

**CITY COUNCIL MEETING
March 22, 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 March 22nd 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, Assistant City Attorney Theresa James, City Secretary Danette Dunlap, and various members of the City staff.

Councilwoman Miller gave the invocation.

Mayor Archibald introduced Didier Kanyabitabo who is a 5th grade student at Ortiz Elementary. Didier led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATIONS

Mayor Archibald presented the following Proclamations:

March 2012

Professional Social Work Month

Dr. Alan Lipps, Associate Professor of Social Work at Abilene Christian University, accepted the proclamation.

April 2012

Autism Awareness Month

Melissa Richardson, Region XIV Education Service Center Consultant for Autism, and parents of children with autism - Krisha Ross, David and Gina Hack and David and Alex Vela - accepted the proclamation.

3A State Champions – Wylie Girls Basketball

Coach Danley accepted the proclamation.

Texas Tennis Coaches Association 3A State Team Tennis Tournament winner – Wylie Tennis Team

Coach Kathryn Gilreath accepted the proclamation.

RECOGNITION

Mayor Archibald and Councilman Williams recognized the contribution and work of several Neighborhood Associations throughout the city.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the March 8th regular meeting there being no deletions, no additions, and no corrections. Councilwoman Miller made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

CONSENT AGENDA

Mayor Archibald announced that Items 6.1 and 6.10 were pulled prior to the start of the meeting. 6.1 will be on another council meeting. Councilman Spano made the motion to approve consent items 6.1 through 6.10 with the exception of 6.1 and 6.10 as recommended by staff. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

ABSTAINED: Councilman Price abstained from 6.6 and 6.9

Ordinances:

6.1 Ordinance: *(First Reading)* Amending “Chapter 6 – Animals” of the City of Abilene Code of Ordinances; and setting a public hearing for April 12, 2012. *(Item pulled prior to the start of the meeting.)*

6.2 Ordinance: *(First Reading)* Amending Chapter 29.5 “Swimming Pools and Spas.” of the City of Abilene Code of Ordinances; setting a public hearing for April 12, 2012

AN ORDINANCE AMENDING, CHAPTER 29.5 “SWIMMING POOLS AND SPAS”;
PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A
PUBLIC HEARING.

6.3 Ordinance: *(First Reading)* **Z-2012-06** - On a request from North Abilene G2K Development Partners, LLC to rezone property from HC (Heavy Commercial) & MD (Medium Density) to GR (General Retail) zoning, located at 836 & 844 Ambler Ave., 2218 & 2226 Hardy St., and 2217 Walnut St; and setting a public hearing for April 12, 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; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

6.4 Ordinance: *(First Reading)* **TC-2012-01** - On a request from North Abilene G2K Development Partners, LLC to abandon the east to west alley right-of-way and a 50’ portion of the north to south alley right-of-way between Hardy St. and Walnut St. and between Ambler Ave. and Sandefer St.; and setting a public hearing for April 12, 2012.

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC
RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH
ABANDONMENT, AND CALLING A PUBLIC HEARING.

6.5 Ordinance: *(First Reading)* **Z-2012-07** - On a request from the VFW, agent Deborah Nevarez, to rezone property from MF (Multi Family) to PD-138 (Planned Development) zoning, located at 825 & 933 Veterans Dr. and 6249 Pueblo Dr; and setting a public hearing for April 12, 2012.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-138 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

6.6 **Ordinance:** (*First Reading*) Z-2012-08 - On a request from Randy Voorhees to amend PD-82 concerning signage, located on the east side of Loop 322 at Lone Star Dr; and setting a public hearing for April 12, 2012.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-82 AND ORDINANCE NO. 40-2003 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

6.7 **Ordinance:** (*First Reading*) Z-2012-09 - On a request from Abilene Development Associates for Musgrave Children's Trust, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to MF (Multi Family) zoning, located on the south side of Hwy 351 at Union Ln.; and setting a public hearing for April 12, 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; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

6.8 **Ordinance:** (*First Reading*) **CUP-2012-01** - On a request from The Salvation Army, agent Eddie Chase, for a Conditional Use Permit to allow a Social Service Facility on property zoned RS-6 (Single-Family Residential) and MF (Multi Family), located at 1733 Poplar St. and 1342 Westway Dr.; and setting a public hearing on April 12, 2012.

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

6.9 **Oral Resolution:** Awarding Snow Removal Equipment Building Construction to Crowe Group, Inc.

On February 23rd, the City accepted bids for the Airport Snow Removal Equipment Building Construction Project (CB-1217). This building will house the airport's snow removal equipment and supplies, which are currently stored outside. The bid specifications included a base bid with an alternate for a hoist crane.

Three bids were received. However, the lowest bid, from Thomas Hicks Construction with a base-plus-alternate amount of \$334,596.00, had incomplete items in the bid schedule and the bid items did not add up to the bid amount. Due to these bidding errors, we are recommending that Hicks Construction's bid be rejected and award made to the second lowest bid by Crowe Group, Inc. in the Total Base Bid Plus Alternate amount of **\$404,200.00**.

The City Council approved awarding the bid to Crowe Group Inc for the total base bid plus alternate amount of \$404,200.00. This contract is funded 95% by AIP Grants 35 & 40. The City's 5% match is \$20,210.00.

6.10 Oral Resolution: Procurement of a bus wash system for CityLink (*Item pulled prior to the start of the meeting*).

REGULAR ITEMS

7.1 Mindy Patterson Director of Finance briefed the council on the Ordinance granting to Atmos Energy Corporation, a Texas and Virginia Corporation, its successors and assigns, a franchise to construct, maintain, and operate pipelines and equipment in the City of Abilene, Taylor County, Texas.

In 1967, the City of Abilene entered into a franchise agreement with Lone Star Gas Company ("Lone Star"). This agreement allowed Lone Star to use the streets, alleys, highways, public places and thoroughfares of the City for the purpose of distributing and selling gas. That franchise agreement was amended in 1981, 1989, 1991, 2003, and 2008. During that period Lone Star assigned their rights under the franchise agreement to TXU Gas Company, who then assigned the rights to Atmos Energy Corporation ("Atmos Energy"). The 1967 franchise agreement along with the amendments has expired.

The attached Franchise Ordinance has been negotiated and agreed upon by Atmos Energy and City of Abilene staff. It maintains the purpose of the 1967 franchise while clarifying the responsibilities of the parties, particularly as those responsibilities relate to the moving of lines when required for construction of City utilities, streets and affected street rights-of-way. The ordinance also simplifies the franchise fee payment calculation with no significant reduction in the fee paid to the City.

Because this is a franchise ordinance, the City of Abilene Charter requires that it shall be read and passed at two regular meetings of the Council, that a public hearing be held, and that it shall be passed with at least five affirmative votes.

Mayor Archibald opened the public hearing and city council heard from the following:

- Mike Schwiekhart – with Atmos Energy, supports the council's approval the ordinance.

There being no one else present and desiring to be heard the public hearing was closed.

Councilman Higgins made the motion to approve the Ordinance granting to Atmos Energy Corporation, a Texas and Virginia Corporation, its successors and assigns, a franchise to construct, maintain and operate pipelines and equipment in the City of Abilene, Taylor County Texas. Councilman Price seconded the motion, motion carried.

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

NAYS: None

ORDINANCE #16-2012

AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE,

AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; AND REPEALING ALL PREVIOUS GAS FRANCHISE ORDINANCES.

Natural Gas Franchise

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 9:23 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 10:36 a.m. and reported no votes or action was taken in Executive Session in regards to Sections 551.072 Real Property.

10. Oral Resolution – Approving the reappointment and appointment to the following:

Abilene Public Health Corporation

Abilene Taylor County Public Health

Councilman Higgins made the motion to reappoint the Mayor's recommendation of the following members to the Abilene Public Health Corporation – Larry Gilley City Manager and Richard Burdine Economic Development Director and appoint James McCoy as a member of the Abilene Taylor County Public Health Board for the City of Abilene. Councilman Price 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 10:38 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor