

September 12, 2022

On this the 12th day of September, 2022 at 6:30 pm the City Council of the City of Friona, Texas, convened in regular session at the regular meeting place thereof, in the Friona City Council Chambers, 617 Main Street, the meeting being open to the public and notice of said meeting having been given as prescribed by Chapter 551 of the Government Code, with the members being present and in attendance, to wit:

Greg Lewellen, Mayor
 Bruce Fleming, Council Member
 Brent Loflin, Council Member
 Esmeralda Mills, Council Member
 Alan Monroe, Council Member
 Cindy Moreno, Council Member
 Leander Davila, City Manager
 Rosa Mendez, City Secretary

Others present included: Clint Mears, Friona Star
 Gayla Fullerton, Fullerton & Associates PLLC, CPA
 Alex Guerrero, PRPC Director Economic Development
 Wendy Carthel, citizen
 Sharon White, citizen
 Marie Samarron, citizen
 Deborah Campbell, Municipal Court Judge

Mayor Lewellen called the meeting to order at 6:30 p.m.

ITEM 1 ROLL CALL

The mayor called roll and announced that a quorum was present.

ITEM 2 INVOCATION AND PLEDGE OF ALLEGIANCE.

Council Member Monroe gave the Invocation and Council Member Loflin the led the Pledge of Allegiance to the United States Flag.

ITEM 3 HEAR PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS:

Mayor Lewellen opened the public hearing at 6:31 p.m.

ITEM 4 HEAR COMMENTS FROM THE PUBLIC REGARDING THE PROPOSED CITY BUDGET FOR FISCAL YEAR 2022-2023

There were no public comments.

ITEM 5 HEAR PUBLIC COMMENTS REGARDING PROPOSED 2022 TAX RATE OF \$0.465700/\$100 VALUATION

There were no public comments.

The mayor closed the public hearing at 6:32 p.m.

REGULAR HEARINGS:

ITEM 6 CONSIDER AND TAKE ACTION ON APPROVAL OF THE MINUTES OF THE REGULAR CITY COUNCIL MEETING AUGUST 8, 2022, THE AUGUST 19, 2022 SPECIAL CALLED PUBLIC TAX RATE MEETING AND THE AUGUST 30, 2022 SPECIAL BUDGET WORKSHOP MEETING

An amendment was made to the minutes of the August 8, 2022 meeting. Item 8 motion did not name the company to which Council Member Fleming made the motion to award the residential development project. The motion and the second was made to award the project to TW&M.

Council Member Monroe made the motion to approve the minutes of the August 8, 2022 Regular City Council Meeting, August 19, 2022 Special Called Public Tax Rate Meeting and the August 30, 2022 Special Budget Workshop Meeting. The second to the motion was made by Council Member Loflin and the motion passed with a vote of 5/0.

ITEM 7 PRESENTATION FROM WENDY CARTEL REGARDING THE WOMEN’S FEDERATED CLUB HOUSE

Wendy presented the council with a brief history of the Women’s Federated Club House. The club house will undergo renovation and after completion it will be deeded over to the City of Friona. The city will maintain the building.

NOTE: It should be noted that Item 9 and Item 10 was taken up first, followed by the regular order of agenda items.

ITEM 9 PRESENTATION OF SECTION 3 GOALS AND REQUIREMENTS AS IT RELATES TO THE CITY’S TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT DOWNTOWN REVITALIZATION PROJECT #CDM21-0158 TO INCLUDE INFORMATION ON EMPLOYMENT OPPORTUNITIES OF LOW AND VERY LOW-INCOME PERSONS AS WELL AS RESIDENTS RESIDING IN THE COMMUNITY

Section 3 refers to a part of the Housing and Urban Development Act of 1968. The law says the purpose of Section 3 is to ensure that employment and other economic opportunities such as construction contracts, generated by federal assistance for housing and community development programs be directed to low and very low income. Section 3 is a formality that is required when the total amount of assistance to the project exceeds a threshold of \$350,000.

ITEM 10 CONSIDERATION OF AWARD TO THE LOWEST BID INCLUDING ASSOCIATED ALTERNATES FOR THE CITY OF FRIONA’S TXCDBG DOWNTOWN REVITALIZATION PROJECT #CDM21-0158

Council Members agreed that they would approve the base bid presented to do the sidewalk improvements but will hold off on the lighting improvements. The installation of the electrical conduits and cable will be completed but installation of the decorative lights will be postponed.

MOTION The motion was made by Council Member Fleming to award the base bid to TW&M LLC for the City of Friona’s TXCDBG Downtown Revitalization Project #CDM21-0158. The second to the motion was made by Council Member Monroe and the motion passed with a vote of 4/0. Council Member Moreno recused herself from Item 10.

ITEM 8 CONSIDER AND TAKE ACTION ON APPROVAL OF AUDIT REPORT PRESENTED BY GAYLA FULLERTON, CPA WITH FULLERTON & ASSOCIATES PLLC FOR FISCAL YEAR OCTOBER 1, 2020 TO SEPTEMBER 30, 2021

Gayla provided a summary of her financial report and suggestions to better manage financial oversight.

MOTION The motion was made by Council Member Fleming to approve the audit report presented by Gayla Fullerton, CPA with Fullerton & Associates PLLC for fiscal year October 1, 2020 to September 30, 2021. The second to the motion was made by Council Member Loflin and the motion passed with a vote of 5/0.

ITEM 11 CONSIDER AND TAKE ACTION TO APPROVE THE CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT–PURCHASE CONTRACT ENTERED INTO BETWEEN O’REILLY AUTO ENTERPRISES, LLC AND CITY OF FRIONA

Council agreed that an amendment to page 6, paragraph 8.1(“ Restricted Use”) of the contract needs to be made before the contract is approved. The amendment will limit the deed restriction within 10 years.

MOTION The motion was made by Council Member Fleming to approve the Chapter 380 Economic Development Agreement-Purchase Contract entered into between O'Reilly Auto Enterprises, LLC and City of Friona. The second to the motion was made by Council Member Monroe and the motion passed with a vote of 5/0.

ITEM 12 CONSIDER AND TAKE ACTION TO MOVE OCTOBER 10, 2022 (COLUMBUS DAY) REGULAR CITY COUNCIL MEETING TO TUESDAY OCTOBER 11, 2022 OR ANOTHER DATE

MOTION Council Member Loflin made the motion to move the October 10, 2022 Regular City Council Meeting to Tuesday, October 11, 2022. The second to the motion was made by Council member Fleming and the motion passed with a vote of 5/0.

ITEM 13 CONSIDER AND TAKE ACTION ON CLOSING CITY HALL SEPTEMBER 29 AND SEPTEMBER 30, 2022 FOR YEAR-END-PROCEDURES

MOTION Council Member Monroe made a motion to close City Hall September 29th and 30th, 2022 for Year-End-Procedures. The second to the motion was made by Alderman Loflin and the motion passed with a vote of 5/0.

ITEM 14 CONSIDER AND TAKE ACTION ON APPROVAL OF ORDINANCE NO. 2022.09.12 ADOPTING BUDGET AND MAKING APPROPRIATION FOR SUPPORT OF CITY GOVERNMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023

ORDINANCE NO. 2022.09.12

AN ORDINANCE OF THE CITY OF FRIONA, TEXAS APPROVING THE BUDGET AND MAKING APPROPRIATION FOR SUPPORT OF THE CITY GOVERNMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023

MOTION Council Member Fleming made the motion to approve Ordinance No. 202122.09.12 adopting the budget and making appropriation for support of city government for the Fiscal Year beginning October 1, 2022 and ending September 30, 2023.

General Fund	\$2,895,536
Water and Sewer Fund	\$1,294,338
Interest & Sinking Fund	\$0.00
Operation & Maintenance Fund	\$515,340

Friona Economic Development Corporation	\$151,055
Hotel Occupancy Tax Fund	\$14,848
Capital Improvement Project Fund	\$161,509

Council Member Moreno made the second to the motion and the motion passed with a vote of 5/0.

ITEM 15 CONSIDER AND TAKE ACTION ON APPROVAL OF ORDINANCE NO. 2022.09.12A ADOPTING TAX RATE OF \$0.465700/\$100 VALUATION FOR USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT GENERAL FUND OF THE CITY OF FRIONA, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND TERMINATING SEPTEMBER 30, 2023

ORDINANCE NO. 2022.09.12A

AN ORDINANCE LEVYING TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF FRIONA, TEXAS GENERAL FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND TERMINATING SEPTEMBER 30, 2023

MOTION The motion was made Council Member Monroe to approve Ordinance No. 2022.09.12A Adopting Tax Rate \$0.465700/\$100 valuation for use and support of the Municipal Government General Fund of the City of Friona, Texas for the fiscal year beginning October 1, 2022 and terminating September 30, 2023.

Maintenance and Operation (General Fund) \$0.4657/\$100 valuation.

Council Member Moreno made the second to the motion. The mayor recorded the individual votes as follows: Mayor Pro Tem Alan Monroe, Aye. Council Member Bruce Fleming, Aye. Council Member Brent Loflin, Aye. Council Member Esmeralda Mills, Aye. Council Member Cindy Moreno, Aye. The motion passed with a vote of 5/0.

ITEM 16 CONSIDER AND TAKE ACTION ON APPROVAL OF ORDINANCE NO. 2022.09.12B ADOPTING TAX RATE OF \$0.000000/\$100 VALUATION FOR USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF FRIONA, TEXAS INTEREST AND SINKING FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND TERMINATING SEPTEMBER 30, 2023

ORDINANCE NO. 2022.09.12B

AN ORDINANCE LEVYING TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF FRIONA, TEXAS

**INTEREST AND SINKING FUND FOR THE FISCAL YEAR BEGINNING
OCTOBER 1, 2022 AND TERMINATING SEPTEMBER 30, 2023**

MOTION Council Member Moreno made the motion to approve Ordinance No. 2022.09.12B adopting tax rate of \$0.000000/\$100 valuation for use and support of the Municipal Government of the City of Friona, Texas Interest & Sinking Fund for the fiscal year beginning October 1, 2022 and terminating September 30, 2023.

Debit Service (Interest & Sinking) \$0.000000/\$100 valuation

Council Member Mills made the second to the motion. The mayor recorded the individual votes as follows: Mayor Pro Tem Alan Monroe, Aye. Council Member Bruce Fleming, Aye. Council Member Brent Loflin, Aye. Council Member Esmeralda Mills, Aye. Council Member Cindy Moreno, Aye. The motion passed with a vote of 5/0.

ITEM 17 CONSIDER AND TAKE ACTION ON APPROVAL OF ORDINANCE NO. 2022.09.12C AMENDING CODE OF ORDINANCES SECTION 13.307(A) RELATED TO THE COLLECTION OF RESIDENTIAL AND COMMERCIAL GARBAGE AS WELL AS THE COSTS FOR SUCH SERVICE

There will be a rate increase for the collection of Residential and Commercial accounts of 5% for residential customers and 7% for commercial customers. The rates will reflect the following:

Type Refuse	Times Per Week	Amount Per Month
Residential Unit; 3 cubic yard container	1	\$ 20.70
Minimum charge for commercial customer		\$ 42.10
Commercial Unit; 3 cubic yard container	1	\$ 84.20
Commercial Unit; 3 cubic yard container	2	\$ 107.80
Commercial Unit; 3 cubic yard container	3	\$ 131.40
Commercial Unit; 3 cubic yard container	4	\$ 155.00

MOTION The motion was made by Council Member Fleming to approve Ordinance No. 2022.09.12C amending Code of Ordinance Section 13.307 (A) related to the collection of residential and commercial garbage as well as the costs for such service. The second to the motion was made by Council Member Monroe and the motion passed with unanimous vote of 5/0.

ITEM 18 CONSIDER AND TAKE ACTION ON APPROVAL OF FRIONA ECONOMIC DEVELOPMENT CORPORATION BUDGET FOR FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023

MOTION Council Member Loflin made the motion to approve the Friona Economic Development Corporation budget for Fiscal Year beginning October 1, 2022 and ending September 30, 2023. Council Member Moreno made the second to the motion and the motion passed with a vote of 5/0.

ITEM 19 CONSIDER AND TAKE ACTION ON ADOPTING A FEE SCHEDULE

An amendment will be made to the community center fee to include use by Non-Profit and entities. Non-Profit and entities may use the facility rent free and are responsible for cleanup of the facility.

A motion was made by Council Member Fleming to adopt a fee schedule for 2022-2023. Council Member Monroe made the second to the motion and the motion passed with a vote of 5/0.

ITEM 20 CONSIDER AND TAKE ACTION ON APPROVAL OF ACCOUNTS PAYABLE FOR AUGUST 2022

City Secretary Mendez reviewed Accounts Payable with the City Council.

MOTION A motion was made by Council Member Moreno to approve the Accounts Payable for August 2022. The second to the motion was made by Alderman Monroe and the motion passed with the unanimous vote 5/0 of the City Council.

ITEM 21 CONSIDER AND TAKE ACTION ON APPROVAL OF FINANCIAL STATEMENT FOR AUGUST 2022

MOTION Council Member Fleming made the motion to approve the August 2022 Financial Statement. The second to the motion was made by Council Member Loflin and the motion passed with the unanimous vote of 5/0.

ITEM 22 CONSIDER AND TAKE ACTION ON APPROVAL OF RESOLUTION NO. 22.09.12 DENYING SOUTHWESTERN PUBLIC SERVICE COMPANY'S PROPOSED SURCHARGE IN CONNECTION WITH FINAL RATES APPROVED RELATED TO ITS STATEMENT OF INTENT SUBMITTED ON ABOUT FEBRUARY 8, 2021; AUTHORIZING THE CITY'S CONTINUED PARTICIPATION WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES ("AXM") AND PARTICIPATION IN RELATED RATE PROCEEDINGS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

RESOLUTION NO. 22.09.12

A RESOLUTION BY THE CITY OF FRIONA, TEXAS (“CITY”) DENYING SOUTHWESTERN PUBLIC SERVICE COMPANY’S PROPOSED SURCHARGE IN CONNECTION WITH FINAL RATES APPROVED RELATED TO ITS STATEMENT OF INTENT SUBMITTED ON ABOUT FEBRUARY 8, 2021; AUTHORIZING THE CITY’S CONTINUED PARTICIPATION WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES (“AXM”) AND PARTICIPATION IN RELATED RATE PROCEEDINGS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Southwestern Public Service Company (“SPS” or the “Company”) filed a Statement of Intent with the City and with the Public Utility Commission of Texas (“PUCT”) on or about February 8, 2021, to increase its base revenues for its Texas retail service area by approximately \$143.3 million; and

WHEREAS, the Public Utility Commission of Texas (“PUCT”) approved a settlement reached by SPS, the Alliance of Xcel Municipalities (“AXM”), and other parties granting SPS an increase of \$88.5 million; and

WHEREAS, under state law and under the terms of the settlement reached in SPS’s general rate case, SPS filed its request for a net surcharge of about \$88.9 million, including interest of about \$5.6 million related to PUCT Docket Nos. 51802, 51644, and 52446; and

WHEREAS, SPS also proposes to implement the net surcharge over a one-year period, from October 1, 2022 through September 30, 2023, and to true up the amounts actually surcharged or refunded against the amounts authorized by the Commission to be surcharged or refunded; 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, under PURA § 33.025(a), the City has standing in each case before the Public Utility Commission of Texas that relates to an electric utility providing service in the City; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing, and investigating SPS’s rate request and its changes in tariffs it is prudent to coordinate the City’s efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by SPS to change rates, has in the past joined with other local regulatory authorities to form the Alliance of Xcel Municipalities (“AXM”) and hereby continues its participation in AXM; and

WHEREAS, SPS's request for a surcharge consists of numerous complex calculations premised on various billing determinants and corresponding rates; and

WHEREAS, after review of SPS's application for a surcharge, SPS failed to establish that its requested surcharge is just and reasonable.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL/COMMISSION FOR THE CITY OF FRIONA, TEXAS THAT:

Section 1. The findings set out in the preamble are in all things hereby approved.

Section 2. SPS's application fails to provide sufficient information to justify the adoption of SPS's proposed surcharges and thus SPS failed to show that its proposed surcharges are just and reasonable.

Section 3. The City hereby **DENIES** SPS's proposed surcharges.

Section 4. The City authorizes intervention in proceedings related to SPS's application before the Public Utility Commission of Texas and any related proceedings in any courts of law.

Section 5. The City continues its participation with other cities in a coalition of cities known as the Alliance of Xcel Municipalities ("AXM") with the understanding that the Steering Committee of AXM is to provide direction and guidance to Special Counsel representing AXM.

Section 6. The City, as part of AXM, hereby retains Herrera Law & Associates, PLLC as Special Counsel to represent the City with regard to SPS's requested increase in rates and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such rate experts as may be necessary for review and evaluation of SPS's rate application.

Section 7. The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SPS for reimbursement.

Section 8. SPS shall reimburse the City on a monthly basis, through AXM's coordinating city, the City of Amarillo, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Amarillo.

Section 9. The City Secretary or other appropriate city official shall provide a copy of this Resolution to **Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4400 Medical Parkway, Austin, Texas 78756**, and as a courtesy, provide SPS a copy of this Resolution by **sending a copy of the Resolution to Jeremiah W. Cunningham, Rate Case Manager, Southwestern Public Service Company, 790 S. Buchanan St. Amarillo, Texas 79101**.

Section 10. The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 11. To the extent any Resolution previously adopted by the City is inconsistent with this Resolution, it is hereby superseded.

Section 12. The findings set out in the preamble are in all things hereby approved.

Section 13. This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this 12 day of September 2022.

/s/ Greg Lewellen
MAYOR

ATTEST:

/s/ Rosa Mendez
CITY SECRETARY

MOTION The motion was made by Council Member Monroe to approve Resolution No. 22.09.12 Denying Southwestern Public Service Company’s proposed surcharge in connection with final rates approved related to its statement of intent submitted on or about February 8, 2021. The second to the motion was made by Council Member Moreno and the motion was passed with a vote of 5/0.

EXECUTIVE SESSION:

The mayor announced at 8:15 p.m. that the Friona City Council is going into Executive Session. Council moved to Item 23.

ITEM 23 ANNUAL EVALUATION OF MUNICIPAL COURT JUDGE, INCLUDING DISCUSSION REGARDING EMPLOYMENT STATUS OF MUNICIPAL COURT JUDGE, INCLUDING SALARY, BENEFITS, DISCIPLINE, TERMINATION, PROMOTION, AND/OR RECLASSIFICATION. (AUTHORIZED BY TEXAS GOVERNMENT CODE, SUBCHAPTER D, SECTION 551.074 PERSONNEL)

ITEM 24 ANNUAL EVALUATION OF CITY MANAGER, INCLUDING DISCUSSION REGARDING EMPLOYMENT STATUS OF CITY MANAGER, INCLUDING SALARY, BENEFITS, DISCIPLINE, TERMINATION, PROMOTION, AND/OR RECLASSIFICATION. (AUTHORIZED BY TEXAS GOVERNMENT CODE, SUBCHAPTER D, SECTION 551.074 PERSONNEL)

City Manager Davila discussed his major accomplishments for the 2021-2022 Fiscal Year.

REGULAR HEARING:

Mayor Lewellen opened into the regular meeting at 9:13 p.m.

ITEM 25 RECONVENE INTO REGULAR SESSION AND CONSIDER ACTION, IF ANY, ON ITEM 23 DISCUSSED IN EXECUTIVE SESSION

No action was taken on Item 23.

ITEM 26 RECONVENE INTO REGULAR SESSION AND CONSIDER ACTION, IF ANY, ON ITEM 24 DISCUSSED IN EXECUTIVE SESSION

The City Council increased the City Manager's salary by 5%.

ITEM 27 ADJOURNMENT

With no further business at hand, the meeting adjourned at 9:15 p.m.

APPROVED:

/s/ Greg Lewellen
Greg Lewellen, Mayor

ATTEST:

/s/ Rosa Mendez
Rosa Mendez, City Secretary