

NOTICE

**THIS NOTICE IS POSTED IN COMPLIANCE WITH THE OPEN MEETING ACT
(TEX. GOV'T. CODE CHAPTER 551, SEC. 551.041)**

**AGENDA REGULAR CITY COUNCIL MEETING-
5:30 P.M.
GATESVILLE CITY COUNCIL CHAMBERS
110 NORTH 8TH STREET, GATESVILLE, TEXAS 76528
APRIL 26, 2022**

- 1. Call Regular Meeting to order -----**
- 2. Hear Visitors/Citizens Forum: At this time, any person with business before the Council not scheduled on the agenda may speak to the Council for a maximum of three (3) minutes. No formal action can be taken on these items at this meeting.**
- 3. Discussion and possible action regarding the Consent Agenda (all consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember requests an item be removed and considered separately.)**

Resolution 2022-35 Minutes from Regular City Council Meeting April 12, 2022

Resolution 2022-36 Proclamation declaring the month of April 2022 "Sustainable Environment Month"

- 4. Discussion and possible action regarding an Ordinance of the City of Gatesville, Texas, amending Chapter 32, Article III, Sections 32-65, 32-66, and 32-67 of the Code of Ordinances of the City of Gatesville; providing that carnivals and circuses may begin operations no earlier than 10:00 a.m. each day; providing a permit exception for certain carnivals and circuses located indoors; and amending the distance from a private residence at which a carnival or circus may operate (2nd reading of Ordinance 2022-02)**
- 5. Discussion and possible action regarding a Resolution of the City Council of the City of Gatesville, Texas, setting fees for the use of the Outdoor Swimming Pool, Gatesville Fitness Center, and participation in Adult Sports; and establishing an effective date**
- 6. Discussion and possible action regarding a Resolution by the City of Gatesville Texas denying the distribution cost recovery factor rate request of Texas-New Mexico Power Company made on or about April 5, 2022; authorizing participation in a coalition of similarly situated cities; 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; making other findings and provisions related to the subject; and declaring an effective date**
- 7. City Managers Report: Capital Projects, Future Agenda Topics, FAST Grant, Department Head Reports: Finance, Fire, Building Permits, Utility, Police/Code Enforcement, Court, Parks & Recreation, Convention and Visitor's Bureau, Broadband**
- 8. Recess Regular Meeting and enter into Executive Session -----**

This closed session is in accordance with Local Government Code Section 551.072- Real Property-Deliberation regarding potential sale of the properties located at 711, 713, and 715 Main Street, Gatesville, Texas

- 9. End closed session and reconvene regular Meeting**
- 10. Discussion and possible action regarding the potential sale of the properties located at 711, 713, and 715 Main Street, Gatesville, Texas**
- 11. Adjourn Meeting**

I hereby attest that the above agenda was posted on this the 22nd day of April, 2022 by 5:00 p.m. on the official City of Gatesville website, www.gatesvilletx.com and the official bulletin boards at the Gatesville City Hall, 110 N. 8th Street, Gatesville, Texas.

Wendy Cole, City Secretary

The City of Gatesville council chambers are wheelchair accessible and accessible parking spaces are available at the back entrance of City Hall. Requests for accommodations or interpretive services must be made 24 hours prior to this meeting. Please contact the city secretary's office at 254-865-8951 or FAX 254-865-8320, or eMail wcole@gatesvilletx.com for further information.

REGULAR CITY COUNCIL MEETING
APRIL 26, 2022 AT 5:30 P.M.
COUNCIL CHAMBER, 110 NORTH 8TH STREET
GATESVILLE, TEXAS 76528

AN OPEN MEETING WAS HELD CONCERNING THE FOLLOWING SUBJECTS:

1) CALL TO ORDER REGULAR CITY COUNCIL MEETING AT 5:32 P.M. THIS 26TH DAY OF APRIL, 2022

PRESENT: Mayor Gary Chumley, Councilmembers Billy Sinyard, Greg Casey, John Westbrook, and Claude Williams

REGRETS: Councilmembers Barbara Burrow and Meredith Rainer

OTHERS PRESENT: City Manager William H. Parry III, City Secretary Wendy Cole, Rene Ochoa, Mike Halsema, Scott Harper, Lynn Massingill, Chase Massingill, Ian Carpenter, and Jeff Osborne

2) HEAR VISITORS/CITIZENS FORUM: AT THIS TIME, ANY PERSON WITH BUSINESS BEFORE THE COUNCIL NOT SCHEDULED ON THE AGENDA MAY SPEAK TO THE COUNCIL FOR A MAXIMUM OF THREE (3) MINUTES. NO FORMAL ACTION CAN BE TAKEN ON THESE ITEMS AT THIS MEETING

Chase Massingill of 4601 East U.S. Highway 84 spoke to the Council in protest because he and his father's request to be put on the agenda did not happen; despite following the guidelines to have an item placed on the agenda. Mr. Massingill said that not putting their topic on the agenda because two (2) councilmembers were not present goes against council rules and felt like they were treated unfairly. Mr. Massingill said that one of the absent councilmembers has a clear conflict of interest and would be not able to participate in discussion, deliberation or voting on the topic. Mr. Massingill also said that there are many instances where water was extended beyond the city limits of Gatesville. Asked to be put on the next agenda.

Lynn Massingill of 4527 East U. S. Highway 84 spoke to the Council about the Recreational Vehicle (RV) Resort that he and his son are proposing to build by the east side of the Gatesville ball park. Mr. Massingill said that Gatesville providing water to this RV Resort will be good for the city and that the RV Resort would be a money maker for the city. Mr. Massingill said that a 6" water line is what they are requesting to be able to get this project started. Stated that this shouldn't even be a voteable agenda item as the water department just needs to be told to extend the line.

3) DISCUSSION AND POSSIBLE ACTION REGARDING THE CONSENT AGENDA: (ALL CONSENT AGENDA ITEMS ARE CONSIDERED ROUTINE BY CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCILMEMBER REQUESTS AN ITEM BE REMOVED AND CONSIDERED SEPARATELY)

RESOLUTION 2022-35: Minutes from the Regular City Council Meeting April 12, 2022

RESOLUTION 2022-36: Proclamation declaring the Month of April 2022 "Sustainable Environment Month"

Motion by Greg Casey, seconded by Billy Sinyard, to approve the Consent Agenda items; all four voting "Aye", motion passed:

RESOLUTION 2022-35: Minutes from the Regular City Council Meeting April 12, 2022;

RESOLUTION 2022-36: Proclamation declaring the Month of April 2022 as "Sustainable Environment Month"

4) DISCUSSION AND POSSIBLE ACTION REGARDING AN ORDINANCE OF THE CITY OF GATESVILLE, TEXAS, AMENDING CHAPTER 32, ARTICLE III, SECTIONS 32-65, 32-66, AND 32-67 OF THE CODE OF ORDINANCES OF THE CITY OF GATESVILLE; PROVIDING THAT CARNIVALS AND CIRCUSES MAY BEGIN OPERATIONS NO EARLIER THAN 10:00 A.M. EACH DAY; PROVIDING A PERMIT EXCEPTION FOR CERTAIN CARNIVALS AND CIRCUSES LOCATED INDOORS; AND AMENDING THE DISTANCE FROM A PRIVATE RESIDENCE AT WHICH A CARNIVAL OR CIRCUS MAY OPERATE (2ND READING OF ORDINANCE 2022-02)

City Manager Parry told the Council that there have no changes to the Ordinance since the first reading. This Ordinance will amend the City's current Carnival and Circus Ordinance to allow a start time of 10:00 a.m. (versus 12:00 p.m.) and to allow carnivals within 500 feet of any residence (versus 1,000 feet). Also, an additional amendment is added to the Ordinance that would allow traveling acrobatic shows, often billed as a "circus" but whose performance would be completely accommodated indoors to conduct their show without receiving a permit. Staff recommended approval of the second reading of the Ordinance.

Chamber of Commerce representative, Scott Harper, thanked the Council for considering these proposed ordinance changes and provided a chart to the Council and discussed the location around the Depot, the layout, and activities for the upcoming annual Shivarree on June 4, 2022. Mr. Harper said he had already met with City of Gatesville's Planning Director and Police Chief to get their assistance with these plans. Mr. Harper has already met with all the surrounding businesses regarding these plans and they have all agreed to the layout. Parking spots for the businesses have been designated so Shivarree activities won't impede parking for the customers while stores are open for business. All Shivarree activities will be held at the Depot except for the Bar-B-Que Cookoff.

ORDINANCE 2022-02-02: Motion by Claude Williams, seconded by John Westbrook, to approve the second reading of Ordinance 2022-02 amending sections 32-65, 32-66 and 32-67 of the Code of Ordinances of the City of Gatesville, Texas; providing that carnivals and circuses may begin operations no earlier than 10:00 a.m. each day; providing a permit exception for certain carnivals and circuses located indoors; and amending the distance from a private residence at which a carnival or circus may operate to 500 foot; all four voting "Aye", motion passed.

5) DISCUSSION AND POSSIBLE ACTION REGARDING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GATESVILLE, TEXAS, SETTING FEES FOR THE USE OF THE OUTDOOR SWIMMING POOL, GATESVILLE FITNESS CENTER, AND PARTICIPATION IN ADULT SPORTS; AND ESTABLISHING AN EFFECTIVE DATE

City Manager Parry stated that Fees fall into two categories: Regulatory and User fees. Regulatory fees cover those items in which the City has the lawful authority to regulate the activity. Regulatory fees are generally established by State Statute or City Ordinance and are included in the City's Code of Ordinances. Fees set by Ordinance must be amended by Ordinance. User fees are payments given in return for a government-provided benefit/public services which are optional. Home Rule cities may charge a user fee if it bears a reasonable relationship to the cost of providing the service. User fees pay for/offset the cost of the City providing the service and are not for raising revenues. Chapter 3.07 of the City Charter gives authority to the City Council to "provide for all necessary public utilities and set fees and charges therefor and provide penalties for misuses of same."

There are certain City functions that are not regulatory in nature, and the City charges a user fee for those services to offset a portion of the cost of the service. As the fee for these services is not regulated by State statute or City Ordinance, the City Council reviews the proposed user fees to support the budget, and approves those fees by Resolution.

Most of the fees presented in Resolution 2022-37 are the same amount as they were in 2021 but a fee for swimming lessons was added for the upcoming season. Parks and Recreation Director, Seth Phillips, was present at the meeting if the Council had any questions. The Council had no questions.

RESOLUTION 2022-37: Motion by Greg Casey, seconded by Billy Sinyard, to approve Resolution 2022-37 setting fees for the use of the outdoor swimming pool, Gatesville Fitness Center, and participation in adult sports; and establishing an effective date; all four voting “Aye”, motion passed.

6) DISCUSSION AND POSSIBLE ACTION REGARDING A RESOLUTION BY THE CITY OF GATESVILLE TEXAS DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE REQUEST OF TEXAS-NEW MEXICO POWER COMPANY MADE ON OR ABOUT APRIL 5, 2022; AUTHORIZING PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES; 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; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

City Manager Parry said that for public utilities located in the city the Council is the regulatory authority to set rates for gas and electricity and other utilities that are in the city limits. Usually done annually, public utilities that are operating in the city will file a petition with the Public Utility Commission for a rate increase based upon their costs from the previous year. On April 5, 2022, Texas-New Mexico Power Company (TNMP) submitted an application for approval of a Distribution Cost Recovery Factor (DCRF) to the Public Utility Commission effective September 1, 2022 – increasing its CY 2021 annual revenues by approximately \$9.7 million. All the cities that would be affected by this rate increase were given notice also which is the coalition of cities (approximately 15) that Gatesville is a member of. By denying this this proposed rate increase would give the coalition of cities counsel time to carefully review the complex issues in TNMP’s application. Some of the rates may be negotiable which will be thoroughly evaluated by the lawyers. Parry said that staff recommends that the City Council approve Resolution 2022- 38 denying TNMP’s application to increase its DCRF rates, retaining the firm of Herrera Law and Associates to represent the City’s interests in this matter, advising the City on what actions to take in the future, and directing TNMP to reimburse the ATM reasonable rate case expenses.

RESOLUTION 2022-38: Motion by John Westbrook, seconded by Claude Williams, to approve Resolution 2022-38 by the City of Gatesville Texas denying the distribution cost recovery factor rate request of Texas-New Mexico Power Company made on or about April 5, 2022; authorizing participation in a coalition of similarly situated cities; authorizing participation in related rate proceedings; requiring the reimbursement of municipal rate case expenses; authorizing the retention of special counsel (Herrera Law and Associates, PLLC); finding that the meeting complies with the open meetings act; making other findings and provisions related to the subject; and declaring an effective date; all four voting “Aye”, motion passed.

7) CITY MANAGER’S REPORT:

CAPITAL PROJECTS:

Capital Improvement Plan (CIP): Still fine-tuning the CIP. Working to provide an updated plan so the City’s water and sewer rate consultants can capture all the costs in the rate structure needed to continue with the City’s improvements determined in the CIP. Providing the updated CIP to the City’s grant administrators will be valuable as they would be better equipped to identify grants that the City could apply to assist in some projects. Also an updated CIP will help support the 2023 budget.

Other activities/dates of note: The City has received the Coryell Central Appraisal District’s preliminary tax roll and the Finance Director is reviewing and analyzing. An update will be provided to the Council at a future meeting. If the Council would like Chief Appraiser, Mitch Fast, to come and brief the council on the tax roll procedures it can probably be arranged.

FAST (Fire, Ambulance, and Service Truck) Fund- Community Development Block Grant: Parry reminded the Council of the Insurance Services Office (ISO) fire protection inspection that was done a few weeks ago with the Fire Department. It was noted in the inspection that the fire department needed to have an engine truck within 1½ miles of all structures within the City of Gatesville. Engine 3 is about

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at the end of its useful life but can be extended through good maintenance. The City is considering submitting an application for a 2022 FAST grant to replace Engine 3. If awarded the grant, a third fire truck would satisfy that part of the ISO and improve the City's rating. The maximum grant amount is \$750,000 with a \$7,500 match. The City should have a competitive application as this grant is designed towards small rural communities.

- Parry reported that there was a massive leak on Mears St. this morning on an old cast iron water line.

BROADBAND: All the American Rescue Plan Act (ARPA) –Coronavirus State/Local Recovery Funds is federal money that will flow to the State and will go no further than the State at the current time. The State is required to develop a plan in terms of what will be done with these funds but could take quite some time to get that accomplished. Coryell County is planning to use some of their already received ARPA funds on Broadband and has signed an agreement with Foresite LLC to fund a Broadband study for Coryell County which Gatesville can participate. It is doubtful that municipalities will ever get these Broadband ARPA funds as they will more likely go to internet providers. Cities are authorized to install a fiber optic back bone within the city but State Statute says cities would not be authorized to operate internet services. Fiber optic in the ground in Gatesville would cost about \$100,000 per mile because of the very rocky terrain. The ARPA funds that the City has will be used on water and sewer projects. If an internet business would come to Gatesville they would expect the City to help fund this endeavor. A prospective internet business would want the City to provide certain information such as: who is currently providing internet service, what speed customers are getting, and what customers are paying. This information would be a challenge to obtain. The County has indicated that they were planning to hire a marketing firm to obtain this information. Will keep the Council posted as new information becomes available.

DOWNTOWN REVITALIZATION GRANT: The City was not awarded this sidewalk/water/ sewer replacement grant partially because application points were lost since Gatesville does not have an Economic Development Corporation or an Economic Development Sales Tax.

FUTURE COUNCIL MEETING AGENDA TOPICS:

COUNCILMEMBER WILLIAMS: Concerned that that the Street renaming policy has been put on the back burner. Spoke of the new homes being built in the northern area of town and said that he believed that the development of new subdivisions in the majority of the historically black neighborhood would allow the builder to have the final say on the Mill/Carver street renaming.

Parry said that the Street renaming policy is on his to-do list and can move it up higher if Council desires.

Williams also spoke of utilizing grant money to build houses in this part of town.

Parry stated that the CDBG funds that are currently available to the City of Gatesville only apply to water and sewer projects- not homes. Gatesville is a non-entitlement city so all the home grants that bigger cities (entitlement cities) get can be allocated for HUD homes but because of Gatesville's population the criteria for these home grants is more stringent. Several years ago Gatesville was approved to get free homes through CDBG grants but that grant is currently not available.

Councilmember Williams thought there still should be grants out there somewhere.

Councilmember Williams also suggested that the Massingill agenda item be included on the next agenda on May 10th instead of May 24th.

- Mayor Chumley said that he didn't care if the Massingill item was included on the next agenda since only one councilmember would be missing.

City Manager Parry said that per their discussion with the City Attorney that this request for a 6" water line for an RV park is a big issue and agreed that it was a good option for all councilmembers to be in attendance. There is no need for a 6" water line for this purpose. There are many issues concerning this

project that would need to be resolved. If Council desires it to be placed on the next agenda it can be done.

There was a brief discussion regarding the water/sewer line replacement project ongoing at Mary/Barnes/Mills Streets and the subdivision process. The current project around Mills/Depot/12th Street should be completed in about 3 weeks and then the street rehabilitation should also take about 3 weeks.

Mayor Chumley said that the Closed Session that was the next scheduled item on the agenda would be deferred until another Council meeting due to the two (2) Councilmembers that were absent.

8) RECESS REGULAR MEETING AND ENTER INTO EXECUTIVE SESSION -----

THIS CLOSED SESSION IS IN ACCORDANCE WITH LOCAL GOVERNMENT CODE
SECTION 551.072- REAL PROPERTY- DELIBERATION REGARDING POTENTIAL SALE OF
THE PROPERTIES LOCATED AT 711, 713, AND 715 MAIN STREET, GATESVILLE, TEXAS

9) END CLOSED SESSION AND RECONVENE REGULAR MEETING

10) DISCUSSION AND POSSIBLE ACTION REGARDING THE POTENTIAL SALE OF THE
PROPERTIES LOCATED AT 711, 713, AND 715 MAIN STREET, GATESVILLE, TEXAS

11) ADJOURN MEETING AT 6:26 P.M., THIS 26TH DAY OF APRIL, 2022

ATTEST:

APPROVED:

Wendy Cole
City Secretary

Gary M. Chumley
Mayor