

CITY COUNCIL MEETING
March 28th, 2013, 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 28th, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Anthony Williams, Robert O. Briley, Stormy Higgins and Councilwoman Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Briley gave the invocation.

Mayor Archibald introduced Emily Buff she is a 5th grader at Dyess Elementary School, and she led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PRESENTATIONS

Mayor Archibald recognized Mindy Patterson Director of Finance and Michael Rains Assistant Director of Finance for their award from the Texas Comptroller for receiving the 2013 Gold Award in transparency.

Mayor Archibald and the City Council accepted a check for the \$14,362.50 in incentives it earned in 2012 through its participation in the AEP Texas CitySmart Program. The City of Abilene's efforts will now save more than \$194,000 in energy costs annually.

Mayor Archibald presented the following Presentations:

March 2013

Professional Social Work Month

Mary McLeod, West Central Texas Branch Chair for the National Association of Social Workers accepted the proclamation.

April 2013

Autism Awareness Month

Jessica Nelson Consultant for Autism, and Deputy City Manager David Vela parents of children who suffer from autism accepted the proclamation.

April 1-6, 2013

Community Development Week

Sandy Bowen and Joana Wuest, Office of Neighborhood Services, accepted the proclamation.

April 9, 2013

National Service Recognition Day

Max Ann Bowlin, RSVP Volunteer Coordinator and Debbie Partin, Foster Grandparent Director accepted

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the March 14th regular meeting there being no deletions, no additions, and no corrections. Councilman Higgins made a motion to approve the minutes as presented. Councilman Price seconded the motion, motion carried.

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

NAYS: None

CONSENT AGENDA

Councilman Price along with Citizen Steve Savage pulled items 6.7 and 6.8 from consent. Councilman Spano made the motion to approve consent items 6.1 through 6.16 with the exception of 6.7 and 6.8 as recommended by staff. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

ABSTAINED: Councilman Price and Higgins on Item 6.9

Ordinances:

- 6.1** **Ordinance:** (*First reading*) on a request to amend the Master Thoroughfare Plan regarding the area south of Antilley Road and between FM 89 (Buffalo Gap Rd) & Highway 83-84; and setting a public hearing for April 11, 2013.

AN ORDINANCE AMENDING THE CITY'S MASTER THOROUGHFARE PLAN MAP AND CALLING A PUBLIC HEARING.

- 6.2** **Ordinance: Z-2013-01** – (*First reading*) on a request from Tom Lindley to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, being the east 16.81 acres located at 4250 Forrest Hill Rd; and setting a public hearing for April 11, 2013

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

- 6.3** **Ordinance: Z-2013-02** – (*First reading*) on a request from Kickapoo Land Company, agent David Todd, to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, being 14.77 acres located at 4750 Southwest Dr; and setting a public hearing for April 11, 2013.

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: Z-2013-03** – (*First reading*) on a request from Musgrave Enterprises, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to O (Office) zoning, being 4.92 acres located at 749 Gateway St; and setting a public hearing for April 11, 2013.

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.

- 6.5** **Ordinance: : Z-2013-04** – *(First reading)* on a request from Valley Creek Investments, LLC, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) & RS-12 (Single-Family Residential) to RS-8 (Single-Family Residential), PH (Patio Home), & GR (General Retail) zoning, located at 902 ES 27th St; and setting a public hearing for April 11, 2013.

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.

- 6.6** **Ordinance: Z-2013-05** – *(First reading)* on a request from Musgrave Enterprises, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RS-8 (Single-Family Residential) zoning, being 22.53 acres located at 6301 Arapaho Tr; and setting a public hearing for April 11, 2013

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.

- 6.7** **Ordinance:** *(First reading)* on an ordinance amending the Land Development Code to create and adopt standards for an Ambler Avenue Corridor Overlay; and setting a public hearing for April 11, 2013. *Item pulled by Councilman Price and Citizen Steve Savage.*

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.

- 6.8** **Ordinance: Z-2013-06** – *(First reading)* on a request from the City of Abilene to apply Ambler Street Corridor Overlay (AMB-COR) zoning to all properties located up to 1 block on either side of Ambler Avenue from Grape Street to Interstate 20; and setting a public hearing for April 11, 2013. *Item pulled by Councilman Price and Citizen Steve Savage.*

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.

- 6.9** **Ordinance:** *(First reading)* on an ordinance amending the Land Development Code related to prohibiting off-premise advertising signs (billboards) in the Pine Street Corridor Overlay; and setting a public hearing for April 11, 2013.

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART C, "SIGNS AND BILLBOARDS," 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.

- 6.10 Ordinance:** (*First reading*) on an ordinance amending the Sign Regulations related to illumination and electronic message signs for institutional uses in single-family residential districts; and setting a public hearing for April 11, 2013.

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART C, "SIGNS AND BILLBOARDS," 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

Oral Resolutions:

- 6.11 Oral Resolution:** City Council approved authorizing the City Manager to enter into an agreement with Sheppard Surveying Co., Inc. of Abilene, Texas to survey sections four through seven for the platting process of Lake Fort Phantom Hill.

Council approves entering into a surveying contract for the subdivision of lots along Chickasaw Rd., Foot Hills Rd., Arrow Pt., Dixon Rd., Mohegan Rd., Kiowa Ct., Rocky Point Rd., Wichita Camp, Cove Rd., Silo View, Rain Dance Cr., Honey Bee Rd., and War Paint Rd. The proposed contract will include the topographic and elevation surveying, lot boundary determination, utility location, right of way and easement determination, monument establishment, preparation of a final plat, and individual survey deed. The process will be conducted in accordance with the existing Land Development Code and normal city procedures.

These plats will establish the public right-of-way and lot lines for the approximately 65 existing lots in Sections Four and Five, 69 existing lots in Sections Six and Seven.

The negotiated cumulative cost of the surveying services is not to exceed \$386,300.00.

- 6.12 Oral Resolution:** City Council authorized a change order to the contract with Gracon Construction Inc. for the Hamby Wastewater Treatment Plant Improvements.

On February 23, 2012 the Abilene City Council awarded a bid to Gracon Construction, Inc. (Gracon) for the Hamby Wastewater Treatment Plant Improvements - Phase I, which involves constructing a new influent flow splitter structure and repairing four primary clarifiers. Gracon has performed well and its work is progressing satisfactorily. The original contract was for \$1,356,000.00. Change Orders No. 1 and No. 2 each added additional working days for completion of the project. There have been no changes to the contract value to date.

Water Department staff recommends Change Order No. 3 to the contract for additional work to renovate the Prison Lift Station (PLS). Over the past several months there have been a number of major failures of the PLS which required staff to scramble to restore pump station operation while also controlling discharges from the two prison units. Major electrical components have failed resulting in permanent damage to switch and control mechanisms and pump motors. The situation has been aggravated by piping, valve, and pump problems. The Prison Lift Station was built in the early 1990's.

A sewer lift station is an extremely difficult and corrosive environment. Several components are in extreme disrepair. The PLS failures are not related to work by Gracon.

Enprotec/Hibbs & Todd, Inc. (EHT) evaluated the Prison Lift Station as part of the current professional services contract for the Hamby WWTP Improvements. EHT developed design plans and specifications for renovating the PLS. Renovation includes making various electrical upgrades & replacements, and replacing pumps, piping, and related appurtenances. The PLS requires back-up power to provide more reliable service to the Robertson and Middleton Units. The additional work would restore long term reliability to the PLS facility. Change Order No. 3 has a value of \$322,135.78, which is about a 23.8% increase to the original contract value. That cost is below the Engineer's estimate for that work. Texas Local Government Code allows for this change order.

- 6.13 Oral Resolution:** City Council approved acceptance of the donated sculpture “Yertle, Lorax, Horton, Grinch, and Sam I am” by the artist Dr. Seuss and “Seymour” featured in “Can You See What I See” by Walter Wick. They are being offered to the City of Abilene as a permanent addition to Abilene’s Outdoor Sculpture Collection.

Award of Bids:

- 6.14 Bid Award: CO-OP Street Sweeper.** City Council approved the purchase of the Street Sweeper. The street sweeper will be utilized to remove debris from city streets and roads.

The Sweeper will be purchased through the Local Government Purchasing Cooperative (BuyBoard) to effectively coordinate the process and delivery.

BID TABULATION

<i>Vendor</i>	<i>Description</i>	<i>Amount</i>
Kinloch Equipment & Supply	Elgin Road Wizard Mechanical Broom Sweeper BuyBoard contract # 348.10	\$226,104.00

- 6.15 Bid Award: CB-1328 – Civic Center (536 Cedar, 720, 724, 726, 782, and 790 Pine) Demolition and Asbestos Abatement Project.** City Council approved the demolition bid from Midwest Wrecking Demolition of Fort Worth.

On March 18, 2013, the City of Abilene received bids for the demolition and asbestos abatement project for the Civic Center (for improvements at 536 Cedar, 720, 724, 726, 782, and 790 Pine). Three bids were received. The lowest bid was submitted by Midwest Wrecking Demolition of Fort Worth, Texas. The engineering firm, Enprotec/Hibbs & Todd, after evaluating the bid submittals, recommends awarding the bid to the low bidder.

This project will include the abatement of asbestos and the demolition of all improvements located on City-owned land adjacent to the Abilene Civic Center.

- 6.16 Bid Award:** City Council approved the construction of the Quarantine/Necropsy building at the Abilene Zoo.

In order to provide professional care to the animal collection and to meet accreditation standards of the Association of Zoos and Aquariums (AZA), the zoo needs to construct a quarantine/necropsy facility. This facility would allow staff to quarantine animals when they arrive at the zoo, minimizing possible exposure of any health issues to the current animal collection. Also included is a necropsy (animal autopsy) room. It is mandatory that necropsies be performed on all animals that die to determine the cause of death which may indicate a disease issue, nutritional problem or husbandry issue. Previous AZA inspections have identified the lack of quarantine and necropsy facilities as a major concern. Failure to address this concern and not build an appropriate facility would jeopardize our accredited institutional status with the AZA.

Total project cost: \$321,000

\$50,005 from 07 GO Zoo Enhancement package

\$270,995 Funded by Abilene Zoological Society (AZS) and Grover Nelson Foundation

The bid was awarded to Don Faulkner Construction for \$430,000. An animal caging system that totaled \$109,000 was removed from that total to facilitate the construction of the facility. The cages will be added after the building is constructed by AZS.

ITEMS PULLED FROM CONSENT

- 6.7** **Ordinance:** *(First reading)* on an ordinance amending the Land Development Code to create and adopt standards for an Ambler Avenue Corridor Overlay; and setting a public hearing for April 11, 2013. *Item pulled by Councilman Price and Citizen Steve Savage.*
- 6.8** **Ordinance: Z-2013-06** – *(First reading)* on a request from the City of Abilene to apply Ambler Street Corridor Overlay (AMB-COR) zoning to all properties located up to 1 block on either side of Ambler Avenue from Grape Street to Interstate 20; and setting a public hearing for April 11, 2013. *Item pulled by Councilman Price and Citizen Steve Savage.*

Councilman Price had questions in regards to conflict of interest as it relates to these two items. Citizen Steve Savage voiced concern of how this affects other businesses in the corridor.

City Attorney Dan Santee briefed the council on the Local Government Code Sec. 171.004 (c) as it relates to voting and conflict of interest of council. *If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.*

Councilman Briley made the motion to approve consent items 6.7 and 6.8 as recommended by staff. Councilwoman Miller seconded the motion, motion carried. Councilmen Higgins, Williams, Price and Mayor Archibald filed with the City Secretary Conflict of Interest Affidavits with respect to these two items.

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

NAYS: None

REGULAR ITEMS

7.1 Megan Santee Director of Public Works, briefed the council on an application/permit to drill and/or operate an oil and/or gas well - Bridger Petroleum, LLC: "Pat Serenbetz No. 3", Permit No. 750381.

Chapter 21, Oil and Gas, of the City Code requires a permit for drilling and operating oil/gas wells within the city limits. As part of the review process, the City Council is to conduct a public hearing and then approve or deny the permit.

Bridger Petroleum, LLC of Abilene, Texas has submitted an application to drill the "Pat Serenbetz No. 3" well on property owned by the Serenbetz Revocable Trust, located between Abilene Regional Airport and Loop 322. Because of the proximity to Abilene Regional Airport, a Federal Aviation Administration (FAA) Aeronautical Study was required. The aeronautical study is attached to, and made part of the application/permit. The study concluded that the drilling rig does not exceed obstruction standards and would not be a hazard to air navigation, provided that the marking/lighting and notification requirements detailed in the study are met. This application has been reviewed and approved by City Staff. All owners of real property within 500 feet of the proposed drill site have been notified of this application and of the City Council meeting to consider its approval, as required by City ordinance.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Price made the motion to approve an application/permit to drill and/or operate an oil and/or gas well Bridger Petroleum, LLC: "Pat Serenbetz No. 3", Permit No. 750381. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

7.2 Jon James Director of Planning and Development Services, briefed the council on the Voluntary Annexation to consider annexation of property to include 55.88 acres of land located south of Beltway South (FM 707) and east of the Beltway Park Baptist Church property.

This is the second public hearing to receive public input on a proposed annexation of land. This item originated as a request from Tack Investments, agent David Todd, to have approximately 56 acres of land annexed south of Beltway South (FM 707). The proposed area is adjacent to the Beltway Park Baptist Church.

The proposed area is currently undeveloped with no utilities (water and sewer) and no public facilities to be maintained (streets, drainage facilities, etc.). Police and Fire services will be available. The proposed annexation would present no adverse service impacts to any of the services or facilities offered by the Community Services Department.

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

- Will Edmiston – had questions in regards to wastewater connection vs septic tank they are currently on if the development is built.
- Steve Savage – spoke on the septic tank issue.

Staff response to the septic tank question would be that the City runs the main line and the resident if they wanted on to the main line would be responsible for the service line to their home.

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

No action needed today on this item.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 9:38 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 10:32 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property and Section 551.074 Personnel Matters.

10 Oral Resolution: Approving the appointment to the following boards: Abilene Housing Authority, Abilene Health Facilities Development Corporation and Abilene Library Board.

Mayor Archibald made the motion to appoint Dr. Tony Roach to the Abilene Housing Authority. Councilman Williams seconded the motion, motion carried. No action on the other board appointments at this time

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

NAYS: None

There being no further business the meeting was adjourned at 10:32 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor