



EVERMAN CITY COUNCIL REGULAR MEETING

Tuesday, March 05, 2024 at 6:00 PM
213 North Race Street Everman, TX 76140

AGENDA

1. MEETING CALLED TO ORDER

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

4. PRESENTATIONS

- A. Presentation, Discussion, and Review of the Chambers Creek Flood Assessment and Master Drainage Study - Teague, Nall, & Perkins, Inc.

5. CITIZEN'S COMMENTS

6. DISCUSSION ITEMS

- A. Staff Report - S&P Global Rating Update
- B. Staff Report - City-wide Cleanup Event

7. CONSIDERATION AND POSSIBLE ACTION

- A. ORDINANCE NO. 810 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EVERMAN, TEXAS, CHAPTER 10 "HEALTH, SAFETY AND NUISANCES", ARTICLE V "NOISE", BY AMENDING SECTIONS 10-91 AND 10-92; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- B. ORDINANCE NO. 811 - AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, CANCELLING THE GENERAL ELECTION TO BE HELD ON THE 4TH DAY OF MAY, 2024, FOR THE PURPOSE OF ELECTING CITY COUNCIL MEMBERS FOR PLACES 2, 4, 6 AND MAYOR ON THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS; DECLARING THAT EACH UNOPPOSED CANDIDATE TO BE ELECTED TO OFFICE; REQUIRING POSTING OF THIS ORDINANCE ON ELECTION DAY AT EACH POLLING PLACE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.
- C. RESOLUTION # 2024-03-01 - A RESOLUTION AUTHORIZING MEMBERSHIP IN THE ATMOS CITIES STEERING COMMITTEE; AND AUTHORIZING THE PAYMENT OF FIVE CENTS PER CAPITA TO THE ATMOS CITIES STEERING COMMITTEE TO FUND REGULATORY AND RELATED ACTIVITIES RELATED TO ATMOS ENERGY CORPORATION

8. CITY MANAGERS REPORT

9. MAYOR'S REPORT

10. ADJOURN

I hereby certify that this agenda was posted on the City of Everman bulletin board at or before 5:00 p.m. on Friday March 1, 2024.

/s/ Mindi Parks
City Secretary

Citizens may watch city council meetings live on YouTube. A link to the City of Everman YouTube channel is provided on the city website at: www.evermantx.us/government/citycouncil/

Pursuant to Texas Government Code Sec. 551.127, on a regular, non-emergency basis, members may attend and participate in the meeting remotely by video conference. Should that occur, a quorum of the members, including the presiding officer, will be physically present at the location noted above on this Agenda.

Pursuant to Section 551.071, Chapter 551 of the Texas Government Code, Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting, to receive advice from its attorney on any posted agenda item, as permitted by Law. Additionally, Council may convene into Executive Session to discuss the following:

- A. Section 551.071 - Pending or Contemplated Litigation or to Seek Advice of the City Attorney.
- B. Section 551.072 - Purchase, Sale, Exchange, Lease, or Value of Real Property.
- C. Section 551.073 - Deliberation Regarding Prospective Gift.
- D. Section 551.074 - Personnel Matters.
- E. Section 551.087- Deliberation Regarding Economic Development Negotiations.
- F. Section 551.089 - Deliberations Regarding Security Devices or Security Audits.

Citizens wishing to submit written comments should e-mail the City Secretary at mparks@evermantx.net. Comments that are received at least one-hour prior to the start of the meeting will be provided to all council members.

According to the City of Everman Policy on Governance Process, individual citizen comments will be restricted to three (3) minutes unless otherwise determined by a majority vote of the Council. The mayor is responsible to enforce the time limit. Citizens may address City Council either during the Citizen Comments portion of the meeting or during deliberation of a listed agenda item. City Council is only permitted by Law to discuss items that are listed on the agenda. Citizens wishing to make comments should notify the City Secretary as soon as possible.

City Hall is wheelchair accessible. Parking spaces for disabled citizens are available. Requests for sign interpretative services must be made 48 hours prior to the meeting. To make arrangements, call 817.293.0525 or TDD 1.800.RELAY TX, 1.800.735.2989.

CITY OF EVERMAN, TEXAS

ORDINANCE NO. 810

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EVERMAN, TEXAS, CHAPTER 10 “HEALTH, SAFETY AND NUISANCES”, ARTICLE V “NOISE”, BY AMENDING SECTIONS 10-91 AND 10-92; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City staff has recommended amendment of the City’s noise regulations to remove references to decibel or sound pressure levels as an aid to enforcement; and

WHEREAS, the City Council of the City of Everman, Texas, has determined that it is in the best interest of the City and serves the general welfare of the citizens to amend the Code of Ordinances to remove references to decibel or sound pressure levels from the City’s noise ordinance;

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

SECTION 1: That the Code of Ordinances of the City of Everman, Texas is hereby amended at Chapter 10 “Health, Safety and Nuisances”, Article V, “Noise”, by amending Sections 10-91 “Definitions” and 10-92 “Offenses; nuisance declared” to read in their entirety as follows:

“CHAPTER 10 HEALTH, SAFETY AND NUISANCES

. . .

ARTICLE V NOISE

Sec. 10-91. – Definitions.

Clearly audible means sound that can be heard without the assistance of any device.

Commercial means *property* used for purposes other than residential or agricultural regardless of whether the property has a commercial zoning designation.

Construction means any phase of the on-site erection or removal, including, but not limited to, excavation, demolition, alteration or repair of any building or structure conducted on that site.

Daytime means the hours from 7:00 a.m. to 9:00 p.m.

Director means the director of the city department of public safety or the director's authorized representative.

Governmental entity means any department, board, committee, or unit of the school districts within the city, the city municipal government, or the state or the federal government, including but not limited to the school board, joint-use committee, city council, planning and zoning commission, park board, and city departments.

Immediate vicinity means any distance within one hundred (100) feet of the noise source, or any area within the property line of the parcel or lot upon which the source of noise is emanating, whichever is the greater distance from the noise source.

Nighttime means the hours from 9:00 p.m. until 7:00 a.m.

Noise means any sound which annoys or disturbs humans of reasonable sensibilities, or which causes or tends to cause an adverse psychological or physiological effect on humans.

Person means any individual, corporation, business or other entity.

Repetitive incident of noise means a recurrence of any sound from the same source which repeats itself three (3) or more times per day, whether at routine cyclical periods or random periods.

Residential means any property used for temporary or permanent dwelling purposes.

Sec. 10-92. – Offenses; nuisance declared.

- (a) *Noise and vibration nuisance.* A person shall not create, assist in creating, permit or continue any excessive or unnecessary noise or vibration of a volume, intensity, or duration that unreasonably disturbs, annoys, or endangers the calm, comfort, quiet, repose, health, peace or safety of persons of ordinary sensibilities. Such noise or vibration shall be a violation of this Article and is hereby declared a nuisance.
- (b) *Prima facie violation.* The following acts of noise or vibration are prima facie evidence of a violation of this article:
 - (1) Permitting an unreasonably loud, harsh, or prolonged sounding of any horn, alarm, or other signal device on any vehicle, unless:
 - a. Necessary to ensure safe operation as authorized by state law; or
 - b. Caused by mechanical failure beyond the operator's control and the operator takes all reasonable measures to stop the noise made by the horn, alarm, or other device.

- (2) Playing or use of any sound producing or amplifying device, speaker, or instrument, including a musical instrument, in such a manner or in such loud volume or intensity, at any time or place, so as to disturb, destroy, or endanger the peace, comfort, repose, or rest of persons of ordinary sensibilities.
- (3) Creating a loud noise or disturbance in or with a motor vehicle or any appurtenance to such vehicle, including without limitation, a bed, trailer, or other equipment connected in any manner to the vehicle, so as to disturb, destroy, endanger the peace, comfort, repose or rest of persons of ordinary sensibilities beyond the immediate vicinity of the source of the noise when such noise exceeds the dBA levels shown in Table 1, herein below.
- (4) Operating a motor vehicle that is not equipped with a muffler in good working order and in use at all times.
- (5) Using any mechanical device operated by compressed air, unless the noise is effectively muffled and reduced to levels that do not disturb, destroy, or endanger the peace, comfort, repose, or rest of persons of ordinary sensibilities.
- (6) Permitting any loud, harsh, or prolonged sounding of any burglar or fire alarm or other distress signal on any dwelling, commercial building, or other premises, unless:
- a. Authorized by law; or
 - b. Caused by mechanical failure beyond the operator's control and the operator takes all reasonable measures to stop the noise made by the alarm or other device.
- (7) Operating any heavy equipment, machinery or apparatus used in any exterior or outdoor construction, repair, remodeling, demolition, drilling, excavation, grading, earth moving, paving, cement laying or pouring, or other work of any nature during the nighttime or anytime on Sunday within one thousand (1,000) feet of any residential property, unless otherwise indicated in the exceptions set forth in section 10-94.
- (8) Creating any loud or raucous noise or vibration within one thousand (1,000) lineal feet of any school building or court that is in session or adjacent to any hospital building or similar care facility, provided that conspicuous signs located on the premises identify the premises.
- (9) Operating, as a part of any business, any equipment or machinery, including, but not limited to, combustion engines, fans, blowers, grinders, welders, loaders, washers, winches, lifts, and hoists, whether independent or attached to a motor vehicle, during the nighttime within one thousand (1,000) lineal feet of any residential

dwelling, unless otherwise indicated in the exceptions set forth in the exceptions set forth in section 10-94.

(10) Discharging into the open air the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle engine or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises or vibrations.

(11) Conducting any commercial or industrial trash or waste pickup within one thousand (1,000) lineal feet of any residential dwelling during the nighttime.

(12) The continuous barking, howling, crowing or other loud noises by an animal for more than fifteen (15) minutes near a private residence that the animal's owner or person in control of the animal has no right to occupy, unless otherwise indicated in the exceptions set forth in section 10-94.

(13) Loud grating, grinding, banging, rattling, back-firing noises or vibrations caused by the use of any automobile, motorcycle or other vehicle that is out of repair or poorly or improperly loaded.

(14) The shouting and crying or peddlers and vendors, or the use of any drum, musical instrument, loud speakers or sound amplifying equipment, for the purpose of advertising or attracting attention by the creation of noise, without first obtaining a permit pursuant to section 10-95.

(15) The operation of sound equipment, including a car stereo, in a motor vehicle in such a manner that the noise is so audible or causes such a vibration as to unreasonably disturb the peace, quiet, or comfort of persons of ordinary sensibilities.

(16) Any offense as set forth in Texas Penal Code, Section 42.01(a)(5)."

SECTION 2: All ordinances, orders, or resolutions heretofore pass and adopted by the City Council of the City of Everman, Tarrant County, Texas are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, are in conflict herewith.

SECTION 3: Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 5. This ordinance shall be effective from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of
Everman, Tarrant County, Texas this the 5th day of March, 2024.

APPROVED:

Ray Richardson, Mayor

ATTEST:

APPROVED AS TO FORM:

Mindi Parks, City Secretary

Lan'Tiqua Burks, Asst. City Attorney
4860-8808-9769, v. 1

ORDINANCE NO. 811

AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, CANCELLING THE GENERAL ELECTION TO BE HELD ON THE 4TH DAY OF MAY, 2024, FOR THE PURPOSE OF ELECTING CITY COUNCIL MEMBERS FOR PLACES 2, 4, 6 AND MAYOR ON THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS; DECLARING THAT EACH UNOPPOSED CANDIDATE TO BE ELECTED TO OFFICE; REQUIRING POSTING OF THIS ORDINANCE ON ELECTION DAY AT EACH POLLING PLACE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the February 06, 2024, by passage of Ordinance 806, the City of Everman General Election was ordered by the Everman City Council to be held on May 4, 2024, for the purpose of electing City Council Members for Places 2, 4, 6 and Mayor on the City Council; and

WHEREAS, the filing deadlines for filing an application for place on the ballot and for declaration of write-in candidacy have passed; and

WHEREAS, the City Secretary has certified in writing that no person has made a declaration of write-in candidacy and that each candidate on the ballot for office is unopposed for this election; and

WHEREAS, in these circumstances, Section 2.053 of the Texas Election Code authorizes the City Council to declare each unopposed candidate elected to office and to cancel the general election;

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

SECTION 1. The following candidates, who are unopposed for the May 6, 2023 General Election, are hereby declared elected to office and shall be issued Certificates of Election following the time the election would have been canvassed:

Carolyn Renfro	Council Member Place 2
Susan Mackey	Council Member Place 4
Miriam Davila	Council Member Place 6
Ray Richardson	Mayor

SECTION 2. The May 4, 2024, General Election for the purpose of electing the City Council Members for Places 2, 4, 6 and Mayor is hereby cancelled.

SECTION 3. The City Secretary is hereby directed to cause a copy of this ordinance to be posted on Election Day at the polling location(s) designated by Ordinance 806, the Everman Civic Center, 213 North Race Street, Everman, Texas 76140.

SECTION 4. The recitals contained in the preamble hereof are hereby found to be true and correct, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 5. All ordinances or parts of ordinances in force when this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

SECTION 6. Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

SECTION 7. This Ordinance is effective immediately upon its passage and approval.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS ON THIS THE 5th DAY OF MARCH 2024.

APPROVED:

Ray Richardson, Mayor

APPROVED AS TO FORM:

Lan'Tiqua M. Burks, Asst. City Attorney

ATTEST:

Mindi Parks, City Secretary

RESOLUTION NO. 2024-03-01

A RESOLUTION AUTHORIZING MEMBERSHIP IN THE
ATMOS CITIES STEERING COMMITTEE; AND
AUTHORIZING THE PAYMENT OF FIVE CENTS PER
CAPITA TO THE ATMOS CITIES STEERING COMMITTEE TO
FUND REGULATORY AND RELATED ACTIVITIES
RELATED TO ATMOS ENERGY CORPORATION

- WHEREAS, the City of Everman is a regulatory authority under the Gas Utility Regulatory Act (GURA) and has exclusive original jurisdiction over the rates and services of Atmos Energy Corporation, Mid-Tex Division (Atmos) within the municipal boundaries of the city; and
- WHEREAS, the Atmos Cities Steering Committee (ACSC) has historically intervened in Atmos rate proceedings and gas utility related rulemakings to protect the interests of municipalities and gas customers residing within municipal boundaries; and
- WHEREAS, ACSC is participating in Railroad Commission dockets and projects, as well as court proceedings and legislative activities, affecting gas utility rates; and
- WHEREAS, the City would like to become a member of ACSC; and
- WHEREAS, in order for ACSC to continue its participation in these activities which affects the provision of gas utility service and the rates to be charged, it must assess its members for such costs; NOW THEREFORE,

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

I.

That the City is authorized to become a member in the Atmos Cities Steering Committee to protect the interests of the City of Everman and protect the interests of the customers of Atmos Energy Corporation, Mid-Tex Division residing and conducting business within the City limits.

II.

The City is further authorized to pay its 2024 assessment to the ACSC in the amount of five cents (\$0.05) per capita.

III.

A copy of this Resolution and approved assessment fee payable to “*Atmos Cities Steering Committee*” shall be sent to:

Brandi Stigler
Atmos Cities Steering Committee
c/o Arlington City Attorney's Office, Mail Stop 63-0300
101 S. Mesquite St., Suite 300
Arlington, Texas 76010

PRESENTED AND PASSED on this the _____ day of _____, 2024, by a vote of _____
ayes and _____ nays at a regular meeting of the City Council of the City of Everman, Texas.

Signature
Mayor Ray Richardson

ATTEST:

Signature
City Secretary Mindi Parks

APPROVED AS TO FORM:
City Attorney

BY _____
Lan'Tiqua Burks