

**CITY COUNCIL MEETING**  
**June 24<sup>th</sup>, 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 June 24<sup>th</sup>, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Joe Spano, Anthony Williams, Robert O. Briley, and Councilwoman Kellie Miller. Absent Councilmen Shane Price and Kyle McAlister. 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 Reed Sanchez he is a 6<sup>th</sup> grader at Wylie Middle School, and he led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**SPECIAL CONSIDERATION**  
**2013 RUNOFF ELECTION**

City Secretary Danette Dunlap presented the Resolution Canvassing the June 15<sup>th</sup> Runoff Election where Kellie Miller received 51.59% of the vote having received the majority of the votes.

Councilman Spano made the motion to approve the Resolution canvassing the June 15<sup>th</sup> Runoff Election. Councilman Williams seconded the motion, motion carried.

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

Resolution numbered [#16-2013](#) and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS CANVASSING RETURNS AND DECLARING THE RESULTS OF THE RUNOFF ELECTION, HELD ON JUNE 15, 2013

(UNA RESOLUCION DEL CONSEJO DE LA CIUDAD DE ABILENE TEXAS, REVISANDO EL CONTEO Y DECLARANDO LOS RESULTADOS DE LA ELECCION GENERAL EL 15 DE JUNIO DEL 2013.)

Mayor Archibald called Councilwoman Kellie Miller forward to have the Oath of Office administered.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the June 13<sup>th</sup> regular meeting there being no deletions, no additions, and no corrections. Councilman Briley made a motion to approve the minutes as presented. Councilwoman Miller seconded the motion, motion carried.

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

**CONSENT AGENDA**

Councilman Williams made the motion to approve consent item 6.1 through 6.10 as recommended by staff. Councilman Spano seconded the motion, motion carried.

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

**Ordinances:**

- 6.1** **Ordinance:** (*First Reading*) on Case **Z-2013-14** a request from Tacks Investments, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, located south of Beltway South (FM707) and east of the Beltway Park Baptist Church property, and setting a public hearing for July 11, 2013.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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

- 6.2** **Ordinance:** (*First Reading*) on Case **Z-2013-15** on a request from Warren Harkins, agent Erik Johnson, to rezone property from AO (Agricultural Open Space) to LI (Light Industrial) zoning, being approximately 22.43 acres located on the north side of FM 18 east of 4750 FM 18; and setting a public hearing for July 11, 2013.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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:** (*First Reading*) on Case **Z-2013-17** on a request from Sam Daggubati to amend PD-116 (Planned Development), located at 2002 Jameson St; and setting a public hearing for July 11, 2013.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-116 AND ORDINANCE NO. 5-2007, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

- 6.4** **Ordinance:** (*First Reading*) on Case **TC-2013-04** on a request from VFW Post 6873, Agent Mike Craft, to abandon Richmond St between Veterans Dr. and Baker St; and setting a public hearing for July 11, 2013.

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** **Oral Resolution:** City Council approved the Library Advisory Board Bylaws as presented.

The Library Advisory Board was created by City Council Resolution dated November 3, 1966, for the purpose of serving as an advisory committee to the staff and City Council. The Board has served since its inception without any written bylaws.

Written bylaws for library boards are a basic administrative standard set by the Texas State Library & Archives Commission. In addition to meeting this basic standard, the addition of written bylaws would provide board members a clear understanding of their duties and responsibilities.

On May 6, 2013, the Library Advisory Board voted and approved a set of bylaws. The bylaws were developed by staff and the advisory board chair.

- 6.6 Oral Resolution:** City Council authorized the City Manager to enter into a contract with Garver TASK Order #1 for the Abilene Regional Airport. The fee for this service is a fixed fee in the amount not to exceed \$181,000.

As part of the Airport's FY13 Airport Improvement Program (AIP), Task Order 1 with Garver is requested to be considered for authorization. This Task Order provides authorization for Garver to perform preliminary design testing and evaluation of Runway 17L/35R to determine the actual strength of the runway and identify specific areas for reconstruction in FY14.

- 6.7 Oral Resolution:** City Council approved the purchase from Applied Membranes, Inc. of Replacement Reverse osmosis membrane equipment for the Hargesheimer Water Treatment Plant.

The City of Abilene Water Department is requesting that by oral resolution the City Council authorize the purchase of Replacement Reverse Osmosis Membrane Equipment (RO Equipment) for the Hargesheimer Water Treatment Plant (HWTP) from Applied Membranes Inc. (Hydranautics) in the amount of \$215,402.00. The RO Equipment is a captive replacement part of the existing RO system and is being purchased as sole source. Abilene did solicit competitive bids, but the process resulted in no real cost advantage to the City. The HWTP was commissioned in September 2003. The treatment process includes the Reverse Osmosis (RO) system for the reduction of total dissolved solids (salts) in the finished water. Over an extended period of use the individual RO cartridges of the RO system deteriorate resulting in the passage of increasing amounts of salts. The existing RO cartridges are deteriorated and in need of replacement. The Texas Commission on Environmental Quality (TCEQ) required extensive pilot testing and performance verification prior to design of the HWTP in order to approve a specific brand and model of RO membrane technology for treating designated source water. The TCEQ approved Abilene to use Hydranautics brand RO membranes. For Abilene to change the brand of RO equipment would require Abilene to repeat performance verification of the new brand and incur additional costs for analytical testing and preparation of a Pilot Report. It is not necessary to change the brand of RO cartridges. Enprotec/Hibbs & Todd was hired to assist staff in the evaluation and procurement process. Staff and Engineer recommend purchasing exact replacement RO Equipment from Hydranautics in the amount of \$215,402.00.

- 6.8 Resolution:** Expressing official intent to reimburse costs of project for the Water Utility Department.

The Water Utility Department is encountering unforeseen expenses due to the ongoing severe drought conditions in the region. The City expects to pay expenditures in connection with the purchase from Applied Membranes, Inc. of Replacement Reverse Osmosis Membrane Equipment for the Hargesheimer Water Treatment Plant (Project). The Project will ultimately be funded with the issuance of obligations.

So that we can proceed with the Project prior to the sale of obligations, the Resolution allows us to enter into contracts prior to the delivery of the obligation funds.

Resolution [#17-2013](#)

## RESOLUTION EXPRESSING OFFICIAL INTENT TO REIMBURSE COSTS OF PROJECTS

- 6.9** **Resolution:** The City Council designated the City of Abilene as the Direct Recipient for Federal Transit Administration (FTA) Section 5307 Funds (CityLink).

The City of Abilene receives federal funds for operation of its transit system (CityLink). The majority of those funds are Federal Transit Administration (FTA) Section 5307 Urbanized Area formula grant funds. In Texas Section 5307 funds are allocated as part of the Governor's Apportionment to the small urban transit systems (urbanized areas between 50,000 and 200,000). However, the local public transit agencies receive the Section 5307 funds directly from FTA. FTA is requiring a formal selection of a direct recipient for the funds. As a result TxDOT (designated by the Governor to act on his behalf) has requested a current local process, such as a resolution by the Council, to recommend a direct recipient.

In the Abilene urbanized area, the City of Abilene is the only entity that operates an urban transit system. Therefore the City of Abilene should continue to be the direct recipient of the Section 5307 funds. The attached resolution designates the City of Abilene as the direct recipient for FTA funds in the Abilene urbanized area.

Resolution [#18-2013](#)

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, DESIGNATING THE CITY OF ABILENE AS THE LOCAL DIRECT RECIPIENT OF SECTION 5307 FEDERAL TRANSIT ADMINISTRATION FUNDS

- 6.10** **Bid Award: CB-1338** Rehabilitation of the City Hall East Parking Lot. On June 5th, the City of Abilene received a bid for rehabilitation of the City Hall Parking Lot project at 555 Walnut Street. One bid was received for the project. The bid was submitted by Bontke Brothers Construction Co. Inc. City Council approved the awarding of bid to Bontke Brothers Construction Co. Inc. of Abilene, Texas in the amount of \$141,235.04.

## REGULAR ITEMS

- 7.1** Odis Dolton Assistant Director of Finance briefed the council on the Ordinance approving and adopting rate schedule "RRM – Rate Review Mechanism" for Atmos Energy Corporation, Mid-Tex Division to be in force in the City for a period of time as specified in the rate schedule.

The City, along with 154 other cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"). In 2007, ACSC and Atmos Mid-Tex agreed to implement an annual rate review mechanism for Atmos Mid-Tex, known as the Rate Review Mechanism ("RRM"), as a temporary replacement for the statutory mechanism known as GRIP (the "Gas Reliability Infrastructure Program"). This first RRM tariff expired in 2011, and although ACSC and Atmos Mid-Tex met many times to attempt to reach an agreement on a renewed or replacement tariff, they were unable to do so. Atmos Mid-Tex filed a full rate case in 2012. ACSC and the Company renewed discussions to develop revisions to the RRM tariff, and have reached a tentative agreement on the form of the RRM tariff to be in effect for a four-year period from 2013 to 2017. If the RRM process is to continue to function as a substitute for the GRIP process, cities that exercise original jurisdiction must adopt a tariff that authorizes the process.

Atmos Mid-Tex has stated if it were to file for a rate adjustment in 2013 under the GRIP provisions, it would request approximately \$5 million more in rate relief than it plans to request in a filing under this revised RRM tariff. The GRIP rate adjustment process allows the Company to place the entirety of any rate increase in the

unavoidable monthly customer charge portion of its rates. Between 2007 and 2012, residential customer charges remained in the \$7.00 to \$7.50 range. However, the Railroad Commission has recently raised the residential customer charge to \$17.70. There will be no increase to the residential customer charge for the first filing under the revised RRM tariff. In subsequent years, the residential customer charge increase will never be greater than \$.50 per month. The RRM tariff includes an adjustment which lowers the Company's rate request by at least \$3 million each year and caps at 55% the percentage of equity that can be used to calculate the Company's capital structure. Under the RRM tariff, cities are also able to review the Company's annual expenses and capital investments and make adjustments, or disallowances, for any such expenses or investments that are considered to be unreasonable or unnecessary. This is not allowed under the GRIP process. The cities' costs in reviewing the annual filings, such as fees associated with the hiring of expert consultants and legal counsel, will be reimbursed by the Company on a monthly basis, also not allowed under the GRIP process. If cities do not approve the RRM tariff, the Company has stated that it will reinstitute its annual filings under the GRIP provisions.

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

Councilman Briley made the motion to approve the Ordinance approving and adopting rate schedule "RRM – Rate Review Mechanism" for ATMOS Energy Corporation, Mid-Tex Division to be in force in the City for a period of time as specified in the rate schedule. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance [#24-2013](#)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ("CITY") APPROVING AND ADOPTING RATE SCHEDULE "RRM – RATE REVIEW MECHANISM" FOR ATMOS ENERGY CORPORATION, MID-TEX DIVISION TO BE IN FORCE IN THE CITY FOR A PERIOD OF TIME AS SPECIFIED IN THE RATE SCHEDULE; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND ACSC LEGAL COUNSEL

**7.2** Ronnie Kidd, Managing Director for Administration briefed the council on the Ordinance to amend the parking ordinance to delete City hall parking lot.

Chapter 18, Article X, Division 6, Section 18-259 of the City of Abilene Code of Ordinances delineates the use for enumerated parking spaces in the parking lot east of and adjacent to the city hall between North 5th Street and North 6th street. The delineated list is out of date and difficult to enforce and as a result has not been actively enforced.

The City of Abilene is currently renovating the parking lots at city hall. As part of the renovation, the designation of parking spaces will be revised and updated. Since the enumeration and designation of parking spaces through ordinance is no longer necessary to manage parking around city hall and the designation of parking spaces at city hall can be accomplished much more effectively through designation by city administration, Section 18-259 is no longer a necessary part of the Code of Ordinances and should be deleted.

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

Councilman Spano made the motion to approve Deleting Chapter 18, "Motor Vehicles and Traffic," Article X, "Stopping, Standing, Parking," Division 6, "Parking Lots," Section 18-259, "Same-Parking lot adjacent to city hall" of the City of Abilene Code of Ordinances. Councilwoman Miller seconded the motion, motion carried.

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

Ordinance [#25-2013](#)

AN ORDINANCE DELETING CHAPTER 18, "MOTOR VEHICLES AND TRAFFIC," ARTICLE X, "STOPPING, STANDING, PARKING," DIVISION 6, "PARKING LOTS," SECTION 18-259, "SAME-PARKING LOT ADJACENT TO CITY HALL" AS SET OUT BELOW; AND CALLING A PUBLIC HEARING.

**Remove: Chapter 18, "Motor Vehicles and Traffic," Article X, "Stopping, Standing, Parking," Division 6, "Parking Lots," Section 18-259**

**7.3** Ben Bryner, Planning Services Manager briefed the council on the first reading of an ordinance to annex and establish zoning on property located at 4009 Beltway South and being the southern portion of the Beltway Park Baptist Church property.

This item originated as a request from the City of Abilene to have the remaining property owned by Beltway Park Baptist Church, approximately 10 acres, to be annexed into the city. The church has since requested that the City of Abilene consider voluntary annexation on the approximately 10 acres outside the city limits. The proposed area is currently developed with a church and has access to utilities (water & sewer). The property has 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.

Section 2.4.2.1 (c) of the Land Development Code states, "From the time an annexation takes effect until action is completed to zone the land, the initial uses permitted on the annexed property shall be consistent with uses permitted within the AO, Agricultural Open Space, District." Therefore, zoning of any property that is annexed should be AO until such time that a property owner requests some other classification through the normal rezoning process.

Two public hearings were held in May & June in which no one spoke in support or opposition to the request

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

Councilman Williams made the motion to approve the first reading of the Ordinance to annex and establish zoning on property located at 4009 Beltway South and being the southern portion of the Beltway Park Baptist Church property. Councilman Spano seconded the motion, motion carried.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, PROVIDING FOR THE EXTENSION OF THE BOUNDARY LIMITS OF THE CITY OF ABILENE, TEXAS, AND THE ANNEXATION OF CERTAIN TERRITORY LYING ADJACENT AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF ABILENE.

**EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 8:57 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 Executive Session at 9:42 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.071 Consultation with Attorney.

There being no further business the meeting was adjourned at 9:42 a.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor