

**CITY COUNCIL MEETING**  
**February 23, 2012 at 8:30 a.m.**

**CITY COUNCIL OF THE CITY OF ABILENE, TEXAS**  
**COUNCIL CHAMBERS, CITY HALL**

The City Council of the City of Abilene, Texas met in Regular Session on February 23<sup>rd</sup> at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Robert O. Briley, Anthony Williams, Stormy Higgins and Councilwoman Kellie Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced twins Elisabeth and Mary Dantzler who are 5<sup>th</sup> grade students of Lee Elementary. Elisabeth and Mary led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**RECOGNITION**

Retired Chief's David James (Coppell) and Melvin Martin (Abilene) presented the certificate of Recognition to Stan Standridge Chief of the Abilene Police Department. The Texas Law Enforcement Recognition Program is a voluntary process whereby police agencies prove their compliance with professional standards or best practices accepted by Texas Police Professionals. Being Recognized means that the law enforcement agency meets or exceeds all of the professional standards for best practices for Texas Law Enforcement, including best practices governing the use of force, deadly force, and police pursuits.

Texas Police Chief's Associations (TPCA) developed the Agency Recognition program at the state level, designed to meet the needs of law enforcement agencies in the State of Texas. The general philosophy of the TPCA is that all police departments in the State of Texas should have the opportunity to become a Recognized agency. Therefore, the goal of the TPCA is to promote statewide standardized best practices, developed by Texas Law Enforcement Professionals.

The Law Enforcement Recognition Program is a voluntary process where police agencies in Texas prove their compliance with 164 Texas Law Enforcement Best Practices. These Best Practices were carefully developed by Texas Law Enforcement professionals to assist agencies in the efficient and effective delivery of service, the reduction of risk and the protection of individual's rights.

APD is the 58th department to be recognized out of 2,600 active agencies.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the February 9<sup>th</sup> regular meeting there being no deletions, no additions, and no corrections. Councilman Higgins made a motion to approve the minutes. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Miller and Mayor Archibald  
NAYS: None

### CONSENT AGENDA

Mayor Archibald pulled items 6.5 and 6.7. Councilman Briley made the motion to approve consent item 6.1 through 6.9 as recommended by staff. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald  
NAYS: None

### Ordinances:

**6.1 Ordinance:** (Final Reading) for a proposal to adopt the Highway 351 Development Plan. The Ordinance was heard in a public hearing on Feb. 9<sup>th</sup> under the first reading.

The City of Abilene has long recognized the Hwy 351 corridor as a key location within the community for implementing its long-term plan to promote orderly growth and economic opportunity. In the 2004 Comprehensive Land Use Plan the location was officially identified as a “**major commercial/business center**”. The intersections of Hwy 351, I-20 and East Lake Road create a unique opportunity for a concentration of mixed land uses, nodal development and more compact development envisioned within the Comprehensive Plan. This plan further clarifies the vision for this area along Hwy 351 from I-20 out to the City Limits of Abilene, Texas. The plan is not intended to be static but recognizes the need for periodic revision and is intended to expand upon the general goals and strategies of the citywide Comprehensive Plan, not to supersede the recommendations of that Plan.

Ordinance No 13-2012

AN ORDINANCE TO AMEND THE CITY’S COMPREHENSIVE PLAN ADOPTING AND INCORPORATING THE HIGHWAY 351 DEVELOPMENT PLAN AS A DEVELOPMENT PLAN ATTACHMENT; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

**6.2 Ordinance:** (*First Reading*) for Case No. **Z-2012-04**, a request from Valarie Lantrip to amend PD-123 concerning permitted uses, located at 401 Loop 322 & 2901 Newman Rd.; and setting a public hearing for March 8<sup>th</sup>, 2012.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS AMENDING CHAPTER 23, SUBPART E, “LAND DEVELOPMENT CODE,” OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-123 AND ORDINANCE NO. 03-2008, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

**Location: 401 Loop 322 & 2901 Newman Rd.**

**6.3 Ordinance:** for Case No. **Z-2012-05**, a request from Valarie Lantrip in rezone property from AO (Agricultural Open Space) to PD-123 (Planned Development) zoning, located at 2802 E. Hwy 80; and setting a public hearing for March 8, 2012.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AND AMENDING PDD-123 AND ORDINANCE NO. 03-2008, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

**Location: 2802 E. Hwy 80**

**Resolutions:**

**6.4 Resolution:** approving a lease purchase agreement for the purpose of procuring computers for Public Safety Vehicles. City Council approved the purchase. Funding for this lease purchase agreement first year's payment of \$59,290.38 is included in the FY 2012 Technology Fund budget previously approved by Council in September 2011. Two additional payments of \$59,290.38 will be budgeted for in the Technology Fund and made in FY 2013 and FY 2014.

RESOLUTION NO. 4-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY OF ABILENE TO ENTER INTO A LEASE PURCHASE AGREEMENT WITH DIVLEND EQUIPMENT LEASING, L.L.C. FOR THE PURPOSE OF PROCURING COMPUTERS; DESIGNATING THE AGREEMENT AS A QUALIFIED TAX EXEMPT OBLIGATION; AND DESIGNATING AUTHORIZED SIGNERS OF THE AGREEMENT

**6.5 Resolution:** Authorizing the City Manager to enter into a Memorandum of Understanding with the Community Foundation Outlining the responsibilities of the parties in the construction of a Splash Pad in Nelson Park. *Mayor Archibald pulled the item.*

**6.6 Resolution:** of the City of Abilene suspending the March 6, 2012, effective date of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex") requested rate change to permit the city time to study the request and to establish reasonable rates. Council approved the suspension of the effective date of Atmos Energy Corp., Mid-Tex Division requested rate change.

The City, along with approximately 153 other cities served by Atmos Energy Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"). On or about January 31, 2012, Atmos Mid-Tex filed with the City a Statement of Intent to increase rates within the City.

Atmos Mid-Tex is seeking to increase system-wide base rates (which exclude the cost of gas) by approximately \$49 million or 11.94%. However, the Company is requesting an increase of 13.6%, excluding gas costs, for its residential customers. Additionally, the application would change the way that rates are collected, by increasing the residential fixed-monthly (or customer) charge from \$7.50 to \$18.00 and decreasing the consumption charge from \$0.25 per 100 cubic feet ("ccf") to \$0.07 per ccf.

The law provides that a rate request made by a gas utility cannot become effective until at least 35 days following the filing of the application to change rates. Atmos has proposed an effective date of March 6, 2012. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. If the City fails to take some action regarding the filing before the effective date, Atmos' rate request is deemed administratively approved.

The purpose of this resolution is to extend the effective date of Atmos Mid-Tex's proposed rate increase to give the City time to review the rate-filing package. The resolution suspends the March 6, 2012 effective date of the Company's rate increase for the maximum period permitted by law to allow the City, working in conjunction with the other ACSC cities, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy to pursue, including settlement and ultimately to approve reasonable rates.

#### RESOLUTION 6-2012

RESOLUTION OF THE CITY OF ABILENE SUSPENDING THE MARCH 6, 2012, EFFECTIVE DATE OF ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ATMOS CITIES STEERING COMMITTEE ("ACSC") AND OTHER CITIES IN THE ATMOS MID-TEX SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND ACSC'S LEGAL COUNSEL

#### Oral Resolutions:

**6.7 Oral Resolution:** Authorizing the City Manager to execute an agreement for design/build services for a splash pad at Nelson Park with Kraftsman Commercial Playground and Water Park Equipment, Inc. through the City's Buy Board contract. *Mayor Archibald pulled the item.*

**6.8 Oral Resolution:** Authorizing the City Manager to negotiate an Interlocal Agreement with the City of Clyde for the Joint Acquisition of Water rights. Council approved the City Manger to negotiate an Interlocal Agreement.

The cities of Abilene and Clyde recognize that an adequate water supply is essential to their future and the future of West Texas. The cities have agreed that it is prudent to jointly negotiate and purchase available water rights. Working together has benefits for both parties.

The Interlocal Agreement will establish a framework by which Abilene and Clyde may work together to purchase Water Rights. In general, the Interlocal Agreement will allow the cities to jointly negotiate for the purchase of such rights.

#### Award of Bid:

**6.9 Bid Award:** for Hamby Wastewater Treatment Plant Improvements – Phase I. Council approved the award to Gracon Construction, Inc. in the amount of \$1,356,000 and authorized the City Manager to execute all necessary documents related to the contract.

Improvements - Phase I, which involves installation of a new influent flow splitter structure and repairs to four primary clarifiers. Eleven bids were received. The low bid was submitted by Gracon Construction Inc. of Dallas, TX in the amount of \$1,356,000. The Engineer, after evaluating the bid submittal and investigating Gracon, does recommend awarding the bid to the low bidder.

On August 11<sup>th</sup>, 2010 the City of Abilene contracted with Enprotec/Hibbs & Todd, Inc. for the Hamby Wastewater Treatment Plant (WWTP) Improvements. That contract includes an extensive evaluation of processes structures & facilities of the Hamby WWTP. The contract also provides for the design and preparation of plans and contract documents for a new influent flow splitter structure and repairs to four primary clarifiers.

The existing influent flow splitter structure was constructed of welded steel in 1989 and is severely deteriorated. The new structure will be constructed of reinforced concrete with corrosion resistant materials and/or coatings. The four existing primary clarifiers (Units 1, 2, 3 and 4) are reinforced concrete basins. The steel weirs, launders, and troughs of Units 1, 2 & 3, are severely deteriorated and will be replaced with fiberglass parts. Unit 4 contains fiberglass weirs, launders and troughs and will not require replacing. All remaining exposed steel parts within each of the four clarifiers will be inspected, replaced or repaired as necessary, and then recoated

#### ITEMS PULLED FROM CONSENT

**6.5 Resolution:** Authorizing the City Manager to enter into a Memorandum of Understanding with the Community Foundation Outlining the responsibilities of the parties in the construction of a Splash Pad in Nelson Park. *Mayor Archibald pulled the item.*

Leslie Andrews Interim Assistant Director of Community Services, briefed the council on the Splash Pad Project. In 2011, the Together 2011 Committee "Committee" led by Laura Moore working in conjunction with the Community Foundation met with Mike Hall the City of Abilene Director of Community Services about working together to construct a splash pad in Nelson Park. The Committee paid for a conceptual plan to be developed for the project with an anticipated cost of the completed project being \$640,000. The fundraising efforts are currently 96% complete and Community Foundation is acting as fiscal agent of the money until the project is underway.

The attached resolution authorizes the City Manager to enter into a Memorandum of Understanding with the Community Foundation. The Memorandum will outline the responsibilities of the parties as they relate to the building of this project. It will require the following:

- Community Foundation will collect donations pledged to this project and forward those donations to the City of Abilene in the manner directed by the City's Director of Finance prior to the beginning of construction.
- The money forwarded by the Community Foundation will be used in the construction of the splash pad, the construction of accompanying bathroom facilities, and signage.
- The City of Abilene will provide purchasing services and site preparation services such as leveling the site, installing the utility lines, and addressing drainage concerns as possible. An estimated cost of \$40,000.00 for the City's contribution.
- The City of Abilene will provide adequate fencing for the project.

RESOLUTION NO. 5-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH COMMUNITY FOUNDATION OF ABILENE THAT OUTLINES THE RESPONSIBILITIES OF THE PARTIES IN THE CONSTRUCTION OF A SPLASH PAD IN NELSON PARK.

**6.7 Oral Resolution:** Authorizing the City Manager to execute an agreement for design/build services for a splash pad at Nelson Park with Kraftsman Commercial Playground and Water Park Equipment, Inc. through the City's Buy Board contract. *Mayor Archibald pulled the item.*

Lesli Andrews stated she has contacted seven Texas cities for references in regards to their splash pads: Amarillo, Longview, Trophy Club, Rockwall, Fort Stockton, Crowley, and Temple. They all had anywhere from one to four splash pads in varying sizes constructed by Kraftsman Commercial Playground and Water Park Equipment, Inc. (Kraftsman). Every city recommended that Abilene work with Kraftsman to design and build a splash pad. They said Kraftsman was a great company to work with, did a fantastic job, was very knowledgeable, and they had great customer service throughout the process, including after the splash pad was complete.

Based on the conversations with representatives of these cities, staff is recommending hiring Kraftsman to design/build a splash pad at Nelson Park using the Local Government Purchasing Cooperative (BuyBoard) contract #346-10.

The cost for this part of the project is approximately \$466,692. Together 2011 has raised 96% of the total project cost and expect to finalize their fundraising by March 31, 2012

Mayor Archibald recognized Laura Moore, Together 2011 Chair and Katie Alford, Community Foundation of Abilene for their vision and dedication to seeing this project to completion.

Councilman Higgins made the motion to approve items 6.5 & 6.7 authorizing the City Manager to enter into a Memorandum of Understanding with the Community Foundation and to execute an agreement with Kraftsman Commercial Playground. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

## REGULAR ITEMS

**No Items for Regular Agenda**

## EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 9:18 a.m. pursuant to Sections 551.071, 551.074, 551.072 and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, to consider the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters.

The Council reconvened from Executive Session at 11:02 a.m. and reported no votes or action was taken in Executive Session in regards to Sections 551.072 Real Property Section 551.071 Consultation with City Attorney and Section 551.074 Personnel.

**10. Oral Resolution** – Discussion and possible action related to annual performance evaluations of City Manager, City Attorney, City Secretary and Municipal Judge.

Councilman Williams made the motion to approve the recommendation of 3% raise for the annual performance of the City Manager, City Attorney, City Secretary and Municipal Judge to be effective March 25<sup>th</sup> 2012. Councilwoman Miller seconded the motion. Motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

There being no further business the meeting was adjourned at 11:05 a.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor