



## AGENDA

### BARTONVILLE TOWN COUNCIL SPECIAL MEETING AND WORK SESSION

JUNE 1, 2021

6:30 PM

In accordance with order of the Office of the Governor issued March 31, 2020, and in accordance with subsequent orders issued by Office of the Governor issued after that date, the Bartonville Town Council will conduct a meeting at Town Hall, 1941 E. Jeter Road, Bartonville, Texas 76226 AND by video conference in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19).

The link to the video conference is [www.townofbartonville.com/videmeeting](http://www.townofbartonville.com/videmeeting) *Please note there is an approximate 30 second delay.*

The public will be permitted to offer public comment via teleconference/video as provided by the agenda and as permitted by the presiding officer during the meeting by joining the meeting at [www.zoom.com](http://www.zoom.com) or by calling the toll-free dial-in number at 877 853 5257. The meeting ID number is **859 8708 3319** and the passcode is **344966**. To request to speak at the appropriate time, raise your hand via video or enter \*9 on your phone. The identity of each speaker must be clearly stated prior to speaking.

**A. CALL SPECIAL MEETING TO ORDER**

**B. PLEDGE OF ALLEGIANCE**

**C. PUBLIC PARTICIPATION**

[CLICK HERE](#) to submit general comments regarding issues or agenda items not indicated as a Public Hearing.

**D. REGULAR ITEM**

1. Consider approval of an ordinance to find that the settlement agreement between the Town and CoServ Gas, Ltd. is reasonable; ordering CoServ Gas, Ltd. to implement the rates agreed to in the settlement agreement; requiring reimbursement of Towns’ rate case expenses; finding that the meeting at which this Ordinance is passed is open to the public as required by law; requiring notice of this Ordinance to the Company and Town’s legal counsel; and providing an effective date.

**E. ADJOURN SPECIAL MEETING**

**F. CALL WORK SESSION TO ORDER**

1. Discussion regarding FY 2021-22 budget to receive goals for budget preparation.

**G. ADJOURNMENT**

I do hereby certify that the Notice of Meeting was posted on the bulletin board at Town Hall of the Town of Bartonville, Texas, a place convenient and readily accessible to the public at all times and said Notice was posted on the following date and time: May 28, 2021, at 4:30 p.m. at least 72 hours prior to the time of said meeting.



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Tammy Dixon, TRMC, CMC, Town Secretary

The Town Council reserves the right to adjourn into a closed meeting or executive session as authorized by Texas Government Code, Sections 551.001, et seq. (the Texas Open Meetings Act) on any item on its open meeting agenda in accordance with the Texas Open Meetings Act, including, without limitation Sections 551.071-551.088 of the Texas Open Meetings Act. Any final action, decision, or vote on a matter deliberated in a closed meeting will only be taken in an open meeting that is held in compliance with Texas Government Code, Chapter 551.



## TOWN COUNCIL AGENDA ITEM NO. 1

### REGULAR ITEM

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**DATE:** June 1, 2021

**FROM:** Tammy Dixon, Town Secretary

**ITEM:** Consider approval of an ordinance to find that the settlement agreement between the Town and CoServ Gas, Ltd. is reasonable; ordering CoServ Gas, Ltd. to implement the rates agreed to in the settlement agreement; requiring reimbursement of Towns' rate case expenses; finding that the meeting at which this Ordinance is passed is open to the public as required by law; requiring notice of this Ordinance to the Company and Town's legal counsel; and providing an effective date.

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#### **PREVIOUS ACTION/PRESENTATION**

On or about November 13, 2020, CoServ Gas, Ltd. ("CoServ" or "Company") filed to increase rates in all cities with exclusive original jurisdiction over the rates, operations, and services within its service area. In its application, CoServ sought to increase base rates by 11.8% for its entire service area.

On December 15, 2020, the Town Council approved a Resolution suspending the effective date of CoServ Gas Ltd.'s requested gas rate increase to permit the Town time to study the request and establish reasonable rates.

The Town, pursuant to § 104.102 of the Gas Utility Regulatory Act ("GURA"), has exclusive original jurisdiction over the gas rates charged by the Company. Although, CoServ proposed an original effective date of January 23, 2021, the Company agreed to extend the proposed effective date to March 14, 2021, with a statutory deadline of August 10, 2021. The Town suspended the effective date for 90 days, giving the Town until June 12, 2021 to evaluate the application and take final action. The Town joined with the other cities (collectively the "CoServ Gas Cities") to conduct a review of the Company's application by hiring and directing legal counsel and consultants to prepare a common response and negotiate with the Company.

On or about May 14, 2021, a Settlement Agreement was reached between the CoServ Gas Cities and the Company. The Settlement Agreement reduces the Company's requested rate increase of \$11.5 million down to \$6.25 million representing a 45.6% reduction to the Company's request. Additionally, the Settlement Agreement provides for a 9.5% return on equity rather than the Company's requested 11.5% return on equity. Finally, the Settlement Agreement provides for a customer charge of \$15, compared to the Company's original \$18.50 request. The commercial and public authority customer charge will be \$35, versus the Company's original \$43.50 request. The Company has agreed to 100% recovery of City's rate case expenses.

The purpose of the ordinance is to approve the Settlement Agreement and direct the Company to implement the rates in the Settlement Agreement. Additionally, pursuant to GURA § 103.022, cities are entitled to reimbursement of the expenses associated with the rate case to the extent the expenses are reasonable.

Staff recommends adoption of the Ordinance approving the Settlement Agreement, setting rates at the level indicated in the Settlement Agreement, and directing the Company to reimburse the Town's reasonable rate case expenses.

**FISCAL IMPACT:**

This item has no fiscal impact.

**LEGAL REVIEW:**

The ordinance has been reviewed by Ed Voss, Town Attorney.

**ATTACHMENTS:**

- Draft Ordinance

**RECOMMENDATION:**

For the Town Council to adopt the proposed ordinance.

**TOWN OF BARTONVILLE  
ORDINANCE NO. 706-21**

**AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, FINDING THAT THE SETTLEMENT AGREEMENT BETWEEN THE TOWN AND COSERV GAS, LTD. IS REASONABLE; ORDERING COSERV GAS, LTD. TO IMPLEMENT THE RATES AGREED TO IN THE SETTLEMENT AGREEMENT; REQUIRING REIMBURSEMENT OF THE TOWN'S RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENGROSSEMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Bartonville, Texas, is a Type A General Law Municipality located in Denton County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the Town of Bartonville, Texas ("Town"), is a general law municipality empowered under the Texas Local Government Code, Section 51.001, to adopt an ordinance or rule that is for the good government of the Town; and

**WHEREAS**, on or about November 13, 2020, CoServ Gas, Ltd. ("CoServ" or "Company"), pursuant to Gas Utility Regulatory Act ("GURA") § 104.102, filed a Statement of Intent to Increase Rates with the Railroad Commission of Texas (the "Commission") within the unincorporated areas it serves in the State of Texas and filed with the Town a Statement of Intent to change gas rates in all municipalities exercising original jurisdiction within the Company's service area, effective January 23, 2021; and

**WHEREAS**, the Company agreed to extend the proposed effective date to March 14, 2021; and

**WHEREAS**, the Town has exclusive original jurisdiction over the rates, operations, and services of a gas utility within the Town, pursuant to GURA § 103.001; and

**WHEREAS**, GURA § 103.021 grants a municipality the authority to require a utility to submit information as necessary to make a reasonable determination of rate base, expenses, investment, and rate of return in the municipality; and

**WHEREAS**, the Town, by Resolution No. 2020-21, dated December 15, 2020, suspended the effective date of the proposed rate change for ninety (90) days pursuant to GURA § 104.107; and

**WHEREAS**, the Town joined with other similarly situated municipalities, the Steering Committee of Cities Served by CoServ Gas, Ltd. (“CoServ Gas Cities”), to conduct a review of the Company’s application by hiring and directing legal counsel and consultants to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

**WHEREAS**, on or about May 14, 2021, the CoServ Gas Cities reached a Settlement Agreement resolving all issues relating to the Company’s Statement of Intent to Increase Rates; and

**WHEREAS**, the CoServ Gas Cities members and attorneys recommend that the Town approve the settlement agreement setting rates; and

**WHEREAS**, GURA § 103.022 provides that reasonable costs incurred by municipalities in ratemaking activities are to be reimbursed by the regulated utility.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, THAT:**

Section 1. The above and foregoing premises are true and correct legislative determinations and are incorporated herein and made a part hereof for all purposes.

Section 2. The Town of Bartonville, Texas, approves the Settlement Agreement reached between the CoServ Gas Cities and the Company, and directs the Company to implement the rates indicated in the Settlement Agreement.

Section 3. The Town’s reasonable rate case expenses shall be reimbursed by the Company.

Section 4. 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 the public notice of the time, place, and purpose of said meeting was given as required.

Section 5. A copy of this Ordinance shall be sent by the Town Secretary to CoServ, care of Charles Harrell, CoServ Gas, Ltd. 7701 South Stemmons Freeway, Corinth, Texas 76210 (CHARRELL@coserv.com), and to Thomas Brocato at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701 ([tbrocato@lglawfirm.com](mailto:tbrocato@lglawfirm.com)).

Section 6. All provisions of the Ordinances of the Town of Bartonville, Texas, in conflict with the provisions of this Ordinance shall be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 7. It is hereby declared to be the intention of the Town Council of The Town of Bartonville, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of

competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the Town Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Section 8. The Town Secretary of the Town of Bartonville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the Town Council of the Town of Bartonville and by filing this Ordinance in the Ordinance records of the Town.

Section 9. The Town Secretary of the Town of Bartonville is hereby directed to publish in the Official Newspaper of the Town of Bartonville the Caption and the Effective Date of this Ordinance for two (2) days.

Section 10. This Ordinance shall take effect immediately from and after its passage and publication, as the law provides.

**AND IT IS SO ORDAINED.**

**PASSED AND APPROVED on this the 1<sup>ST</sup> day of June, 2021.**

APPROVED:

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Bill Scherer, Mayor

ATTEST:

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Tammy Dixon, Town Secretary