

Regular Meeting of the Mayor and City Council of the City of Abilene, Texas, to be held in the Council Chamber of the City Hall on Thursday, October 14, 1982, at 9:00 a.m.

CITY COUNCIL: Mayor Elbert E. Hall; Council - Dr. Julian Bridges, Billye C. Proctor, Juan C. Rodriguez, A. E. Fogle, Jr., L. D. Hilton, and Kathy Webster.

1. Call to Order.
2. INVOCATION: Councilman L. D. Hilton.
3. APPROVAL OF MINUTES: Special Meeting held September 16, 1982, & Regular Meeting held September 23, 1982.
4. AWARD & PRESENTATIONS:
Newell Willingham Street Division Heavy Equipment Operator 30 Years

CONSENT AGENDA

All items listed below are considered to be routine by the City Council and will be enacted with one motion. There will be no separate discussion of items unless a Council Member or citizen so request, in which event the item will be removed from the general order of business and considered in its normal sequence.

5. Ordinances
 - a. Consider on second and final reading - amendment to Chapter 18, Motor Vehicles & Traffic, concerning parking in various locations.
 - b. Appealed Item:
Consider on first reading - reclassification request from RS-6 (Residential Single Family) to SC (Shopping Center) District, located at S. 27th & Buffalo Gap Road & set a public hearing for October 28, 1982, at 9:00 a.m.
 - c. Consider on first reading - reclassification request from AO (Agricultural Open Space) to HC (Heavy Commercial) District, located at 3041 Plum Street & set a public hearing for October 28, 1982, at 9:00 a.m.
 - d. Consider on first reading - reclassification request from AO (Agricultural Open Space) to MH (Mobile Home) District, located on FM 600 & set a public hearing for October 28, 1982, at 9:00 a.m.
 - e. Consider on first reading - reclassification request from AO (Agricultural Open Space) to HI (Heavy Industrial) District, located on Dunnam Drive & set a public hearing for October 28, 1982, at 9:00 a.m.
 - f. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to GC (General Commercial) District, located at West Overland Trail & Clinton Street & set a public hearing for October 28, 1982, at 9:00 a.m.
 - g. Consider on first reading - reclassification request from O (Office) to LC (Limited Commercial) District, located at 2890 S. 7th Street & set a public hearing for October 28, 1982, at 9:00 a.m.
 - h. Consider on first reading - amending Chapter 6, Animals, of the Abilene Municipal Code.
 - i. Consider on first reading - amendment to Chapter 18, Motor Vehicles & Traffic, concerning prohibiting parking in certain areas.
6. Resolutions
 - a. Consider request from Woodlake Properties, for an easement release, located at Buffalo Gap Road & Chimney Rock Road.
 - b. Consider granting utility easement to WTU near State Highway 36 & Abilene Municipal Airport.
 - c. Consider Street Use License request from First National Financial Center on Pine Street.
 - d. Authorizing the Mayor to sign School Building Use Agreement.
7. Award of Bids
 - a. Overhead Street Name Signs.
 - b. One/Half Ton Pick-up - Water Department.
 - c. Tanker Truck - Fire Department.
 - d. Data Processing Equipment - Water Office.

REGULAR AGENDA

8. Public Hearings
 - a. Appealed Item:
Consider on second and final reading - reclassification request from MH (Mobile Home) to GC (General Commercial) District, located at T&P Lane & Midway Street.
 - b. Consider on second and final reading - Street Name Change from Restway Road to Amylyn Avenue.
 - c. Consider Taylor Electric Cooperative purchase power cost adjustment on interim basis.
9. Resolutions
 - a. Consider authorizing Eminent Domain proceedings of two tracts of land in connection with Barrow Street Improvement Project.
 - b. Consider Notice of Support for the establishment & continuance of a Pre-treatment Program.
 - c. Appointing Auditors for 1982-83 Fiscal Year.
 - d. Appointment to Boards & Commissions.
 - e. Authorizing the Mayor to sign contract with HBW for Library Master Plan.
 - f. Consider a land exchange on FM 600 near Lake Fort Phantom Hill.
 - g. Radification on correction of Easement Deed near Abilene Christian University.
 - h. Request a hearing for WTU Rate Case in Abilene.
10. Other Business
 - a. Consider City-Chamber Downtown Panel Service.
 - b. Consider Staff Report & Calendar of proposed Lake Fort Phantom Hill area annexation.
 - c. Consider Cost Allocation Plan & authorize the Mayor to sign agreement with HUD.
 - d. Proposal for updating Cost Allocation Plan.
 - e. Consider request from waiver of improvements required by the Subdivision Regulations on Antilley Road.
 - f. Consider request for waiver of improvements required by the Subdivision Regulations on Forest Hill Road.
 - g. Consider payment to Honeywell, Inc. for maintenance service.
 - h. Discuss Fire & Casualty Insurance.
 - i. Consider resolution pertaining to legislation proposed for Texas Manufactured Housing Association.
 - j. Consider request for Oil Well Permit near Lake Kirby.
 - k. Pending and contemplated litigation.
 - l. Personnel matter involving Employment Procedures.
 - m. Consideration of Oil & Gas Lease near Lake Kirby.

ADJOURN

CERTIFICATE

I hereby certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 11 day of October, 1982 at 8:55 A.M.

Ruth Hodgins
City Secretary

REGULAR MEETING - THURSDAY
OCTOBER 14, 1982 - 9:00 A.M.

CHAMBER OF THE CITY COUNCIL,
THE CITY HALL, ABILENE, TEXAS

The City Council of the City of Abilene, Texas, met in Regular Session Thursday, October 14, 1982, at 9:00 a.m., with Mayor Elbert E. Hall present and presiding. Councilman Julian Bridges, Councilwoman Bilyye Proctor, Councilmen Juan C. Rodriguez, A. E. Fogle, Jr., and L. D. Hilton were present. Councilwoman Kathy Webster was absent. Also present were City Manager, Ed Seegmiller, City Attorney, Harvey Gargill and City Secretary, Ruth Hodggin.

Invocation by Councilman Hilton.

Minutes of last Regular Meeting held on September 23, 1982, and the minutes of Special Work Session held on September 16, 1982, were approved as written.

Mayor Hall presented a Service Award to Newell Willingham of the Street Department. Mr. Willingham has been employed by the City for thirty years.

COMMENDING-
SERVICE AWARD
NEWELL WILLIN
HAM - STREET

Councilwoman Proctor moved passage of all the consent items, with the exception of 6c, 7a and 7d, which will be voted upon separately. The motion was seconded by Councilman Hilton. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.

5. Ordinances

- a. Consider on second and final reading - amendment to Chapter 18, Motor Vehicles & Traffic, concerning parking in various locations.

CODE-
TRAFFIC &
TRANS - PARK-
ING IN VARIOU
LOCATIONS -
2ND READING

- b. Appealed Item:
Consider on first reading - reclassification request from RS-6 (Residential Single Family) to SC (Shopping Center) District, located at S. 27th & Buffalo Gap Road & set a public hearing for October 28, 1982, at 9:00 a.m.

ZONING-RE -
RS-6 TO SC AT
S. 27TH & BU
FALO GAP ROAI
1ST READING

- c. Consider on first reading - reclassification request from AO (Agricultural Open Space) to HG (Heavy Commercial) District, located at 3041 Plum Street & set a public hearing for October 28, 1982, at 9:00 a.m. This request was denied by the Planning & Zoning Commission and was not appealed.

- d. Consider on first reading - reclassification request from AO (Agricultural Open Space) to MH (Mobile Home) District, located on FM 600 & set a public hearing for October 28, 1982, at 9:00 a.m.

ZONING-RE -
AO TO MH AT
FM 600 -
1ST READING

AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES, AS DESCRIBED BELOW; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

- e. Consider on first reading - reclassification request from AO (Agricultural Open Space) to HI (Heavy Industrial) District, located on Dunnam Drive & set a public hearing for October 28, 1982, at 9:00 a.m.

AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES, AS DESCRIBED BELOW; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

ZONING-RE -
AO TO HI AT
DUNNAM DRIVE
1ST READING

- f. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to GC (General Commercial) District, located at West Overland Trail & Clinton Street & set a public hearing for October 28, 1982, at 9:00 a.m.

ZONING-RE -
RS-6 TO GC AT
WEST OVERLAND
TRAIL & CLINT
1ST READING

AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES, AS DESCRIBED BELOW; DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

- g. Consider on first reading - reclassification request from O (Office) to LC (Limited Commercial) District, located at 2830 S. 7th Street & set a public hearing for October 28, 1982, at 9:00 a.m. This request from denied by the Planning & Zoning Commission and was not appealed.

- h. Consider on first reading - amending Chapter 6, Animals, of the Abilene Municipal Code.

CODE-
ANIMALS & FOW
AMENDMENT -
1ST READING

AN ORDINANCE AMENDING CHAPTER 6, ANIMALS AND FOWL, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

- i. Consider on first reading - amendment to Chapter 18, Motor Vehicles & Traffic, concerning prohibiting parking in certain areas.

CODE-
TRAFFIC &
TRAMS. - PARK
ING PROHIBITE
IN CERTAIN
AREAS - 1ST
READING.

AN ORDINANCE AMENDING CHAPTER 18, MOTOR VEHICLES AND TRAFFIC, OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

6. Resolutions

- a. Consider request from Woodlake Properties, for an easement release, located at Buffalo Gap Road & Chimney Rock Road.

EASEMENT RE-
LEASE - WOOD
LAKE PROPERTI

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE MAYOR TO EXECUTE THE ATTACHED EASEMENT RELEASE.

- b. Consider granting utility easement to WTU near State Highway 36 and the Abilene Municipal Airport.

EASEMENT RE-
LEASE - WTU
AT HI 36 &
AIRPORT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING GRANTING OF UTILITY EASEMENT TO WEST TEXAS UTILITIES

- c. Consider Street Use License request from First National Financial Center on Pine Street.

Bob Whitehead, Director of Public Works, presented item 6c, the Street Use License request from First National Financial Center. He said the Street Use License called for a walkway between the Financial Center and a parking structure and another walkway connecting the Financial Center and First National Bank. The architects for the Financial Center originally wanted to erect a walkway 14 feet above the street surface. The City told them that was not acceptable. Now, they have agreed to a 16½ feet clearance between the street and the walkway. He said that it was a standard that the Highway Department follows on their bridges. He said that 16½ clearance pertained to the walkway extending from the Financial Center to the parking structure. He said the other walkway would have a clearance of 14½ feet. It will extend over an alley. He said the City has other restrictions over alleys at a clearance of 14½ feet and he said that it has been very adequate. He said they also want to replace part of the sidewalks along N. 4th and Pine Streets with trees and other growth. He said the growth will take up five feet of a 15 feet sidewalk leaving the City 10 feet, which the City feels is

adequate for pedestrians. The Staff recommends approval of the Street Use License to Trammell Crow Company, developers of the area.

Councilman Hilton was concerned that the insurance required on the License was not enough. Harvey Cargill, City Attorney, pointed out that the License calls for the licensee to hold harmless and indemnify the City from any claims or suits for bodily injury or property damage from any act or neglect. Councilman Hilton said that he was just concerned that even though the licensee is indemnifying the City, he thought the limits of liability were nominal for the amount of damage that might be caused. Mr. Cargill said that it was possible for the limits to be raised.

Mayor Hall asked if the license could be terminated in 30 days. Mr. Whitehead said yes that it was part of the agreement and the licensee has already signed the license.

Councilman Bridges was concerned with the idea of having planters and the landscaping not being kept in good condition. He asked if the City could at least call that to the owner's attention or could the City terminate the license. Mr. Whitehead said that it would be a good cause for terminating the license.

Councilwoman Proctor asked if half the license could be cancelled. Mr. Cargill that would be possible.

Councilman Rodriguez asked if the height of the walkway in the alley would be high enough for utility trucks or City service trucks to maneuver under it. Mr. Whitehead said that in the past, the height of the walkway was very adequate.

Councilman Hilton moved approval of the Street Use License request from First National Financial Center with the amendment to increase the insurance requirement to \$1,000,000. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

d. Authorizing the Mayor to sign School Building Use Agreement.

7. Award of Bids

a. Overhead Street Name Signs.

Wayne Kurfrees, Director of Traffic & Transportation, presented the award of bid for overhead street name signs. He said that these signs would be attached to traffic signal mast arms. There are 326 signs which will take care of about two-thirds of the City's intersections. He said the City received two bids and an alternate bid for a different height of the letters which would indirectly affect the length of the signs. He said that on a price per square foot basis, the same bidder turned out to be low on both the base bid and the alternate bid. The Staff feels that the larger letter height is worth the difference in price and recommends the award of the alternate bid of Southwestern Materials. He said that Vulcan Signs had to limit the length to eight feet, but this would have only affected three intersections. However, that was the main reason for going with the alternate bid. He said that the City of El Paso makes their own signs and uses ten inch letters on a sixteen inch sign. Their signs are noticeable for a greater distance. He said he wanted an E series letter--that is what is on the Highway Department signs and it is a larger, bolder stroke. He said that Southwestern Materials was lower in price per square foot than Vulcan.

Councilman Rodriguez felt that the base bid for the eight inch letters was more acceptable than the alternate bid. However, Councilman Hilton said that the street signs are really for the City's visitor's and he thought it would be a good idea to have the larger letters for easy perception.

Councilman Hilton made the motion to award the Overhead Street Name Sign bid to Southwestern Materials. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Fogle, Hilton and Mayor Hall.

NAYS: Councilman Rodriguez.

- b. Ore/Half Ton Pick-up - Water Department.
- c. Tanker Truck - Fire Department.
- d. Data Processing Equipment - Water Office.

AWARD OF BID
WATER - TRUC
FIRE - TRUCK
WATER - DATA
PROCESSING
EQUIPMENT

Bernard Huett, Purchasing Agent, presented the award of bids of the Data Processing Equipment for the Water Office. Councilwoman Proctor asked if the City could take any one particular item. Mr. Huett said that on the City's standard bid form, the City reserved the right to award the bid on a total basis or split the items up for the bid most advantageous to the City. Councilwoman Proctor asked if a 30-day delay was critical. Mr. Huett said that he just felt that getting most of the items from one source and that source being in Houston, he felt that if the City has a problem with the equipment then it would be easier to get the parts or have it repaired rather than having to contact a company from out of state.

David Wright, Director of Finance, said that one of the bidders had included a bid for an alternate item. He said that it was a good bid and the reason the City did not ask for a bid on the item was because he felt he would not have the funds available. However, the City does have the funds available and he thought it to be a good bid.

Councilman Fogle moved to award the Data Processing Equipment bid to Digital Computer for the first six items and Computech for item seven. Councilmar Bridges seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

Wayne Collier, Zoning Administrator, presented the request for reclassification from MH (Mobile Home) to GC (General Commercial) District, located at T & P Lane & Midway Streets to the Council. He said the request came from Mr. Bill Hawkins to rezone this property. It lies within Mobile Home zoning and is abutted by Single Family zoning to the north, Agricultural zoning across T & P Lane to the east and by Mobile Home zoning to the west, east and south. He said the purpose of the request was to develop 1/3 of an acre for commercial purposes, being a health food store and a book store. The Staff recommends approval because T & P Lane is a very narrow street and Midway is an unimproved street. The Staff feels that this rezoning would constitute spot zoning.

Mayor Hall opened public hearing on the reclassification request. Mr. Bill Hawkins, pastor of the House of Yahweh, said the book store would be useful to order books that are not sold elsewhere in Abilene. He said the health food store would also be beneficial because it would sell kosher foods. He said that there was a misunderstanding of the type of zoning needed. He said he asked for commercial zoning originally because that was what he thought he needed. Then he talked with Mr. Collier and found that a commercial zoning was not needed but a limited commercial zoning. He asked that the Council return this request back to the P & Z Commission for proper zoning.

Councilman Bridges asked that if the church was granted the limited commercial zoning, and if it sold the property to someone else, would it still be considered a spot zone. Would the P & Z Commission alter their opinion if the proponent requested that type of zoning. Mr. Collier said he could not speak for the P & Z Commission, but he felt the Staff would still consider it to be a spot zone due to the location and the proximity of the residential area and the type of streets.

Mr. Cargill noted that it has been the policy of the Council to send a request back to the P & Z Commission if the proponent so wishes to receive a different zoning without committing the Council to approve the zoning request when it comes back to them.

Mr. Hawkins mentioned that he took several pictures of oil related businesses on T & P Lane. He said that City trucks, oil trucks and residents use T & P Lane quite often, so he doesn't feel that the health food or book stores would contribute that much more traffic.

After no one spoke in opposition of the reclassification request, Mayor Hall closed the public hearing.

Councilman Bridges moved that the reclassification request from MH (Mobile Home) to GC (General Commercial) District, located at T & P Lane & Midway Streets be sent back to the P & Z Commission for an alternate type of reclassification. Councilwoman Proctor seconded the motion. The motion carried as follows:
ZONING-RE -
MH TO GC -
T&P & MIDWAY
RETURNED TO
P&Z COM.

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.

Mr. Collier presented the Street Name Change request from Restway Road to Amylyn Avenue to the Council. He said that the road extends west from Old Anson Road. He said the road was dedicated and named on a plat that was filed for record in 1971. Subsequent to that, another plat was filed extending that same road and named Amylyn Avenue. This request is to clear up an existing discrepancy in street names. The P & Z and the Staff both recommend approval.

Councilman Rodriguez asked if there were any residents who would be affected by the name change. Mr. Collier said no, that it was all called Amylyn Avenue anyway. Councilman Bridges pointed out that Amy Lynn Manor was spelled differently than Amylyn Avenue. Mr. Collier said that the name on the plat was spelled Amylyn.

Mayor Hall opened a public hearing. After no one spoke in favor or opposition of the request, he closed the public hearing.

Councilman Bridges moved passage of the ordinance changing the name of Restway Road to Amylyn Avenue. Councilman Rodriguez seconded the motion. The motion carried as follows:
STREET NAME
CHANGE - FROM
RESTWAY ROAD
TO AMYLYN AV
FINAL RD.

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE,
TEXAS, CHANGING THE NAME OF RESTWAY ROAD TO AMYLYN AVENUE.

Harvey Cargill presented the resolution authorizing Taylor Electric Cooperative to change its purchase power cost adjustment on an interim basis. He said this resolution pertains to the power adjustment clause for Taylor County Electric. He said a power adjustment clause is a pass through device for the Cooperative. It enables them to recover the cost of electricity that they are charged for WTU. He said that while he was in Austin, he spoke to the PUC staff attorney who is reviewing this power adjustment. He assured Mr. Cargill that it is correct and fair. The Public Utility Examiner has put this into effect on a temporary basis. Mr. Cargill said the City has been asked to put it in effect on the same basis so the rates would be uniform. He recommends that it be approved on a temporary basis.

Councilman Bridges asked if this committed the City to any specific increase. Mr. Cargill said no, that it was not an ordinary rate increase. It is like a pass through that the City has on the gas company. When WTU raises their rates, they are able to pass through the increase to their customers.

Mayor Hall opened public hearing and after no one spoke in favor or in opposition of the resolution, he closed the public hearing.

Councilman Fogle moved approval of the resolution authorizing Taylor Electric Cooperative to change its purchase power cost adjustment on an interim basis. Councilman Rodriguez seconded the motion. The motion carried as follows:
TAYLOR ELECT
COOPERATIVE
COST ADJUST-
MENT ON INTE

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.

IM BASIS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING TAYLOR ELECTRIC COOPERATIVE TO CHANGE ITS PURCHASE POWER COST ADJUSTMENT ON AN INTERIM BASIS.

Arkie Pierce, Land Agent, presented two resolutions for eminent domain proceedings concerning Barrow Street Widening Project. He said there are two pieces of property--one at 536 S. Mockingbird and the other is located at 2849 S. 6th Street. He said that negotiations have broken down and requests that the Council approve the resolutions to continue with eminent domain procedures.

Councilman Fogle asked if Mr. Pierce would outline briefly the procedures of acquiring property. Mr. Pierce said the City employs an attorney to run the deed records to find the legal owners or lien holders. Field note descriptions are written for the part of the property the City wishes to acquire. An outside fee appraiser is then employed to appraise the property and to report it to the Land Agent. It is reviewed by the Land Agent regarding form. Then the City tries to negotiate with the owners at the appraised value. Councilwoman Proctor asked if the Fee Appraiser puts a value on square footage basis on the property. Mr. Pierce said the Fee Appraiser appraises the whole property, then he appraises the part the City will need for right of way, then he appraises the remainder immediately before the taking, and then it is appraised immediately after the taking. If there is a difference in those figures, it will be either enhancement or damages. In this case, it indicates damages. Councilman Bridges asked if the City is compensating the owners for the damages. Mr. Pierce said yes, the City is compensating the owners. Mr. Cargill said that these procedures are akin to the Uniform Relocation and Acquisition Act. He said the Council at a previous time has made an official determination and notice to acquire the property, authorization to hire the appraiser and all of these things are set out by Federal law. He said the next step in this case is to either go forward with the proceedings or to not continue the project.

Councilman Hilton moved adoption of the two resolutions for eminent domain proceedings concerning Barrow Street Widening Project. Councilman Bridges seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.

STREET IMP.
CONDEMNATION
PROCEEDINGS -
BARROW STREET
WIDENING PROJE
536 S. MOCKING
& 2849 S. 6TH

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, DECLARING THE NECESSITY FOR ACQUIRING BY CONDEMNATION THE FEE SIMPLE TITLE TO CERTAIN DESCRIBED PROPERTY FOR RIGHT-OF-WAY PURPOSES OF THE BARROW AND SOUTH MOCKINGBIRD STREET-WIDENING AND IMPROVEMENT PROJECT, AND ORDERING THE CONDEMNATION OF SAID PROPERTY TO PROCEED.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, DECLARING THE NECESSITY FOR ACQUIRING BY CONDEMNATION THE FEE SIMPLE TITLE TO CERTAIN DESCRIBED PROPERTY FOR RIGHT-OF-WAY PURPOSES OF THE BARROW AND SOUTH MOCKINGBIRD STREET-WIDENING AND IMPROVEMENT PROJECT, AND ORDERING THE CONDEMNATION OF SAID PROPERTY TO PROCEED.

Dwayne Hargesheimer, Director of Water Utilities, presented the resolution for the support of the establishment of a Pretreatment Program for the City. He said it was a request to fulfill an obligation to the EPA in regard to the Wastewater Treatment Plant project. He said that last August, the City contracted for the renovation of the Wastewater Treatment Plant. As a part of that program, the City had to develop a pretreatment program which is requested in the Step II phase of the program. He said the EPA is requesting a letter from the City's governing body announcing the City's support for the program. Also, a resolution stating that the City's governing body will not only support the program but continue the program after our construction project has been completed and the Federal money is all spent. The EPA wants us to stay with the pretreatment program.

Mayor Hall asked what the dollar cost or obligation the City will be assuming. He was concerned that it sounded like the City is promising to continue the program even when the City has to pay for it.

Mr. Hargesheimer said that the construction project cost was \$6.99 million--80 percent of that amount will be returned by the Federal Government. In lieu of that, the City is to follow the pretreatment program. The program involves the local industries by adopting the part of our Wastewater Industrial Ordinance. The EPA asks that the City continue to watch its local industries and that the City not treat effluent from industries and use this plant to do it. He said our Wastewater Industrial Ordinance prohibits that anyway. As the City continues to operate its pretreatment system, the local industries pay their share by either pre-treating or paying the City to treat it for them. He said that if certain industries discharge effluent and it does not meet certain criteria, they have to pretreat it before it is discharged to the City. The City itself does not have effluent that needs to be pretreated. The Mayor asked that the City's promise to continue the pretreatment practice is really a promise to continue to monitor the industries and require that they do this. Mr. Hargesheimer said that was correct and the Wastewater Industrial Ordinance requires this procedure.

Mr. Seegmiller mentioned that the City now has an Industrial Waste Officer who has been monitoring the industries. The criteria will not be in effect until after the Wastewater Treatment Plant is finished.

Councilman Fogle moved to adopt the resolution for the support of the establishment of a Pretreatment Program for the City. Councilman Hilton seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

WATER - SUPPORT
OF PRETREATMENT
PROGRAM - EPA

NAYS: None.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
ANNOUNCING ITS SUPPORT OF THE ESTABLISHMENT OF A PRETREATMENT
PROGRAM FOR THE CITY OF ABILENE.

Roy McDaniel presented the request to appoint an independent auditor for Fiscal Year 1982-83. He said the way the City Charter reads is that the City appoints the auditor within 30 days of the beginning of the year to do the audit for that year. He said this means auditors for the year the City is presently in. He said for several years the City's policy was to appoint the auditors on an annual basis with a more or less unwritten policy of rotating every three years among any firm in town who wished to participate. About four or five years ago, the small firms could not do the City's audit on a timely basis and get it back in time. So, three years ago, he went to the Council with proposals from the two largest firms who were he felt the only two who could do the job on a timely basis. Before the Council could decide between the two firms, the Davis, Kinard & Company withdrew because of a conflict concerning their ethics. Condeley & Company is now completing their third audit. He asked the same two firms again to submit proposals--only this time the firms asked for a five year contract. They felt that a five-year contract would provide better service and cost less money for the City. He said that the Davis, Kinard & Company proposal is fixed where the Condeley & Company proposal ranges from lower than Davis, Kinard to higher than Davis, Kinard. He felt the fees were very similar. He said that Condeley & Company has worked with the City for three years, they know the system and know the City employees so therefore would cause less interruption the first year. Davis, Kinard & Company would have to go through a learning curve. The County and the School District uses Davis, Kinard & Company. He said there was a question of Davis, Kinard & Company's participation again this year because of a similar ethic problem. He said there was a proposal in their professional organization to modify those ethics which could cause problems in a year or so. The City could conceivably find itself contracting with Davis, Kinard & Company and at some point, they may have to withdraw.

Councilwoman Proctor asked what the ethical problem was now and in previous years. Mr. McDaniel explained that an employee of Davis, Kinard & Company had a relationship with someone involved with the City.

However, the City had no problem with this relationship, only Davis, Kinard & Company felt it might go against their ethics. Basically, the same situation occurred three years ago. Again, it was no problem with the City--only with Davis, Kinard & Company.

Mr. McDaniel said that at this point, Davis, Kinard & Company feels there is no conflict with their ethics. He reiterated that there are proposed changes coming about with Davis, Kinard & Company's ethics.

Mayor Fall commented that it is unusual to change auditors every two or three years and Condley & Company had done a good job for the City in the past. If Condley & Company is accepted for the next five years, then their total participation in auditing the City will be eight years. He felt that the City needed the best audit for the least problem and the least amount of money.

Mr. McDaniel mentioned that Condley & Company had indicated that they lost money over the last three years because they had to go through two learning stages--one when they first started auditing the City when the City had the old system and two, when the City changed to the new system. They have indicated that they can work per year cheaper than the last year's fee. Condley & Company listed their first year's fee of between \$32,000 and \$37,000. The next year's will range from \$37,000 to \$46,000. Davis, Kinard & Company listed their fees as the first year, not to exceed \$39,000, \$42,000, \$42,000, \$45,000 and \$45,000 for the last four years.

Councilman Hilton thought that it would be better if the City negotiated each year and kept the audits truly independent. He felt that if the auditors were allowed to audit the City for five years, they would not have to read the material each year and they would become complacent. When a new accounting firm is brought in, it seems that it will always find something the last accounting firm did not.

Councilman Rodriguez asked if it always takes an accounting firm two years to learn a particular system. Mr. McDaniel said that in some cases it can take two to five years depending on how stable the firm's employees are. He said that the increase in yearly fees is probably due to inflation, not hourly compensation.

Councilman Bridges asked if the City were to ask for a shorter term from the firms, would bids have to be let again. Mr. McDaniel suggested waiting until the next meeting in order to let him contact the firms again asking for other proposals. Councilman Bridges agreed with Councilman Hilton saying that periodic changes in auditors would be more beneficial to the City. Councilman Hilton then suggested letting Condley & Company audit another year but changing the next year to a another firm.

Mayor Hall suggested that the Council ask the two firms for two-year proposals to see what kind of fees the City would be paying.

Councilwoman Proctor moved that the Staff contact the two firms, Condley & Company and Davis, Kinard & Company, asking for a two-year proposal from each firm, meanwhile tabling this item until the next Council Meeting. Councilman Hilton seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

AUDIT 1982-83-
TABLED UNTIL
OCTOBER 28,
1982

Mayor Hall presented the item asking for an appointment to the Abilene Higher Education Authority. He asked that Lee Underwood, Chairman of the Board of Interfirst Bank of Abilene, be appointed to the Abilene Higher Education Authority. Councilman Fogle moved that Lee Underwood be appointed. Councilman Hilton seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

BOARD APPT. -
LEE UNDERWOOD
TO HIGHER
EDUCATION AUTH

Mr. Ray Williams, Assistant Director of Community Services, presented the item to develop a Library Master Plan. He said the Abilene Library Advisory Board felt there was a need to develop a long-range plan for continued Library services. The Staff recommended the services of one

three firms, HBW Associates of Dallas, Texas, John Anderson, Library Consultant of Tucson, Arizona, and Raymond Holt, Consultant, Delmar, California. The Library Board recommends HBW Associates of Dallas in the amount of \$28,545 to prepare the Master Plan.

Councilman Bridges asked if it was the lowest bid of the three firms. Mr. Williams said that yes, it was primarily because of the distance of travel.

Councilman Bridges moved that HBW Associates of Dallas, Texas develop a Library Master Plan in the amount of \$28,545. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

Wayne Hargesheimer presented the item on a land exchange on FM 600 and the west end of the Lake Ft. Phantom Dam. He said the owners of the property bought a tract of land which held 1.87 acres several years ago by deed. A survey was not made on the property at the time of the purchase. However, several months ago the owners intended to survey the property in order to tract it up. The owners did purchase the property save and except an easement by the City that comes from the Clear Fork Pump Station, which dumps into Lake Ft. Phantom. This is the discharge area for the Clear Fork Pump Station facilities. The whole area has been in controversy of property lines ever since the lake was built. The Staff recommends that the City will Quit Claim Tracts 1, 2A and 2B to the owner and then the owner in turn will Quit Claim Tract 3 and give a Warranty Deed to Tract 4 so the City would completely own the whole easement tract. He said that the Staff suggests swapping some land and let the owners have a Quit Claim to Tract 1 which would clear a house.

Councilman Hilton asked if any money would actually change hands. Mr. Hargesheimer said that no, it would just be a swap of land. He said that the arrangement is agreeable to all parties involved. The owner, James Vick spoke from the audience and said that in reality, he would lose about a half acre of land, but he and the other owners are willing to do that to get an established permanent boundary.

Councilman Hilton moved approval of the land exchange on FM 600 between the City and James Vick and Lynn & Brenda Jackson, owners. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING THE EXCHANGE OF LAND BETWEEN THE CITY OF ABILENE AND JAMES VICK AND LYNN & BRENDA JACKSON.

Bob Whitehead presented the item for a correction of an easement deed near Abilene Christian University. He said that back in 1957 the Miller property granted an easement for a sanitary sewer line to be built on Judge Ely along the west boundary of Rainy Creek and Griffith Road. The sanitary sewer line and the easements did not match, the City found out when the area was being platted for a subdivision. Abilene Christian University now owns the property next to Judge Ely Boulevard. The Staff recommends the correction deed so the easement would then follow the sanitary sewer line and also allow the extension of a street to continue out to Ambler in the future. Because it was discovered at a late date and would have held up some sales of some of the property, the Staff asked the Mayor to sign the correction deed ahead of the Council Meeting and is asking now for radification from the Council of the Mayor's signature.

Councilman Bridges moved to radify the Mayor's signature on the correction deed resolution. Councilman Rodriguez seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle and Mayor Hall.

NAYS: None.

ABSTAINED: Councilman Hilton.

DEED-
CORRECTION DEED
NEAR ACTU

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE MAYOR TO EXECUTE THE ATTACHED EASEMENT DEED
CORRECTION.

Harvey Cargill presented the item requesting a hearing to be held in Abilene, Texas for WTU Rate Case. He said the City has presented a motion requesting a change of venue to the Hearing Examiner. The City requested that a portion of the hearing be held in Abilene. It is a policy of the Public Utility Commission that there be no hearings outside of Austin. A member of the Commission had stated that the people of Texas are not overly concerned over rising utility rates. He feels that the only way the Public Utility Commission is going to know the concern of the Texas people is if the representatives are sent outside of Austin. He said that copies of the resolution would be sent to the Public Utility Commission, Representative Gary Thompson, and Senator Grant Jones. The resolution provides that if the Public Utility Commission does not change the policy, the City will ask these Congressmen to change the law to require that hearings be held outside of Austin. Also a copy of this resolution would be sent to the Governor of Texas since the Governor appoints the Public Utility Commission. The Staff recommends approval of this resolution.

Councilman Fogle who is on the Steering Committee for WTU said that there has been a meeting of representatives from various communities around the Abilene area and these representatives want to see hearings held outside of Austin.

Councilwoman Proctor moved approval of the resolution requesting that WTU Rate hearings be held in Abilene, Texas. Councilman Hilton seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall. WTU RATE CASE -
REQUEST FOR
HEARINGS TO BE
HELD IN ABILENE
NAYS: None.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
REQUESTING THAT WTU RATE HEARINGS BE HELD IN ABILENE, TEXAS.

Lee Roy George, Director of Planning & Community Development, presented the item requesting an International Downtown Executive Association Panel Service. He said that IDEA (International Downtown Executive Association) provides assistance to local communities who are interested in developing downtown improvement programs. One of the services it provides is panel service and this service is conducted over a four-day period with four members of IDEA. In the UII panel service that was done, there was only one representative on this panel service that dealt in downtown, and most of the comments that surfaced were board and general in nature in regard to downtown development. The IDEA panel service is operated by people who are currently involved in downtown improvement programs from around the country. These people would come to the City for a four-day period and study some of the things that need to be done for the redevelopment of the downtown area. He also said, "The panel service could suggest the most appropriate structure for a downtown redevelopment organization and outline the necessary steps to facilitate redevelopment efforts in Abilene; could identify key public and private improvements necessary to stimulate reinvestment within the Abilene downtown area; and, could outline funding mechanisms in addition to those already identified by the Staff and propose strategies for financing these public and private improvement projects." He said the Staff recommended the City participate jointly with the Chamber of Commerce in the panel service. He said a fee of \$4,000 is required and this fee goes to the International Downtown Executive Association, not to the members that will actually come to the City. Their expenses will be paid by the Chamber of Commerce. A local coordinator will probably be appointed by the Chamber.

Mayor Hall asked if Mr. George had checked on other cities where this service has been done. Mr. George said that IDEA suggested contacting other cities where this service has been implemented. These cities all seem very happy with the service that was provided.

Councilman Hilton asked if the panel service will be knowledgeable with the City's plans for reinvestment. Mr. George said the City can specify that a member be knowledgeable about reinvestment.

Mr. Bill Gilliland, President of the Chamber of Commerce, feels that the time is right to start downtown redevelopment and requests the City to participate with the Chamber in this project.

Councilwoman Proctor asked which cities had been contacted about previous work with the panel service. Mr. George said there were many cities over the nation that had service provided by the panel. One in particular was Shoshone, Montana.

Councilwoman Proctor asked if the Staff or the Chamber had a particular area or areas that will be studied. Bill Gilliland said organizational structure would be one area.

Councilman Bridges moved approval of the resolution requesting assistance from the International Downtown Executive Association Panel Service for redevelopment improvements. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.

PLANNING & COMM.
DEVELOPMENT -
INTERNATIONAL DC
TOWN EXECUTIVE
ASSOCIATION PANE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, AUTHORIZING THE EXPENDITURE OF \$4,000 FOR A PANEL STUDY OF DOWNTOWN ABILENE, TO BE CONDUCTED BY THE INTERNATIONAL DOWNTOWN EXECUTIVES ASSOCIATION.

Lee Roy George presented the item concerning the request of the Council to look at annexing additional property surrounding Lake Ft. Phantom Hill. He said in June, 1982, the Council requested the Staff to look at the area to gather information. He said the Staff now needs direction from the Council as to what they should do next. The idea of possible further annexing of property in this area came from Mrs. McFadden's request to hook on to an existing water line in that area. He said that after looking at some of the City's policies at that time, being to annex and serve where it was at the City's best interest to do so and also, if it was not in the City's best interest to annex and to serve under contract, the Staff found that the City could not serve under contract due to the similar provisions that are in the law about service from the Public Utility Commission. At that time, the Staff recommended the Council amend those policies and since that time, the City has amended those policies. He said that once the Council starts the process, there is a certain time frame in which to complete the process. The City can at any time redefine the area in a smaller amount than what was originally planned, however, a larger area cannot be annexed.

Mr. Seegmiller mentioned that the completion of the annexation process would still give the City sufficient time to complete the report that has to go to the Justice Department prior to our election. That is the reason for preparing the annexation calendar in that manner.

Harvey Cargill said the City has to submit a voting rights submission to the Justice Department at least 60 days prior to the time of an election. If a submission is filed in January, then there will be time for an April election. The annexation process should be completed according to the calendar by January 13.

Mayor Hall asked when during October 14, to January 13, 1983, would the Council have opportunity to try to determine exactly the affect of what the Council is doing--what services the Council will or will not have to perform, what revenues the City would receive, and how the people who are annexed would be affected. Mr. Seegmiller said the opportunity would be given on November 4 at a public hearing. Mr. Cargill said that the Council would actually have four opportunities--November 4 Public Hearing, November 5 Public Hearing at the site, December 2 first reading of the Ordinance, and January 13, final reading of the Ordinance.

Councilman Rodriguez asked what kind of requirements the City has met to annex the area. He was concerned with what type of services the City could provide and what kind of services the citizens wanted.

Mr. Cargill said that even now within the City limits, the City is not providing exactly the same kind of services throughout the City. It is impossible to provide the exact services for different parts of the City.

Councilman Rodriguez asked if the citizens of the proposed area be subject to the same taxes that other citizens in Abilene pay. Mr. Cargill pointed out that if one area has no improved streets or sewer services, its citizens would not have their property valued as high. And if street improvements or sewer is provided, the citizens would have to pay for those services. Mr. Seegmiller mentioned that there is a period of time where an area would not want to be annexed and then there would be a period of time where it would want to be annexed, and the burden of providing services to it after that time is tremendous because growth services that have already been built in are no longer adequate.

Mr. George said that the Staff had received information from other City departments regarding the services that could be provided and those that have already been provided in this area. He said that the ideal goal in annexation is to annex an area before growth occurs. To give the Council an idea that slow subdivision is going on in the area, Mr. George said that Mrs. McFadden had requested three additional water meters so she could subdivide the property even further.

Mr. Cargill said that generally what the Councils have done in previous years is to commit themselves to consider annexing the biggest area because the City can't go above what it has cut down. The only requirement by law that the Council must do is to consider it.

Councilman Fogle felt that the Council had not intended to annex an additional properties. He said that the only thing that would justify annexation is the concern over the City's water supply. He felt, however, that if the Council felt it was really necessary to annex the area to protect the City's water supply and other interests, then the annex procedures should begin. Councilman Rodriguez asked if the Council is not committing itself to annex the area, just to go through the process and let the citizens contribute their input.

Mr. George added that the Council is voting to start the process. Mr. Seegmiller said that the only thing that could bind the Council to a decision is the action taken on January 13.

Mayor Hall asked if the annexation process could be started after the April, 1983, election. Mr. Cargill said that, yes, it could be started after April, 1983, but the new City boundaries would have to be submitted before February of 1984 for an April, 1984 election. Mr. Seegmiller added that if the Council wanted to have a bond election, annexation would have to be completed so a submission could be sent to the Justice Department in time for that bond election--any election.

Mayor Hall asked if the Council wanted to have a bond election, would it be wise to postpone the annexation proceedings. Mr. Cargill said that yes, postponement is an alternative or have the bond election before January 13. He said the annexation process could be stopped at any time or it could begin after the April, 1983 election.

Mayor Hall said the Council may be considering a bond election, but he did not like the idea of having it before January 13. Mr. Cargill added that from the first reading of the ordinance to the completion can only be 90 days.

Councilman Bridges said that right now, he feels the burden of proof or the Council's desire for annexation ought to be upon the Council. He asked what differences in services have to be provided after the request for annexation than before. He said he would like further justification for annexation. He said the City can do some things in the ETJ now, but at the same time, there are some things the City can't do in the ETJ.

Mayor Hall moved that the annexation procedure begin, however, with reservations because if it becomes reasonable to have a bond election, he would be in favor of terminating the annexation process until the bond election was over. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Fogle, Hilton and Mayor Hall.

NAYS: Councilwoman Proctor and Councilman Rodriguez.

ANNEXATION OF
PT. PHANTOM ARE
APPROVED PRO-
CEDURE TO BEGIN

One of the property owners in the proposed annexation area asked if notices would be sent out as to when the Council would be meeting to discuss the annexation. Mayor Hall pointed out that there will be four meetings where citizens may voice their opinions to the Council--November 4 & 5, December 2, and January 13. Councilman Hilton emphasized that the proposed area is the maximum area and it is very doubtful that the exact area will be annexed. He said there is always the possibility that the Council may not annex any area.

Mr. Seegmiller assured the property owner that notices would be mailed to the property owners to let them know when the public hearings will be held.

David Wright presented the item to consider a Cost Allocation Plan and to authorize the Mayor to sign an agreement with HUD. He said last October, the Council authorized the hiring of David M. Griffith & Associates to conduct a Cost Allocation Plan to determine what type of costs the City was incurring against certain programs such as State and Federal grants. That Plan is complete. It identifies certain different areas where costs are coming from. The Plan has been submitted to the Department of Housing and Urban Development who is the City's cognizant agency. HUD has approved the Plan. He wanted to discuss the additional funding area, which contains dollars above and beyond what the City has been receiving in the past that do not in any way affect the programs that are being provided. The realignment area is where there is a limit on the amount of funds the City is going to receive for programs being provided. If the City charges the full amount according to the Plan, some program has to be reduced to allow the budgeting for the indirect cost within that grant. He said the purpose of presenting the item at this time was to get the Council to accept the Plan, authorize the Mayor to sign the agreement with HUD, and to get direction as to what to do with the realignment of funds.

Mayor Hall asked if the City's auditor had certified the adjustments to be proper allocations. Mr. Wright said that the City's auditors do not have to certify them. HUD has the authority to audit. He said the City's auditors audited the FY 1981 and the audit was prepared from the Annual Financial Report. HUD has indicated that the City is required to have it audited. Federal Regulations say that is the sole responsibility of HUD--they try to get the City to do the work, spend the funds to have it audited so they do not have to re-audit the Plan. He said the Staff needs direction as to what to do with the types of grants that have a maximum amount where the indirect cost means realigning programs. The alternate is to continue as before by charging time or services to the proper program or charge the maximum amount that the Plan has identified with.

Councilman Hilton recommended that the City have a policy of doing the indirect cost to the maximum allowed.

Mayor Hall moved to sign an agreement with HUD to use the Cost Allocation Plan in accordance with the way HUD has approved it. COST ALLOCATI
PLAN - AGREE-

Councilman Hilton seconded the motion. The motion carried as follows: MENT WITH HUD
APPROVED

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen
Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

Mr. Wright presented the proposal to update the Cost Allocation Plan. He said that once the City puts a Plan into the process, it has to be updated annually in order to continue using the indirect cost allocations. He said the City does not have a person on the staff that has the expertise to update the Plan. The Staff requests the Council to authorize the City Manager to sign an agreement with David Griffith & Associates to update the Cost Allocation Plan.

Councilman Hilton asked if the Internal Auditor could work with the Griffith firm so that in the future, the Auditor could update the Plan. Mr. Wright said that yes, the City is looking at how to incorporate the update into the Staff's normal duties. Councilman Hilton said he thought it would be wise to have the Internal Auditor work with the Griffith firm so the City could recover the fee in the indirect cost.

Mayor Hall asked if HUD sent the City a letter denying a bill from an auditor for an audit on its housing project. Mr. Wright said that yes, HUD disapproved the accounting services as being outside the range for an authority of the City's size. Therefore, the City had to put the cost into the General Fund and pay the bill for those accounting services.

Councilman Hilton said it looked like HUD is denying the audit as a direct cost and coming back as an indirect cost.

Councilman Hilton moved the Council to authorize the City Manager to sign the agreement with David Griffith & Associates to update the Cost Allocation Plan. Councilman Bridges seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.
COST ALLOCATION
PLAN UPDATE -
DAVID GRIFFITH
ASSOCIATES -
APPROVED

Bob Whitehead presented the request for waiver of Subdivision Requirements for Paving and Curb on Antilley Road. He said the property is located on Antilley Road between Elm Creek and Catclaw Creek and has 446.7 feet of frontage on Antilley Road. Antilley Road will become an arterial road and will have about 100 feet right-of-way. On Antilley Road, the City has a program with the State and County to improve the bridge at Elm Creek and acquisition of right-of-way is being done for improvements on the bridge at Catclaw Creek. The Staff's recommendation is to deny the request for a waiver.

Randy Wilson, Attorney, representing Mr. Mike Rouse, owner, said that a waiver is not what they are really asking for. He said they have been advised that they cannot curb and gutter at this time due to the rest of Antilley Road not going to be widened. The City asked that Mr. Rouse post a bond for 18 months in the amount of \$1,700 which will be the proportionate cost along the right-of-way. The problem is that Mr. Rouse will have to keep the bond in effect until Antilley Road is widened and the premium on the bond will cost \$1,200 every 18 months. He said that he understood the City will pass an ordinance in 1983 concerning this type of problem which will allow the money to either be escrowed, posting of a bond or even putting forth a letter of credit. He proposed the following alternatives: all owners execute a letter of guarantee to the City for \$1,700 and it will be paid upon notification to the developers when a road is going to be widened; escrow the funds in an interest bearing account until the road is actually widened; and, to allow a shortened time for a bond until the new ordinance is either enacted or not enacted until the developer could see what will happen. A developer has a hard time computing his cost because there is no sure time when a road may be widened or improved.

Councilman Bridges asked which of the alternatives would be included in the new ordinance. Mr. Wilson felt that the bond will still be in existence and possibly a letter of credit.

Councilwoman Proctor asked if something is not done within a certain period of time, what would happen. Mr. Whitehead said if a developer has an 18 month bond, then the period of time would be for 18 months or could be stretched to three years. After that period of time, the bond is automatically waived.

Mr. Wilson said that the City was not sure how long they would have to post the bond, so that concerned the developer thinking he had to come up with \$1,200 premium every 18 months.

Mayor Hall asked if Mr. Wilson had studied the market to see if it was the cheapest bond. Mr. Wilson said his clients have studied the market and that was the going rate.

Mr. Seegmiller pointed out that the new ordinance Mr. Wilson referred to is when the Subdivision Ordinance goes to the Council for revision, there might be a method of handling this type of situation.

Councilman Hilton asked if the City had accepted a letter of credit from Mr. Rouse. Mr. Whitehead said yes, that there were three methods right now, being a bond, letter of credit and a trust agreement. He said that if the developers wanted to build that street, it would function. He doesn't recommend that because of some maintenance implications, but the curb and gutter could be built. It would not be used except to serve as a 400 feet wide driveway to get to the property.

Councilman Fogle asked if a trust agreement and escrow were the same things. Mr. Whitehead said they are two different things. A fourth method may come about--let the developer pay in advance for their portion of the street and then the City would maintain an escrow account. Councilman Fogle thought than an escrow agreement with a financial institution where the developer gets the benefit of the earnings from the escrow account would satisfy the requirement of the City.

Mr. Wilson said the proponent was not asking for a waiver--only for an alterative plan to satisfy the City. Mr. Mike Rouse, proponent, said that the City Staff told him that the engineering has not been done for him to do the curb and gutter. He said that he would rather do the curb and gutter now as it will be cheaper now than in a few years. He said he was told by the City Staff that Antilley Road may never be widened or it may take several years and his bond will have to be put up every eighteen months. Mr. Whitehead mentioned that the proponent could do the engineering on the appropriate part of Antilley and then the City would approve of his engineering.

Councilman Rodriguez asked who would maintain Antilley Road, the City or the State. Mr. Whitehead said he thought it was an FM road and in that case, the State would maintain it. After the road is improved it will be up to the City or the State, whichever appropriate entity, to maintain it.

Mr. Rouse said in talking with City Staff, he was told that when Antilley Road is widened, it will be dropped about 18 inches. He asked if after it is widened and he now curbs and gutters his property, will he be responsible for curbing and guttering it again. Mr. Whitehead said no, the City would be responsible.

Councilman Hilton thought that what Mr. Rouse was asking for was to let him go ahead until the report from the SRG on the alternate plan which would probably include what he wants to do. Also, he probably wishes to put up a letter of credit or a short-term bond until the time anticipated the report will be ready. He asked if the City is able to let Mr. Rouse go ahead and use one of the three methods with it being changed at the time that the new ordinance comes out.

Mr. Gargill said yes, presently, Mr. Rouse can use a trust agreement, letter of credit or bond. Then, later on, Mr. Rouse can use one of the other methods approved by the new ordinance.

SUBDIVISION
WAIVER - ANTILLEY
ROAD - WITHDRAWN

There was no action taken on the request for waiver of Subdivision Requirements for paving and curb on Antilley Road.

Mr. Whitehead presented a request for waiver of Subdivision Requirements for paving and curb on Forest Hill Road. The property is located in the Mesquite Forest Subdivision. The developers have one lot that has a small neck of land that extends onto the right-of-way on Forest Hill Road. The property has 46.92 feet of right-of-way which makes Forest Hill Road a boundary road and according to Subdivision Ordinance the proponents must pave it or use a bond, trust agreement or letter of credit or ask for a waiver. The Staff feels that since only a small portion of Forest Hill Road would need to be paved, the waiver should be granted.

David Todd, Engineer for Mesquite Forest Estates, showed slides of Forest Hill Road and the property to the Council. He pointed out that the curves on Forest Hill Road are dangerous and will be even more so if that portion of the road is paved.

Councilman Hilton asked if the property was going to be part of a lot that comes off the other street and it will not be paved adjacent to the lot on the boundary. Mr. Todd said the access to the lot will come off of White Boulevard which is one of the paved, interior streets. The owner of the east lot could have access to Forest Hill Road if he wanted.

Councilman Fogle moved passage of the request for waiver of Subdivision Requirements for paving and curbing on Forest Hill Road. Councilman Rodriguez seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle and Hilton.
NAYS: Mayor Hall.

SUBDIVISION
WAIVER - FOREST
HILL ROAD -
APPROVED

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
WAIVING IMPROVEMENTS REQUIRED BY THE SUBDIVISION ORDINANCE ON
LOT 1, BLOCK A, MESQUITE FOREST ESTATES, SECTION 5, WHICH ABUTS
FOREST HILL ROAD.

Ray Williams presented the item concerning the Civic Center Chiller Breakdown and inspection. A proposal of \$9,000 from Honeywell, Inc., was approved by the Council last April 8, for the breakdown and inspection of the Civic Center Chiller, with an additional \$5,000 to be spent for any problems that Honeywell, Inc. might find. Honeywell, Inc., did find many problems and repaired all the items necessary to ensure adequate operation of the Civic Center for all previously scheduled events. The actual cost of Honeywell, Inc., to inspect, breakdown and repair the Chiller is \$22,857. Of that amount \$12,650 authorized by the City has already been paid. Honeywell, Inc., is now requesting for the remaining \$10,207. He said that due to the carpet bids for the Civic Center coming in so low--well under the budgeted amount--he asks that the additional funds be used to pay for the additional amount charged by Honeywell, Inc.

Councilman Rodriguez asked what type of problems came up that merited the extra expense on the Chiller. Bob Strange and Mike Planagam, representatives from Honeywell, Inc., said they included lack of maintenance over the years, rocks accumulated in the Chiller and the amount of rust that had built up. The labor and time were factors that contributed to that amount. Mr. Strange said that if the work was not done on the Chiller, the Chiller would not be operating now. He said the work done on the Chiller was guaranteed for 90 days.

Mr. Williams said that preventive maintenance is now being implemented to keep from having to spend so much at one time on repair. He said the problem in previous years with the Chiller is that the Civic Center had no one qualified to work on it. Councilman Rodriguez said that the Chiller needed to be checked on a daily basis and he felt that almost anyone could be trained to do that. Mr. Williams said that the Civic Center has money allocated to contract some of the work out necessary to have a preventive maintenance program. Mr. McDaniel pointed out that there is a position called Air Conditioning Specialist in the Budget this year to maintain all City air conditioners.

Mr. Strange said that it is important that preventive maintenance be performed on a daily basis and possibly a periodic breakdown of the Chiller to get a good look inside to foresee future problems--pumps, valves, etc. Unfortunately, the Civic Center has only one Chiller. Most buildings of its nature have a backup Chiller or possibly even two or three Chillers running at the same time.

Mr. Williams said the Staff was not aware of the additional cost until they received an invoice from Honeywell, Inc. At no time during their inspection did the Staff become aware that the cost would exceed what the Council had authorized them to spend. Mr. Strange said that due to a lack of communication, Honeywell, Inc., misunderstood that they would have to stop their work, get additional funds, then continue the work. He said there were a few visits by Building Services personnel, but they did not inspect the work that Honeywell, Inc., was doing. However, during the initial breakdown and inspection

of the Chiller, the Building Services personnel were working with Honeywell, Inc., on a daily basis to make sure bid specifications were being carried out.

Jimmy Headstream, Building Services Supervisor, said the work that Honeywell, Inc., charged for was done and the hours listed were put into the Chiller. He said Honeywell, Inc., provided him with a complete breakdown of the work done on the Chiller.

Mr. Williams said the work was given to Honeywell, Inc., to do because they were the only company that could work on both the controls and the Chiller.

Councilman Rodriguez moved that Honeywell, Inc., be paid the amount of \$10,207 for additional work completed on the Chiller at the Civic Center. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.

NAYS: None.

COMMUNITY SERVICES - CHILLER
REPAIR AT CIVIC CENTER - HONEYWELL, INC. -
APPROVED

Mr. McDaniel presented the item concerning Fire and Casualty Insurance. He said the purpose of bringing the item to the Council is to inform the Council of what the Staff is doing concerning this situation. He said the City's normal procedure on Fire and Casualty Insurance has been to have a three-year policy. At the time of expiration the Staff has asked the City's agent to appraise the buildings with a new value to insure for and come back with the best policy the agent felt met the City's needs. This year the Staff had a Risk Management Consultant's report outlining about four pages of various options the City needs to explore. The agent, with those options in mind, looked for adequate insurance. However, the Staff received a letter from a consulting firm in Dallas, telling them that the Attorney General was now ruling that counties had to bid their insurance and the firm felt that cities also had to bid their insurance. He discussed the problem with the City's Legal Department. He found that School Districts do not have to bid but counties do--neither Attorney General's report says specifically what cities have to do. Just to be safe, however, the Staff put off the award of a new policy and made the advertisements in the newspaper; consequently, going over the October 1 deadline. The proposals are due October 19 and will be brought back to the Council October 28 for an award.

Mayor Hall asked if it was customary if one Abilene agent act on behalf of the Association of Insurance Agents of Abilene, selected by that group, writes the policy and some division of the commission is made either for their Association purposes or somehow shared with the other agents. Mr. McDaniel said that was correct, but the agent is not the one bidding, it is the company. Mayor Hall felt that by asking an agent to receive the bids was a little unusual and possibly a better method could be used to collect bids.

Mr. Gargill mentioned that the practice the City is following on collecting this type of bid is not competitive. He said the City has always taken the position that insurance is a professional service and not subject to competitive bids. He said these bids are merely proposals. Mr. McDaniel said he felt that Millerman & Millerman, the City's agent, is not bidding; they are getting bids from other companies.

Councilman Hilton asked if the City is receiving proposals from other insurance agencies or companies. Mr. Gargill said the City was receiving proposals from companies. Councilman Hilton felt that the current practice of using an agent to collect bids or proposals is not good and he thinks it should be between the agents too because they have certain fees to be added. He feels that all of the agents should be able to bid.

Mayor Hall thought that if the City is going to take bids from now on for insurance, it should use someone (consultant) like RIMCO to take care of it. That way the City can use only one agent and that agent does not have to split a commission.

Councilman Bridges asked if the bids could be received at City Hall then opened in a public meeting; would that resolve the problem of using an insurance company to accept the bids. Mr. McDaniel thought that perhaps the City should start the process over. However, Mayor Hall felt the Legal Department's decision not to take bids must be a sound one, so he suggested looking at the proposals when they come in.

Councilman Hilton agreed that the Council should look at the proposals then turn one or all down. Mr. McDaniel feels that the problem may be solved when the Texas Municipal League goes into the Fire and Casualty business. He said TML has assured him that they will be cheaper than anyone and will give the City the coverage it wants.

Mayor Hall suggested that the Council accept the report by the Staff and ask for another report and proposals October 28, 1982.

FIRE & CASUALTY
INSURANCE REPORT
ACCEPTED

Lee Roy George presented the resolution expressing support for local control over all types of housing (manufactured). He said two months ago, the Staff presented to the Council a modular overlay district as a proposal to amend the Zoning Ordinance on a recommendation from the P & Z Commission. The Council then sent it on to the Strategies for Responsible Growth Committee for additional study. That Committee has been reviewing the proposal for the last two months. October 7, 1982, the SRG Committee learned of pending legislation that is going to be introduced into the Texas Legislature that would remove local control of placement of manufactured housing. The current legislation now deals with construction standards on manufactured housing. The SRG Committee wanted to oppose the new legislation. The SRG Committee asked the Council to approve the resolution to oppose the legislation.

Councilman Rodriguez asked about the types of controls the resolution would ask for. Mr. George said the control would relate primarily to the placement and possibly inspections. He said if the legislation passes, the City would lose control of all zoning of manufactured housing.

Councilman Rodriguez moved approval of the resolution expressing support of local control over all types of housing. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.
PLANNING & COMMUNITY DEVELOPMENT
SUPPORT FOR LOCAL CONTROL OF MANUFACTURED HOUSING
APPROVED

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARLIENE, TEXAS, EXPRESSING THEIR SUPPORT OF LOCAL CONTROL OVER ALL TYPES OF HOUSING.

Wayne Collier presented the item concerning an oil and gas permit and an oil and gas lease near Lake Kirby for Keystone Oil Company. The property is owned by the City on a 10 acre drilling block out of the west 320 acres of section 13, Lunatic Asylum Lands. He said when the request for a permit was considered by the P & Z Commission, the question arose as to whether this location was actually in violation of the lease agreement which is in effect with Keystone Oil. The agreement states that no drilling will be within 500 feet of the water surface when at the spillway level. The proposed site is closer than the 500 feet and the P & Z Commission recommendation was for the Council's approval subject to the lease agreement being amended. Oliver Howard, agent for Keystone Oil, presented the Staff with a new proposed location which is well beyond the 500 feet restriction. The staff, therefore, recommends approval of the request for the permit.

Mr. Cargill said that Kirby Lake has only a 100 feet restriction, whereas, Ft. Phantom has a 500 feet restriction. The Legal Department prepared the lease with a 500 feet restriction. No one caught the error on the lease and it was signed by Keystone Oil. He said the question now is can the Council or should the Council amend the lease. He said three principles of law are at stake: mutual mistake--if two parties enter into a contract and by mutual mistake the lessee wanted its money back and wanted to void the transaction, it would be possible; mineral leases must be done by bids--if a material condition of a lease had been changed wherein bidding is no longer the same situation for which the lessor considers is a material nature, are the rules of the game changed after beginning to play; the City has a right to modify or amend the contract--if the City feels like changing the contract, it can do so.

Oliver Howard explained the problem to the Council about the 500 feet restriction. He said his company's geologist thinks trend of substantial wells is in the area where the first proposal was located. He said after the survey was made on the first location, it was found to be 1784.8 or 16 inches below the spillway and the location is only about 300 feet from the water surface in three directions. Keystone had another survey made to see how far back from the water's surface the location had to be in order to meet the spillway restriction plus the 500 feet restriction. He said the survey put the second location 1,129 feet south of the first location--it took 629 feet to attain the 16 inches of the spillway. Then with the addition of the 500 feet restriction, the survey placed the second location at 1,468 feet away from the water. He said if the Council should amend the lease, the City's Engineering Department wants to place elevation controls instead of the 500 feet restriction. The City Engineering Staff suggested making a 75 x 75 feet pad for the well with steel tanks for the pits. Keystone is planning on placing the storage tanks well away from the lake, probably placing them on FM 707.

Councilman Bridges asked what the difference was between the lakes around Abilene to merit a 100 feet restriction or a 500 feet restriction. Paul Shelton, Petroleum Engineer, said the difference between the lakes might be the uses of them. Kirby is used basically to water the golf course, etc., while Ft. Phantom is used as a source of drinking water.

Mr. Shelton felt that by using elevation restrictions, the City can protect the Lake and so permit Keystone to drill in the area of the first location proposal. He said if Keystone was not allowed to drill at that location, the northern portion of that area would probably never be developed under the 500 feet restriction.

Mr. Shelton read to the Council a restriction he would like to propose to possibly solve the situation. "The location of all well sites in the Lake Kirby area shall be approved by the City Council and in accordance with the Railroad Commission's spacing regulations. Each well site and the access road to that well shall have a minimum ground elevation of 1788 feet which is two feet above the Lake spillway. If the location is less than the required elevation, the permittee shall build up the location and the access road with dirt excavated from the lake basin as directed by the Engineer." He said as far as having steel pits are concerned, if the site is over 1,000 feet from the water surface, there is no need to have steel pits. Keystone is planning to suck the pits out after the well has been drilled to keep down the possibility of contamination.

Councilman Hilton asked if the situation is a material change in condition in what the City would have received in the original bid if the restriction would have been 100 feet. Mr. Shelton said he thought the location still would have been illegal if it was 100 feet and there would probably have been no difference in lease bonus.

Councilman Fogle mentioned that if the well was drilled at the 500 feet level, there would probably be a greater risk of contamination than if the well was placed on a pad two feet above the spillway.

Councilman Bridges asked if the Council authorized the lease, with the required elevation, would it also authorize future drilling in the Lake. Mr. Shelton said it would, but the Council would have complete control as to where a well would be drilled because each drilling permit has to be approved. Mr. Shelton pointed out that a well could be completely submerged in water, but there would be no leakage--only the tank batteries would leak and those are to be placed on FM 707.

Councilman Fogle asked how high the water has been over the spillway. Mr. Shelton said last October, the water got to about two feet over the spillway and the City is asking Keystone to build the pad two feet over the spillway. At no time, should the water ever get up to the drilling unit.

Mayor Hall asked if the City's drilling requirements and procedures had been reviewed and if they needed to be amended. Mr. Shelton said that all of the appropriate department's of the City will be meeting soon to review and to possibly revise the procedure.

Councilman Bridges suggested tabling the request for the amendment on Keystone Oil Company's lease at Lake Kirby until after the Staff's meeting to review the procedure. Councilman Fogle thought the Staff's meeting would merely coordinate or resolve issues regarding lease transactions.

Mr. Seegmiller said the Staff's meeting would also be to set up between departments their respective duties and to rework portions of the ordinances concerning oil leases. Hopefully, instead of having several amendments to an ordinance, the City could put together just one ordinance that would fit different situations.

Mr. Cargill pointed out that the item for the permit and the item amending the license should be considered at the same time. If the Council amends the lease, then it would make sense to allow the permit where the lease is going to be drilled. Otherwise, Keystone would probably want the permit for the second location.

Councilman Fogle moved that the permit be granted and the lease be amended with Keystone on land located near Lake Kirby to read that Keystone must build the land at least two feet in order to be above the spillway and must use steel tanks for sludge pits at the original proposed site. Councilwoman Proctor seconded the motion. The motion carried as follows:

OIL & GAS LEASE
& PERMIT - KEY-
STONE OIL COMPAN
APPROVED

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, and Hilton.
NAYS: Mayor Hall

Councilman Bridges moved that the Staff begin a study concerning oil leases in and around reservoirs or lakes. Councilman Rodriguez seconded the motion. The motion carried as follows:


AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Mayor Hall.
NAYS: None.

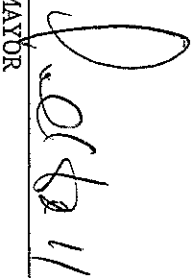
OIL LEASES NEAR
LAKES - REQUEST
STAFF FOR STUDY
APPROVED

I. D. Haley, Keystone Oil Company, suggested talking with the Texas Railroad Commission to get some ideas for regulations of oil leases in reservoirs.

The Council went into executive session to consider pending and CITY COUNCIL- contemplated litigation and personnel matters involving employment EXT. SESSION procedures.

After no action was taken in the executive session, Mayor Hall adjourned the meeting at 2:45 p.m.


CITY SECRETARY


MAYOR