

REGULAR CITY COUNCIL MEETING
APRIL 7, 2008

The regular Sikeston City Council meeting of April 7, 2008 was called to order at 5 p.m. in the City Council Chambers, located at 105 East Center, Sikeston. Present at the meeting were Mayor Mike Marshall and Councilmen Mike Bohannon, Michael Harris, Jerry Pullen, Sue Rogers, David Teachout, and Jim Terrell. Staff in attendance were: City Manager Doug Friend, City Counselor Chuck Leible, City Clerk Carroll Couch, City Treasurer Karen Bailey, Public Safety Director Drew Juden, Governmental Services Director Linda Lowes, Community Redevelopment Coordinator Trey Hardy, Parks Director Jiggs Moore and Street Supervisor Brian Dial.

APPROVAL OF CITY COUNCIL MINUTES

City Council minutes of the regular meeting of March 3, 2008, and the special meetings of February 29, March 3, March 6, and March 24, 2008 were presented for approval. Councilman Rogers moved to approve the minutes as presented. Councilman Teachout seconded the motion and the following roll call vote was recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

ACCEPTANCE OF BOARD AND COMMISSION MINUTES

Minutes from various board and commission meetings were presented to the City Council. Councilman Harris moved to approve the minutes as presented. The motion was seconded by Councilman Rogers and voted as follows:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

PRESENTATIONS

Public Works employee Dan Marshall and Public Safety employee Flint Dees were recognized as Employees of the Quarter for their respective departments.

Darren Martin and Dale Graham of the Street Division were presented plaques of appreciation for rescuing a man from a burning house at 631 Northwest Street.

Mayor Marshall presented a plaque to Jimmy Gibson for rescuing a 2 year old boy from a burning truck at the Essex Wire Building.

A proclamation was issued by Mayor Marshall declaring April, Blake Dewitt month in recognition of starting opening day at third base for the Los Angeles Dodgers.

PUBLIC HEARING

Councilman Terrell moved to open the public hearing for discussion regarding the construction of community walking trails. The motion was seconded by Councilman Teachout and the following roll call vote recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

Jiggs Moore, Parks Director, reviewed plans for a walking trail. The first phase would begin at the kindergarten center and end at Veteran's Park. The cost would be \$560,000, with \$163,000 coming from local money.

Comments were heard both for and against the proposal. Councilman Rogers moved to close the public hearing. The motion was seconded by Councilman Teachout and the following roll call vote recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

ITEMS OF BUSINESS

Interim Appointment to the Housing Authority Board

Councilman Rogers moved to table the appointment to the Housing Authority Board. The motion was seconded by Councilman Teachout and the following roll call vote recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

Interim Appointment to the Sikeston-Miner CVB Advisory Board

Councilman Bohannon moved to table the appointment to the Sikeston-Miner CVB Board. The motion was seconded by Councilman Harris and the following roll call vote recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

Bill Number 5753, ATMOS Energy Franchise

Councilman Pullen moved for the second reading of Bill Number 5753. The motion was seconded by Councilman Teachout and the following roll call vote recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

Counselor Leible presented the bill for reading.

BILL NUMBER 5753

ORDINANCE NUMBER 5753

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF SIKESTON, COUNTY OF SCOTT, MISSOURI, TO ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND IN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, SCOTT COUNTY, MISSOURI:

ARTICLE I

DEFINITIONS

For the purpose of this franchise, the following words and phrases shall have the meaning given in this Article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in the Article shall be given their common and ordinary meaning.

1.1 "Council" or "City Council" refers to and is the governing body of the City of Sikeston.

1.2 "Company" refers to and is Atmos Energy Corporation, its successors and assigns.

1.3 "Distribution Facilities" refer to and are only those facilities reasonably necessary to provide gas within the City.

1.4 "Facilities" refer to and are all facilities reasonably necessary to provide gas into, within and through the City and include plants, works, systems, lines, equipment, pipes, mains, underground links, gas compressors and meters.

1.5 "Gas" or "Natural Gas" refers to and is such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured or any mixture thereof.

1.6 "Missouri Public Service Commission" and/or "PSC" refers to and is the state regulatory commission of the State of Missouri or other authority succeeding to the regulatory powers of the PSC.

1.7 "Revenues" refer to and are those amounts of money which the Company receives from its customers except municipal customers, within the City for the sale of gas under rates, temporary or permanent, authorized by the PSC and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments.

1.8 "Streets and Other Public Places" refer to and are streets, alleys, viaducts, bridges, roads, lanes, easements, public ways and other public places in said City.

1.9 "City" refers to and is the City of Sikeston, Scott County, Missouri, and includes the territory as currently is or may in the future be included within the boundaries of the City of Sikeston.

ARTICLE II

GRANT OF FRANCHISE

2.1 Grant of Franchise. The City hereby grants to the Company, for the period specified and subject to the conditions, terms and provisions contained in this Ordinance, the right, privilege, franchise, permission and authority to construct, maintain, operate and extend in the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of the City, a natural gas distribution system for the purpose of furnishing, selling and distributing natural gas to the City and to all persons, businesses and industries within the City and beyond the limits of the City, including the right to acquire, construct, install, locate, maintain, operate and extend into, within and through all streets, avenues, alleys, bridges, public rights-of-way and public places of the City, all facilities, mains, services, pipes, conduits and appliances reasonably necessary for the transmitting, transporting, distributing and supplying natural gas to the City and to all persons, businesses and industries both within the City and beyond the city limits of the City or to any other point, through or beyond the city limits of the City. This Ordinance renews the franchise previously granted by Ordinance No. 4626.

2.2 Term of Franchise. The term of this franchise shall be for twenty (20) years, beginning May 6, 2008 and expiring May 5, 2028.

2.3 Effective Date and Acceptance. This Ordinance shall become effective upon its final passage and approval by the City, in accordance with applicable laws and regulations, and upon acceptance by the Company by written instrument within sixty (60) days of passage by the governing body, and filed with the Clerk of the City. If the Company does not, within sixty (60) days following passage of this Ordinance, express

in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, the Company shall be deemed to have accepted this Ordinance and all of its terms and conditions.

2.4 The City and Company have been operating under a temporary permit and/or extension of the franchise that expired on or about September 1, 2007 pursuant to Ordinance Number 4626. Both parties hereby ratify and affirm the past and continued operation until this Ordinance becomes effective.

ARTICLE III

FRANCHISE FEE

3.1 Franchise Fee. In consideration for the grant of this franchise, the Company shall collect and remit to the City a sum equal to five percent (5%) of the revenues derived annually from the sale of gas within the City excluding the amount received from the City itself for gas service furnished to it, which fee the Company and the City agree is adequate compensation. The franchisee fee prescribed herein shall be paid to the City quarterly on or before the 30th day after the end of each calendar quarter after the effective date of the franchise. Payments at the beginning and end of the franchise shall be prorated. The franchise fee herein contemplated shall be uniformly and equally applied to all natural gas utilities of like services.

3.2 Franchise Fee Payment in Lieu of Other Fees. Payment of the franchise fee by the Company is accepted by the City in lieu of any occupancy tax, license tax, permit charge, inspection fee or similar tax for said natural gas distribution system. The Company is not exempt from any lawful taxation or assessment upon its personal or real property or any other tax or assessment not related to the franchise or the physical operation thereof.

ARTICLE IV

CONDUCT OF BUSINESS

4.1 Conduct of Business. The Company may establish, from time to time, such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the laws of the State of Missouri or the ordinances of the City of Sikeston.

4.2 Tariffs on File. The Company shall keep on file in its nearest office copies of all its tariffs currently in effect and on file with the PSC. Said tariffs shall be available for inspection by the public.

4.3 Compliance with PSC Regulations. The Company shall comply with all rules and regulations adopted by the PSC with respect to natural gas services. All utility services shall conform to the PSC rules and regulations, as well as any other applicable rules and regulations, federal or state laws. The rates which are to be charged by the Company for natural gas service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be hereafter lawfully approved and prescribed by the PSC or other regulatory authority having jurisdiction thereof.

4.4 Compliance with Company Tariffs. The Company shall furnish gas within the City to the City and to all persons, businesses and industries within the City at the rate and under the terms and conditions set forth in its tariffs on file with the PSC.

4.5 Applicability of Company Tariffs. The City and the Company recognize that the lawful provisions of the Company's tariffs on file and in effect with the PSC are controlling over any inconsistent provision in this franchise dealing with the same subject matter.

ARTICLE VCONSTRUCTION, INSTALLATION & OPERATION OF COMPANY FACILITIES

5.1 Location of Facilities. Company facilities shall not interfere with the City's water mains, sewer mains or other municipal use of streets and other public places. Company facilities shall be located so as to cause minimum interference with public use of streets and other public places and shall be maintained in good repair and condition. The City Council acknowledges that as of the date of this Ordinance the Company and its facilities are either in compliance with the provisions of Section 5.1 or that the Company has been notified of any non-compliance with the provisions of Section 5.1

5.2 Excavation and Construction. All construction, excavation, maintenance and repair work done by the Company shall be done in a timely and expeditious manner which minimizes the inconvenience to the public and individuals, and the Company shall obtain an excavation permit from the City before any work begins. All such construction, excavation, maintenance and repair work done by the Company shall comply with all applicable state, federal and municipal codes, including the "Manual or Uniform Traffic Control Devices" and gas mains shall be installed prior to paving of streets in new developments and/or street extensions so long as such gas main installations are installed in accordance with the applicable rules and regulations approved by the PSC. All public and private property whose use conforms to restrictions in easements disturbed by Company construction or excavation activities shall be restored as soon as practicable by the Company at its expense to substantially its former condition. The Company shall comply with the City's requests for reasonable and prompt action to remedy all damage to public and private property adjacent to streets or dedicated easements where the Company is performing construction, excavation, maintenance or repair work. The City reserves the right to restore property and remedy damages caused by Company activities at the expense of the Company in the event the Company fails to perform such work within a reasonable time after notice from the City.

5.3 Maintenance of Streets and Roads. The Company shall do no injury to any highway, road, street, avenue, alley, lane, bridge, stream or the water course, park or public place as a result of the Company's negligence. As such, no permit fees or inspection fees shall be imposed upon the Company and/or consumers for the breaking or opening of any highway, road, street, avenue, alley, lane, bridge, stream or water course, park or other public places, or for the laying of any main, service pipe or other connections therein.

5.4 Relocation of Company Facilities. If at any time the City requests the Company to relocate any distribution gas main or service connection installed or maintained in streets or other public places in order to permit the City to change street grades, pavements, sewers, water mains or other public place for a public purpose, upon reasonable notice, such relocation shall be made by the Company at its expense. The Company is not obligated hereunder to relocate any facilities at its expense if the request is primarily for non-public purposes or the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or any other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the City or other right-of-way user. The Company shall coordinate with the City to insure the gas utilities are located so that any future relocation will be minimized. Following relocation, all property shall be restored to substantially its former condition by the Company at its expense.

5.5 Service of New Areas. If during the term of this franchise the boundaries of the City are expanded, then any extension of service to the newly incorporated areas by the Company shall be in accordance with the provisions of Company's tariffs then in effect and on file with the PSC.

5.6 Restoration of Service. In the event the Company's gas system, or any part thereof, is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore its system to satisfactory service within the shortest practicable time.

5.7 Supply and Quality of Service. The Company shall make available an adequate supply of gas to provide service to the City. The Company's facilities shall be of sufficient quality, durability and redundancy to provide adequate and efficient gas service to the City.

5.8 Safety Regulations by the City. The City reserves the right to adopt, from time to time, reasonable regulations in the exercise of its police power which are necessary to ensure the health, safety and welfare of the public, provided that such regulations are not destructive of the rights granted herein. The Company agrees to comply with all such regulations, in the construction, maintenance and operation of its facilities and in the provision of gas within the City.

5.9 Inspection, Audit and Quality Control. The City shall have the right to inspect, at all times, any portion of the Company's system used to serve the City and its residents. The City also shall have the right to inspect and conduct an audit of Company records relevant to compliance with any terms of this Ordinance at all times. The Company agrees to cooperate with the City in conducting the inspection and/or audit and to correct any discrepancies affecting the City's interest in a prompt and efficient manner.

ARTICLE VI

ASSIGNMENT: SAVING CLAUSE

6.1 Assignment. The Company shall have the right and power to assign to any other person or persons any and all rights conferred upon it by the terms of this Ordinance, after it has installed, erected, and built a gas distribution system; provided, that a mortgage or trust deed or judicial sales made thereunder or under tax sales or the transfer of this Ordinance to a subsidiary, shall not be deemed an assignment within the meaning of this Section. Any assignee of the rights of the Company herein, by accepting such assignment, shall thereby become subject to all of the terms, conditions and provisions of this Ordinance; and in the event of any assignment by the Company of the rights hereby conferred upon it, such assignment shall be in writing and a duly authenticated copy thereof shall be filed in the office of the Clerk of the City.

6.2 Saving Clause. If any portion of this Franchise Ordinance is declared illegal or void by a court of competent jurisdiction, the remainder of the Ordinance shall survive and not be affected thereby.

ARTICLE VII

MISCELLANEOUS

7.1 Force Majeure. It shall not be breach or default under this Ordinance if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure shall include, but not be limited to, the following: 1) physical events such as landslides, lightening, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulations promulgated by a governmental authority having jurisdiction ;and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

7.2 Hold Harmless. The Company, during the time of this Ordinance, agrees to save harmless the City from and against all claims, demands, losses and expenses arising directly out of the negligence of the Company, its employees or agents, in the constructing, operating and maintaining of distribution and transmission facilities or

appliances of the Company; provided, however, that the Company need not save harmless the City, and the City shall save and hold the Company harmless from claims, demands, losses and expenses arising out of the negligence of the City, its employees or agents. If, as a result of any challenge to the validity or enforcement of this Ordinance, the collection of the franchise fee is found to be unlawful, the City shall be responsible for any and all refunds and reimbursements, with applicable interest, required as a result of such unlawful collection.

7.3 Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

RECORD OF PASSAGE

- A. Bill Number 5753 was introduced and read the first time this 24th day of March, 2008.
- B. Bill Number 5753 was read the second time this 7th day of April, 2008. Councilman Bohannon moved to approve Bill Number 5753. The motion was seconded by Councilman Harris, discussed and the following roll call vote recorded:
- Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed,
and becoming Ordinance 5753.
- C. Ordinance 5753 shall be in full force and effect from and after Tuesday, May 6, 2008.

Bill Number 5754, Amending the Uniform Traffic Committee

Councilman Rogers moved for the second reading of Bill Number 5754. The motion was seconded by Councilman Teachout and the following roll call vote recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

Counselor Leible presented the bill for reading.

BILL Number 5754

ORDINANCE Number 5754

THIS BILL AS APPROVED SHALL BECOME ORDINANCE NUMBER 5754 AND SHALL AMEND TITLE 10, CHAPTER 10.04 OF THE UNIFORM TRAFFIC CODE ESTABLISHING ADDITIONAL TRAFFIC CONTROL MEASURES WITHIN THE CITY OF SIKESTON, MISSOURI.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

SECTION I: This Ordinance shall be codified in the City Municipal Code.

SECTION II: Title 10, Chapter 10.04 of the Uniform Traffic Code shall be amended as follows:

SECTION III: Chapter 10.04 Section 300.075 shall be added to read as follows:

“Section 300.075 Authority of Department of Public Safety Officials.

1. It shall be the duty of the officers of the Sikeston Department of Public Safety to enforce all traffic laws of the city and all of the state vehicle laws applicable to traffic in the city.
2. Officers of the Sikeston Department of Public Safety are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to

safeguard pedestrians, officers of the Sikeston Public Safety Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

3. Officers of Sikeston Department of Public Safety, when at the scene of an accident, may direct or assist in directing traffic thereat or in the immediate vicinity.”

SECTION IV: Chapter 10.04, Section 300.185 shall be added to read as follows:

“Section 300.185 Authority to establish play streets. The City traffic engineer shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.”

SECTION V: Chapter 10.04, Section 300.330 shall be amended to read as follows:

“Section 300.330 Vehicle shall not be driven on a sidewalk – prohibition on obstruction of bicycle lanes – drivers to yield to bicycles in designated bicycle lanes. The driver of a motor vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway. A designated bicycle lane shall not be obstructed by a parked or standing motor vehicle or other stationary object. A motor vehicle may be driven in a designated bicycle lane only for the purpose of a lawful maneuver to cross the lane or to provide for safe travel. In making an otherwise lawful maneuver that requires traveling in or crossing a designated bicycle lane, the driver of a motor vehicle shall yield to any bicycle in the lane. As used in this section, the term “designated bicycle lane” shall mean a portion of the roadway or highway that has been designated by the governing body having jurisdiction over such roadway or highway by striping with signing or striping with pavement markings for the preferential or exclusive use of bicycles.”

SECTION VI: Chapter 10.04, Section 300.335 shall be added to read as follows:

“Section 300.335 Limitation on backing. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.”

SECTION VII: Chapter 10.04, Section 300.385 shall be added to read as follows:

“Section 300.385 Crossing at right angles. No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.”

SECTION VIII: Chapter 10.04, Section 300.411 shall be added to read as follows:

“Section 300.411 Distance to be maintained when overtaking a bicycle. The operator of a motor vehicle overtaking a bicycle proceeding in the same direction on the roadway, as defined in section 300.010, shall leave a safe distance when passing the bicycle, and shall maintain clearance until safely past the overtaken bicycle. “

SECTION IX: General Repealer Section: Any ordinance or parts thereof inconsistent herewith are hereby repealed.

SECTION X: Severability: Should any part or parts of this ordinance be found or held to be invalid by any court of competent jurisdiction, then the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION XI: Record of Passage:

- A. Bill Number 5754 was introduced and read the first time this 24th day of March, 2008.
- B. Bill Number 5754 was read the second time this 7th day of April, 2008. Councilman Rogers moved to approve Bill Number 5754. The motion was

seconded by Councilman Teachout, discussed and the following roll call vote recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed,
becoming ordinance 5754.

C. Ordinance 5754 shall be in full force and effect from and after Wednesday, May 7, 2008.

ADJOURNMENT

There being no further business before the City Council, Councilman Rogers moved to adjourn. The motion was seconded by Councilman Teachout and the following roll call vote was recorded:

Bohannon Aye, Harris Aye, Pullen Aye, Rogers Aye, Teachout Aye,
Terrell Aye, and Marshall Aye, thereby being passed.

APPROVED:

MICHAEL G. MARSHALL, MAYOR

ATTEST:

CARROLL L. COUCH, CITY CLERK

SEAL: