §418.108, the City Council believes it to be in the best interest of the City and its citizens, in order to protect and preserve the public health, safety and welfare, to continue the extension of the Declaration of Local Disaster, and adopt the measures outlined herein;

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF CROSBYTON, TEXAS, THAT:

SECTION 1. The recitals set forth above are true and correct and are incorporated as if fully set forth herein.

SECTION 2. All terms and conditions of the Governor's Executive Order GA-32 are hereby adopted by reference and are incorporated herein as though set forth fully herein. Additionally, the guidelines and recommendations provided by the Governor in conjunction with issuing Executive Orders GA-32 are also adopted, to the extent they do not conflict with this Resolution, and all businesses, religious institutions and citizens are encouraged to review and follow said guidelines. A copy of Executive Order GA-32 is attached hereto and incorporated herein as though set forth fully herein.

SECTION 3. The Declaration of Local Disaster for public health emergency for the City of Crosbyton, which was signed and executed by the Mayor on March 17, 2020, in accordance with section 418.108 of the Texas Government Code, as previously renewed and extended by the Mayor and City Council Resolutions, shall remain in full force and effect and are continued to the extent they do not directly conflict with this Resolution.

SECTION 4. All outdoor gatherings in excess of ten (10) people are prohibited unless such event has been previously approved by the Mayor, minimum standard health protocols as recommended by Texas Department of State Health Services are followed and they comply with any other restrictions, guidelines or protocols established by the Mayor not inconsistent with GA-32. Such additional restrictions and guidelines that the Mayor may impose include, but are not limited to, implementing additional sanitation and cleaning procedures, requiring social distancing, requiring event organizers to require all participants/spectators/attendees to wear face masks, limiting the number of participants/spectators/attendees at the event and/or additional reporting requirements.

SECTION 5. Pursuant to §418.108(c) of the Texas Government Code, this Resolution shall be given prompt and general publicity and shall be filed promptly with the City Secretary of the City of Crosbyton.

SECTION 6. In accordance with Texas Government Code § 418.173, this resolution and order is being issued in City of Crosbyton's Emergency Management Plan and any person who knowingly or intentionally violates this resolution commits an offense, punishable by a fine up to \$1,000.00. However, in accordance with Executive Order GA-29, after first receiving a verbal or written warning for a first-time violator for failing to wear a face covering in violation of Executive Order GA-29, any person failing to wear a face covering in violation of Executive Order GA-29 commits an offense punishable by a fine up to \$250 per violation.

SECTION 7. This Resolution shall go into effect immediately upon approval and continue until 11:59 p.m., Tuesday, March 16, 2021, unless renewed, extended, amended or cancelled by the Mayor or City Council of the City of Crosbyton.

SECTION 8. This resolution, pursuant to applicable provisions of Texas Government Code Chapter 418 and Texas Health and Safety Code § 122.005, authorizes the Mayor to take any actions necessary to promote health and suppress the COVID-19 virus, including the quarantine of persons and occupied structures, examining and regulating hospitals, regulating ingress and egress from the City, regulating ingress and egress to occupied structures, establishment of quarantine stations, emergency hospitals and other hospitals, enforcing applicable orders issued by the Crosby County Judge, the Governor of the State of Texas or the Texas Department of State Health Services related to suppressing the COVID-19 virus, activating the emergency management plan for the City of Crosbyton in conjunction with Crosby County and insuring compliance of such actions.

SECTION 9. To the extent permitted by law, any local ordinance or administrative rule prescribing the procedures for conduct of City business or any local ordinance or administrative rule that would in any way prevent, hinder, or delay necessary action in coping with this disaster, including any local ordinance or administrative rule regarding contracting or procurement which would impede the City's emergency response necessary to cope with this declared disaster, are hereby suspended, but only for the duration of this declared local disaster and only for that limited purpose.

SECTION 10. That to the extent this resolution conflicts with the Governor’s Executive Order GA-32, Executive Order GA-32 controls and the Mayor may comport and amend this resolution and order and any subsequent order to be consistent with Executive Order GA-32, or any applicable executive order that may be issued by the Governor of the State of Texas.

SECTION 11. That the Mayor is authorized to use all available resources of the City of Crosbyton reasonably necessary to comply with this resolution.

READ, APPROVED AND ADOPTED by the City Council this the 23rd day of February 2021.

CITY OF CROSBYTON

By: _____

Dusty Cornelius, Mayor

ATTEST:

Cheyenne Flores, City Secretary

Approve Resolution 02-2021-01 Belmont Properties: Brad Thornhill made a motion to approve Resolution 02-2021-01 for Belmont Properties. Abel Reyna seconded the motion. Motion carried.

RESOLUTION NO. 02-2021-01

WHEREAS, Rural Housing of Crosbyton, LP has proposed to acquire and substantially rehabilitate an affordable rental housing development located at 1204 E. Hwy US-82, Crosbyton, TX 79322 named Savannah Park of Crosbyton, and

WHEREAS, Rural Housing of Crosbyton, LP has communicated that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2021 Competitive 9% Housing Tax Credits to assist in the financing for Savannah Park of Crosbyton.

IT IS HEREBY RESOLVED, that the City of Crosbyton, acting through its governing body hereby confirms that it supports the proposed Savannah Park of Crosbyton development, and that this formal action has been taken to put on record the opinion of support expressed by the City of Crosbyton on February 16, 2021.

BE IT FURTHER RESOLVED, that the City of Crosbyton, acting through its governing body, hereby confirms that the Savannah Park of Crosbyton development located at 1204 E. Hwy US-82 Crosbyton, TX 79322, as proposed, contributes more than any other Development to the concerted revitalization efforts of the City of Crosbyton and that this formal action has been taken to put on record the opinion expressed by the City of Crosbyton on February 23, 2021, and

BE IT FURTHER RESOLVED that for and on behalf of the Governing Body, Dusty Cornelius, Mayor, are hereby authorized, empowered, and directed to certify each of these resolutions to the Texas Department of Housing and Community Affairs.

Dusty Cornelius, Mayor

ATTEST:

Cheyenne Flores, City Secretary

Approve Resolution 02-2021-02 Approving the Xcel Surcharge Related to Docket No. 49831 Submitted by SPS: Jim Justus made a motion to approve Resolution 02-2021-02 approving the Xcel Surcharge Related to Docket No. 49831 submitted by SPS. Doyle Parrish seconded the motion. Motion carried.

RESOLUTION NO. 02-2021-02

RESOLUTION BY THE CITY OF CROSBYTON, TEXAS (“CITY”) APPROVING THE SURCHARGE RELATED TO DOCKET NO. 49831 SUBMITTED BY SOUTHWESTERN PUBLIC SERVICE COMPANY ON ABOUT DECEMBER 18, 2020; AUTHORIZING PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES KNOWN AS THE ALLIANCE OF XCEL MUNICIPALITIES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, on about December 18, 2020, Southwestern Public Service Company, LLC (“SPS”) filed an application for authority to implement a surcharge in the amount of about \$71.5 million related to the rates agreed to and approved by the Public Utility Commission of Texas (“PUCT”) in Docket No. 49831 (SPS’s 2019 general rate case); and

WHEREAS, SPS’s application to approve a surcharge is in accord with the agreement the parties, including the Alliance of Xcel Municipalities (“AXM”), reached in Docket No. 46936 (SPS’s 2017 “Wind-Farm Case”) in which the PUCT approved SPS’s request to allow it to construct and operate the Hale and Sagamore wind facilities; and

WHEREAS, in the Wind-Farm Case the parties agreed that in SPS’s then-next general rate case, SPS could seek to implement the rates finally approved in that general rate case such that those rates would relate back to the 35th day after it filed its general rate case; and

WHEREAS, that general rate case is Docket No. 49831, SPS's 2019 rate case, and the 35th day after filing in Docket No. 49831, is September 12, 2019; and

WHEREAS, the rates the PUCT ultimately approved in Docket No. 49831 have an effective date of August 31, 2020, thus making the period over which the surcharge is calculated, the period from September 12, 2019 through August 31, 2020; and

WHEREAS, SPS proposes to implement the surcharge over a one-year period from April 1, 2021 through March 31, 2022; and

WHEREAS, AXM's Special Counsel and rate experts engaged on behalf of AXM have reviewed SPS's application to implement an surcharge and have confirmed that SPS correctly calculated the surcharge and that its method for implementing the surcharge is mathematically correct and consistent with AXM's prior agreement with SPS; and

WHEREAS, the City is a regulatory authority under the Public Utility Regulatory Act ("PURA") and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over SPS's rates, operations, and services within the municipality; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing SPS's request it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding SPS's rates, services, and operations has in the past joined with other local regulatory authorities in the Alliance of Xcel Municipalities ("AXM") of cities and hereby continues its participation in AXM; and

WHEREAS, SPS simultaneously filed its application to implement a surcharge with the Public Utility Commission of Texas, and therefore the decision of the Public Utility Commission of Texas could affect SPS's proposed surcharge, and thus impact the rates charged within the City, and in order for the City's participation to be meaningful it is important that the City promptly intervene in such proceeding at the Public Utility Commission of Texas.

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

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

Section 2. The City **APPROVES** SPS's application filed on about December 18, 2020, to implement a net surcharge in the amount not to exceed \$71,546,546, including interest in the amount of \$1,604,142, and directs SPS to refund to ratepayers any over-recovery that may occur above the \$71,546,546.

Section 3. The City authorizes intervention in proceedings related to SPS's application before the Public Utility Commission of Texas and related proceedings in courts of law as part of the coalition of cities known as the Alliance of Xcel Municipalities.

Section 4. The City hereby directs SPS to reimburse the City's rate case expenses, as part of the Alliance of Xcel Municipalities, and that it do so on a monthly basis and within 30 days after submission of the City's invoices related to proceedings involving SPS before the City, the Public Utility Commission of Texas, or any court of law.

Section 5. Subject to the right to terminate employment at any time, the City retains and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving SPS before the City, the Public Utility Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of SPS's surcharge application subject to approval by the City.

Section 6. The City, through its participation in the Alliance of Xcel Municipalities, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SPS for reimbursement.

Section 7. A copy of this resolution shall be sent to SPS's local representative and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756.

Section 8. The meeting at which this resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this 23rd day of February, 2021.

Dusty Cornelius, Mayor

ATTEST:

Cheyenne Flores, City Secretary

Approve SC Tracking-Backflow Monitoring Program: Doyle Parrish made a motion to approve the SC Tracking-Backflow Monitoring Program. Heidi Hays seconded the motion. Motion carried.

Approve Resuming Normal Business Operations- City Hall Lobby: Brad Thornhill made a motion to resume normal business operations in the City Hall lobby. Alva Reyna seconded the motion. Motion carried.

Administrative Report: City Administrator Amy Wallace updated the council on the status of city projects.

With no further business before the council, the meeting was adjourned at 9:16 p.m.

Dusty Cornelius, Mayor

ATTEST:

Cheyenne Flores, City Secretary