

Pre-Council Work Session of the Mayor and City Council of the City of Abilene, Texas, to be held in the Basement Conference Room of City Hall on Thursday, **March 10, 1988**, at 8:30 a.m. to consider the following:

1. Discuss consent and/or regular agenda items.

Regular Meeting of the Mayor and City Council of the City of Abilene, Texas, to be held in the Council Chambers of the City Hall on Thursday, **March 10, 1988**, at 9:00 a.m.

CITY COUNCIL: Mayor Dale Ferguson; Council - Gary D. McCaleb, Betty Ray, Walter E. Wheat, Tom Ceniglis, Welton Robinson and Harold Nixon.

1. Call to Order.
2. **INVOCATION:** Councilman Gary McCaleb.
3. **Approval of Minutes:** Pre-Council Work Session and Regular City Council Meeting held February 25, 1988.

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 requests, in which event the item will be removed from the general order of business and considered in its normal sequence.

4. **Ordinances and Resolutions:**

- a. Consider Resolution authorizing the transfer of title from the City of Abilene to the State of Texas for the access road on Highway 83-84.
- b. Consider Resolution amending Resolution #71-1984 authorizing the sale of surplus right-of-way along Barrow (Mockingbird) Street from S. 3rd to S. 14th Street.
- c. Consider Resolution amending the lease agreement between the City of Abilene and Hillcrest Church of Christ concerning the property at S. First and Oak Streets.
- d. Consider on first reading - An ordinance for thoroughfare closure - **TC-00488** - Request from Abtex Beverage Company; agent, Carl Williams for a portion of the cul-de-sac at the west end of Colonial Drive and a 20' alley, located at Colonial Drive west of N. Clack, and set a public hearing for March 24, 1988 at 9:00 a.m.
- e. Consider on first reading - An ordinance changing zone district boundaries - **Z-00588** - Request from Mark & Amy Mayfield to add H (Historic overlay) to underlying HI (Heavy Industrial) district, located at 1502 Cherry, and set a public hearing for March 24, 1988 at 9:00 a.m.

- f. Consider on first reading - An ordinance amending Sections 23-255.4 and 23-264.7 of the Subdivision Regulations, concerning fees for preliminary utility plan and development permit application review, and set a public hearing for March 24, 1988 at 9:00 a.m.
- g. Consider on first reading - An ordinance amending Chapter 18, Traffic, of the Abilene Municipal Code, Section 18-257, concerning designation of parking spaces in the Library Parking lot.
- h. Consider a Resolution accepting the provisions of State Highway Commission Minute Order #86779 authorizing construction of Rebecca Lane - Catclaw Creek to U. S. Highway 277; consider oral Resolution reallocating bond funds.
- i. Consider Resolution establishing fees for swimming pool contractor licensing, testing, and permit to operate public pools and spas.

5. Award of Bid:

- a. 6" water pipe for Water Department, **Bid #240.**

REGULAR AGENDA

6. Ordinances & Resolutions:

- a. **Public Hearing:** Consider on second and final reading - an ordinance amending Chapter 23, Subpart C, Section 23-171, concerning portable signs, as recommended by the Planning & Zoning Commission.
- b. **Public Hearing:** Consider on second and final reading - an ordinance amending Chapter 23, Subpart C, Signs and Billboards, concerning sign regulations, as recommended by the City Council Sign Review Committee.
- c. **Public Hearing:** Consider on second and final reading - an ordinance amending Chapter 3, Advertising, concerning political signs.
- d. **Public Hearing:** Receive input on and consider the adoption of the recommendations of the Airport Master Plan Advisory Committee.

7. Other Business:

- a. Pending and Contemplated Litigation (see Notice for Executive Session, Litigation for listing subjects).
- b. Appointment and Evaluation of Public Officials (see Notice for Executive Session, Personnel for listing subjects).
- c. Resolution appointing 1988 Election Officials.

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EXECUTIVE SESSION

(Personnel)

The City Council may consider the appointment, employment, reassignment, duties, discipline, or dismissal of the City Manager, City Attorney, Municipal Court Judge, City Secretary, and the City Board and Commission Members. A complete list of the City Boards and Commissions are on file in the City Secretary's Office.

After discussion of the appointment and evaluation of the Council Appointees and the Board and Commission members, in executive session, any final action or vote taken will be in public.

(Litigation)

The City Council may consider pending and contemplated litigation subjects. The following subjects may be discussed:

1. Stanley V. Taylor v. City
2. Velasquez v. City
3. Smithwick-Wheeler v. City
4. Maria Slaughter v. City
5. Leonard Glenn Taylor v. City
6. James Hudson & AB Airlines v. City
7. State of Texas v. City
8. Ramsey v. City
9. Michael Mellen v. City
10. Patricia Partin v. City
11. Williams & Chambers v. City
12. Video Vue & American Video
13. McNutt v. City
14. Welch v. City
15. J. C. Haines v. City
16. City of Abilene v. Northeastern Software
17. Abilene Zoological Society v. Pinkerton's
18. Guadalupe Diaz v. City
19. Alicia Garcia v. City
20. Virginia Martin v. City
21. Frieda Hintz v. City
22. WTU Rate Request
23. City v. Board of Adjustment

Litigation is, by its nature, an on-going process, and questions may arise as to trial tactics which need to be explained to the City Council. Upon occasion, the City Council may need information from the City Attorney as to the status of the pending or contemplated litigation subjects set out above. After discussion of the pending and contemplated litigation subjects, in executive session, any final action, or vote taken, will be in public.

HC 9/18/87

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PRE-COUNCIL WORK SESSION, THURSDAY
March 10, 1988, 8:30 A.M.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
BASEMENT CONFERENCE ROOM, CITY HALL

The City Council of the City of Abilene, Texas, met in a Pre-Council Work Session on March 10, 1988, at 8:30 A.M. in the Basement Conference Room of City Hall. Mayor Dale Ferguson was present and presiding with Councilman Gary D. McCaleb, Councilwoman Betty Ray, Councilmen Walter Wheat, Tom Ceniglis, Welton Robinson, and Harold Nixon. Also present were City Manager Jim C. Blagg, Assistant City Managers Rickey Childers and Roy L. McDaniel, City Attorney Harvey Cargill, City Secretary Patricia Hancock and various members of the City Staff.

The Council briefly discussed various consent and regular agenda items. Bob Whitehead, Director of Public Works, briefed the Council on item 4h, specifically concerning construction of Rebecca Lane. Mr. Whitehead commended the Highway Department for their efforts in re-evaluating the design of Rebecca Lane to save the City approximately \$1 million in construction costs. By approving the Minute Order, the Council next would need to reallocate the use of the remaining 1980 bond funds. He reviewed a suggested list of projects, in priority order, the staff recommends to the Council for use of the 1980 bond funds. Lastly, staff recommends the Council re-allocate the 1986 bond authorization scheduled for Rebecca Lane improvements, to various street and bridge projects.

Lee Roy George, Director of Planning, briefed the Council on the political sign portion of the sign regulations. The Council will consider, in its regular session, repealing the current ordinance which, among other things, allows political signs to be placed no sooner than 30 days prior to the election. The Council's Committee on Sign Regulations considered the current provisions contained in Chapter 3, Advertising, of the City Code and recommended the exact wording be moved from Chapter 3 to Chapter 25, to be contained together with the remainder of their recommendations on signs. The Committee considered increasing the posting time from 30 days to 45 days prior to election, but voted to recommend to the Council 30 days.

Following the Committee's last meeting, the staff felt compelled to resubmit the 45 days for consideration and hence polled Committee members by telephone. Upon receiving a majority of Committee members in favor of increasing the posting time to 45 days, the staff changed the Committee's recommended ordinance to reflect that signs may be posted 45 days prior to the election, and that is the recommendation now before the Council.

Staff informed the Council that it may choose the 30-day, 45-day or even increase the posting time to 75 days prior to the election but would not recommend any time earlier than 75 days. Seventy-five days prior coincides with the first day a candidate may file for office.

David Wright, Director of Finance, provided information to the Council relative to the City establishing an endowment fund and project fund for the Senior Citizens Program.

There being no further questions, the meeting was recessed to the City Council Chambers for the Regular Council Meeting.

REGULAR CITY COUNCIL MEETING
March 10, 1988, 9:00 A.M.

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

Mayor Ferguson reconvened the City Council of the City of Abilene, Texas, into Regular Session March 10, 1988, at 9:00 a.m. in the City Council Chambers of City Hall.

Invocation was given by Councilman Gary McCaleb.

There being no corrections, additions, or deletions to the minutes of the Pre-Council Work Session and Regular City Council Meeting held February 25, 1988, the minutes stand approved as printed.

Councilman Wheat moved approval of the consent agenda items, 4a through 4i, and 5a as presented by the staff. The motion was seconded by Councilwoman Ray and the motion carried.

AYES: Councilman McCaleb, Councilwoman Ray, Councilmen Wheat, Ceniglis, Robinson, Nixon, and Mayor Ferguson.
NAYS: None.

4. Ordinances & Resolutions:

- a. Consider Resolution authorizing the transfer of title from the City of Abilene to the State of Texas for the access road on Highway 83-84.

The Resolution is numbered **8-1988** and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A WARRANTY DEED TO THE STATE OF TEXAS COVERING THE LAND ACQUIRED FOR THE RIGHT OF WAY OF THE WEST ACCESS ROAD OF U. S. HIGHWAY 85-84 (FROM HUMANA HOSPITAL NORTH TO THE HWY. 83-84/LOOP 322 INTERCHANGE).

b. Consider Resolution amending Resolution #771-1984 authorizing the sale of surplus right-of-way along Barrow (Mockingbird) Street from S. 3rd to S. 14th Street.

The Resolution is numbered 9-1988 and is captioned as follows;

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AMENDING RESOLUTION 71-1984 ADOPTED OCTOBER 25, 1984, AUTHORIZING THE SALE OF SURPLUS TRACTS OF LAND ALONG MOCKINGBIRD LANE FROM SOUTH 3RD STREET TO SOUTH 7TH STREET, AND BARROW STREET FROM SOUTH 7TH STREET TO SOUTH 14TH STREET.

c. Consider Resolution amending the lease agreement between the City of Abilene and Hillcrest Church of Christ concerning the property at S. First and Oak Streets.

The Resolution is numbered 10-1088 and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AMENDING A PRIVATE PARKING LOT LEASE AGREEMENT BETWEEN THE CITY OF ABILENE AS LESSOR AND E-Z SERVE, INC. AS LESSEE, DATED MARCH 8, 1984, WHICH PRIVATE PARKING LOT LEASE AGREEMENT WAS ASSIGNED TO HILLCREST CHURCH OF CHRIST OF ABILENE, INC., A TEXAS NON-PROFIT CORPORATION ON OCTOBER 14, 1987.

d. Consider on first reading - An ordinance for thoroughfare closure - **TC-00488** - Request from Abtex Beverage Company; agent, Carl Williams for a portion of the cul-de-sac at the west end of Colonial Drive and a 20' alley, located at Colonial Drive west of N. Clack, and set a public hearing for March 24, 1988 at 9:00 a.m.

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

e. Consider on first reading - An ordinance changing zone district boundaries - **Z-00588** - Request from Mark & Amy Mayfield to add H (Historic overlay) to underlying HI (Heavy Industrial) district, located at 1502 Cherry, and set a public hearing for March 24, 1988 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.

- f. Consider on first reading - An ordinance amending Sections 23-255.4 and 23-264.7 of the Subdivision Regulations, concerning fees for preliminary utility plan and development permit application review, and set a public hearing for March 24, 1988 at 9:00 a.m.

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

- g. Consider on first reading - An ordinance amending Chapter 18, Traffic, of the Abilene Municipal Code, Section 18-257, concerning designation of parking spaces in the Library Parking lot.

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.

- h. Consider a Resolution accepting the provisions of State Highway Commission Minute Order #86779 authorizing construction of Rebecca Lane - Catclaw Creek to U. S. Highway 277;

The Resolution is numbered 11-1988 and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ACCEPTING THE PROVISIONS OF STATE HIGHWAY COMMISSION MINUTE ORDER NO. 86779.

Consider oral Resolution reallocating bond funds. The Council authorized reallocating the remaining \$264,200 1980 bond funds to reconstruct N. 6th/Leggett Street from Willis Street to N. 1st Street; Pioneer Drive from N. 10th Street to approximately N. 3rd Street; N. Willis Street from N. 1st Street to N. 6th Street; and the N. 1st/Shelton Streets intersection. Additionally, the Council authorized reallocating \$1,123,250 in 1986 bond funds scheduled for Rebecca Lane improvements to various street and bridge projects. Presently, the schedule for those projects may include: right-of-way U. S. 83/84 - Loop 322 and 243 interchange; reconstruct Plaza from N. 10th Street to alley south of Capital;

replace Industrial Blvd. low water crossing at Lytle Creek; eliminate dips on twelve (12) arterial streets; widen S. 7th Street from Pioneer Drive to Danville; widen Industrial Blvd. from Danville to Treadaway; pave 2-course penetration on selected gravel streets; construction N. 10th from Winters Freeway to Wall; and construct Main Street from N. 1st Street to S. 1st Street, including Railroad Gate and crossing.

- i. Consider Resolution establishing fees for swimming pool contractor licensing, testing, and permit to operate public pools and spas.

The Resolution is numbered 12-1988 and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING A FEE SCHEDULE FOR THE LICENSING AND TESTING OF SWIMMING POOL CONTRACTORS AND FOR A FEE FOR PERMITS TO OPERATE OR MAINTAIN A PUBLIC OR RESTRICTED ACCESS POOL OR SPA.

5. Award of Bid:

- a. 6" water pipe for Water Department, Bid #240. The bid was awarded to Texas Independent Pipe Supply, as recommended by staff.

Evelyn Niblo, Chair of the Planning and Zoning Commission, was present and introduced an Ordinance considered on second and final reading amending Chapter 23, Subpart C, Section 23-171, concerning portable signs. She began her presentation by announcing the names and professions of the initial committee which developed the current sign regulations. She next presented the Commission's recommendations for changes to the ordinance relative to portable signs. She recommends the Council adopt the Planning & Zoning Commission's ordinance as presented. Mrs. Niblo offered rebuttal to the recommendations of the Council's Sign Review Committee, and gave an illustration of the number of signs (permanent and temporary) that would be allowed under their proposal. Mrs. Niblo stated that the Council's Committee has not held a public hearing on their proposal; that a public hearing was held to receive input on what the community would like included in the proposal, but not on the entire package. She continued by saying that the public does not understand the full effects of the proposal. Bill Billingsley, 1501 Mimosa, member of the Planning & Zoning Commission, was present and addressed the visibility triangle and how it would be affected if the Council's Sign Review Committee's recommendation were adopted. He illustrated his point by disseminating a drawing showing the placement of a portable sign, at an intersection, and what the visibility triangle would be.

Mayor Ferguson suggested that Commission members try to keep their comments confined to the Commission's proposed ordinance, rather than rebutting the other committee's proposal, since that committee has not presented its findings yet. Mayor Ferguson clarified that he would like to proceed by hearing the Council's Sign Review Committee's proposal, then the staff's proposals on repealing the Advertising section of the City Code for political signs. Following all the presentations, public hearings will be held on each of the three items and Mayor Ferguson will ask for individuals to speak in favor or in opposition to the Planning and Zoning Commission's proposals, the Sign Review Committee's proposal, and the political sign proposal. After everyone has had an opportunity to speak on all the items, the floor will be open for motions.

Marvin Smith, Chairman of the Council's Sign Review Committee, was present and presented his committee's recommendations amending Chapter 23, Subpart C, Signs and Billboards. He read aloud the Committee's charge based upon a letter to the Committee from Mayor Ferguson. He showed several slides illustrating situations the Committee felt needed correction; such as the placement and spacing of portable and/or permanent signs, safety, illegally placed signs, etc. He feels that the Committee's recommendations maintain safety, eliminates possibilities of hazards, improve enforcement capabilities, and helps businesses survive. He referenced the visibility triangle and the committee's definition of a visibility triangle. He recommended the Council adopt the Committee's ordinance as presented.

Lee Roy George, Director of Planning, briefed the Council on an ordinance considered on second and final reading amending Chapter 3, Advertising, concerning political signs. He reiterated his comments made during the Pre Council session. Staff recommends the Council approve the ordinance as presented, repealing Section 3-3 of the City Code.

Mayor Ferguson opened a public hearing to consider the recommendation on portable signs, as submitted by the Planning and Zoning Commission, and the following individuals spoke:

FOR:

- Kathy Webster, 3774 Woodridge, favored the current sign regulations, referencing some positive provisions, such as maintaining signs in good order, removal of abandoned signs, etc. She encouraged passage of the Commission's recommendations.
- James Wheeler, 4317 S. 6th, Architect. He feels the present ordinance is good because it provides safeguards to protect life and protects against visual pollution. He encouraged adoption of Planning and Zoning Commission's recommendations.

- Bill Minter, 1411 Tanglewood, was concerned with the definitions for portable and permanent signs. He recommended that portable signs remain portable and be treated separately from permanent signs.
- Joann Seaman, member of the Committee that developed the initial sign regulations. She described the situations in Abilene that were occurring that concerned the Planning and Zoning Commission enough to create the initial sign committee which developed sign regulations. She encouraged the Council to maintain the current regulations and adopt amendments to the portable signs as recommended by Planning and Zoning.

Against:

- Doris Lucas. She has been attempting to open a small business. She feels there are problems affecting small business that the Council is not aware of. She wants more signs for small businesses.

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

Mayor Ferguson opened a public hearing to consider the recommendations for amendments to the sign regulations, as submitted by the Council's Sign Review Committee, and the following individuals spoke:

For:

- Bob Harkness, 3302 Santa Monica, retired Military and owner of two small businesses. He agrees with the Committee's recommendations and stressed that small business needs more advertising.
- Billy Enriquez, 2929 S. 1st, owner of Kenny K Transmission. He does not like the current rules for portable signs and favors the Committee's recommendations.
- Ivan Dimock, 2809 Arlington Ave., manager of a small business, favors the Committee's recommendations.
- Jimmy Wilshire, owner, Jimmy's Auto Supply, 1560 N. Treadaway, favors the Committee's recommendations.

Against:

- Bill Billingsley, Member of the Planning and Zoning Commission, stressed the safety factors relative to the visibility triangle.

Ed Patton, 2126 Gathright, Member of the Planning and Zoning Commission, stressed safety. He addressed Section 23-171(6), flashing lights, and suggested it be amended to prohibit colored flashing lights on portable signs. He strongly recommended the wording for Section 23-171 remain as currently written.

Keith Garner, 2401 Sylvan, Member of the Planning and Zoning Commission, disagrees with the Committee's recommendation on hazardous signs. He suggested that hazardous signs or dilapidated sign provisions remain as currently written and not as suggested by the Committee. He showed slides of signs that were hazardous or dilapidated and, working with the current regulations, have been cleared up and brought into compliance or removed. Under the Committee's recommendations, hazardous, abandoned, or dilapidated signs would be allowed to remain.

Evelyn Niblo, Chairman of the Planning and Zoning Commission. She asked questions on the grandfathering of the temporary signs. She asked if this Committee's recommendations are adopted and later the Council decides to change the regulations, would the temporary portable sign be grandfathered. City Attorney responded that it would depend on what the Council chooses to do at the time the restrictions are changed. Secondly, he is checking what the State law is on grandfathering signs. He recalls that grandfathering is provided for permanent signs, but not portable signs. He stated that it is unclear at the present time whether portable signs would be grandfathered or not.

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

Mayor Ferguson opened a public hearing to consider an ordinance repealing Section 3-3 of the City Code, concerning political signs. There being no one present and desiring to be heard, the public hearing was closed.

Councilman Nixon expressed concern voting on these ordinances the way they are presented. He would like to see some way to make a few changes in the ordinances to make a good ordinance. He's concerned with the visibility triangle. He feels he could not vote on the ordinance without those things changed even though there are some provisions in it he likes.

Councilwoman Ray feels uncomfortable because if she votes against the Committee's recommendations, it will appear she's against small business, and she favors small business and feels small and large businesses can co-exist.

Councilman Ceniglis stated that he would have liked to see both committees get together and work up one ordinance, instead of two separate ones.

Councilman McCaleb inquired if it were possible to have a smaller committee consisting of two members from each committee and the staff review both ordinances to come up with one ordinance. He feels that both committees are concerned with safety. Additionally, he feels uncomfortable voting today, not knowing what conflicts in State sign laws may exist.

Some members of the Council stated it attempted to appoint only one Committee initially, and that was rejected by Planning and Zoning; therefore they must now consider two ordinances.

Councilman Robinson moved to approve the Ordinance amending Chapter 23, Sign and Billboards, as recommended by the City Council's Sign Review Committee. The motion was seconded by Councilman Ceniglis and the motion carried.

AYES: Councilmen Wheat, Ceniglis, Robinson, and Mayor Ferguson.
NAYS: Councilman McCaleb, Councilwoman Ray, and Councilman Nixon.

The Ordinance is numbered 11-1988 and is captioned as follows:

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

Councilman Wheat moved to approve the Ordinance amending Chapter 3 concerning political signs as recommended by staff. The motion was seconded by Councilman Ceniglis and the motion carried.

AYES: Councilman McCaleb, Councilwoman Ray, Councilmen Wheat, Ceniglis, Robinson, Nixon, and Mayor Ferguson.
NAYS: None.

The Ordinance is numbered 12-1988 and is captioned as follows:

AN ORDINANCE AMENDING CHAPTER 3, "ADVERTISING," OF THE ABILENE CITY CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

James Condry, Director of Traffic & Transportation, briefed the Council on the recommendations of the Airport Advisory Committee. He reminded the Council that the Airport Layout Plan, which is part of the Airport Master Plan, must be submitted to the Federal Aviation Administration (FAA) for approval. This Layout Plan must be approved to continue to receive Federal funding for the Airport. Additionally, he informed the Council that the Minimum Standards for Aeronautical Activities are not required by FAA. FAA strongly encourages cities to develop standards, but they are not required. Because FAA does not require Minimum Standards, FAA will review the standards and supply opinions for them. However, FAA does not approve or disapprove Minimum Standards.

Mayor Ferguson opened a public hearing to consider the aforementioned request, and the following individuals spoke:

For:

- Mr. Payne, Experimental Aircraft Association, Local Chapter. He questioned some provisions under Section H, Specialized Commercial Flying Services. He suggested if the recommendations are adopted, the Airport Manager have some flexibility in the lease requirement sections.

- Mike Dohrse, 4709 Stonehedge, Chairman of the Committee. Mr. Dohrse addressed Mr. Wheeler's and Mr. Whitten's comments relative to subpart (g). He explained the background behind the amendment to subpart (g) including several communications between he and FAA, Fort Worth. He read aloud a recent letter received from Mr. Ronald L. Staley, Supervisor, Airport Programs Section, U. S. Department of Transportation, Federal Aviation Administration, Fort Worth. In Mr. Dohrse's opinion, Mr. Staley's letter supports the proposed minimum standards. He encourages the Council to adopt the proposed revised Minimum Standards for Aeronautical Activities, proposed site locations for fuel dispensers (both temporary and permanent), and the **revised Airport Layout Plan, which is contained within the Airport Master Plan.**

The Committee further recommends that an organization that fits the category identified by the revised Minimum Standards for Aeronautical Activities in chapter 1.E, (Aircraft Fuels and Oil Dispensing Services) pay more for their lease than any other category of Fixed Base Operator. The assessment should be established when the contract is negotiated with the individual company. A method suggested by James Condry, Director of Traffic & Transportation, would be to develop zones of operation at the Airport. A different lease fee for each zone would be established.

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In addition, the Committee is of the strong opinion that the City is obligated to renegotiate the lease of any Fixed Base Operator whose lease requirements are in excess of the revised Minimum Standards for Aeronautical Activities. Any Fixed Base Operator should not be held to a lease requirement that exceeds the Minimum Standards for Aeronautical Activities.

Against:

Greg Wheeler, Jetwest, Inc. Mr. Wheeler reviewed the situation and lease concerning Jetwest, Inc., which is considered a fixed base operator. Jetwest attempted, initially, to be a fuel-only dispenser in 1987 when it originally negotiated it's lease. The City told Jetwest, at that time, that sale of fuel-only would not be acceptable and the minimum standards for Fixed Base Operators would be applied to Jetwest. Because of the negotiations with the City, Jetwest now has a major investment at the Airport. He added that if a new company, by making only a minor investment for fuel services, is given the right to compete for fuel sales with Jetwest, their investment would be lost. The lease would be forfeited and likely the City will take over the ownership of the buildings and improvements which are located on City land at the Airport. He feels that this non-uniform treatment of fuel suppliers will result in taking of privately-owned property at the Airport and compensation for taking such will be necessary.

C. G. Whitten, representing Abilene Aero, Inc. referenced objection to the deletion of subpart (g) of the Minimum Standards, Aircraft Fuels and Oil Dispensing Service. He recommends they reinstate subpart (g) to read: "no fuel may be dispensed on the Abilene Municipal Airport, unless the operator provides an aircraft dealership, airframe and power plant repair facilities, aircraft rental, and flight training". He recognized Ollie Higgins and Pin Dyer, also representing Abilene Aero and present and available to answer questions. He made it clear that he was not present to criticize the work of the Committee, but record objections to some of the proposed standards.

He made five (5) specific points: (1) Abilene Aero does not object to competition. He gave some history on the partnership between Abilene Aero and the City over the past 17 years. The present lease was negotiated in 1978 and he referenced required services as outlined in the lease, paragraph 23. Abilene Aero has invested approximately \$3 million on facilities so those services could be met. (2) Abilene Aero objects to the deletion of subparagraph (g), Aircraft Fuels and Oil Dispensing Service, because in the present economic

environment, fuel sales at the airport are the only profit centers available to any fixed base operator. Abilene Aero is a small business struggling to survive. (3) Recently, Abilene Aero has suffered significant losses at the Airport. It is believed by the Directors of Abilene Aero, that if the City entered into a lease with a fuel-sales only business, that Abilene Aero will have to close its doors. (4) If the City entered into a lease with a fuel-sales only business, that would breach the terms of the Abilene Aero lease and he quoted from the Abilene Aero lease, paragraph #59. (5) Aside from its effect on Abilene Aero, he feels by deleting subparagraph (g) in the standards is poor policy, because it would be lowering standards, and therefore jeopardizing the business and quality of services at the Airport.

He said FAA also feels the deletion of (g) would be a mistake and quoted from a letter by James Condry, dated 12/10/87, to Donald Payne, FAA Ft. Worth, concerning an interested company in providing fuel-only services at the Airport. He next quoted from a letter by Gene Faulkner, FAA, in response to Mr. Condry's inquiry, saying that they strongly object to a change - the minimum standards that would allow the sale of fuel-only activities at the Airport.

He again recommended that if the Council adopts the Minimum Standards as recommended by the Committee, they re-insert subparagraph (g).

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

The Council discussed the zoning issue; then asked Mr. Hodge to respond to the entire proposal.

Bob Hodge, Airport Manager, spoke to the proposed recommendations. He stated that if the standards for sale of fuel-only activities is approved, the Airport may lose the current Fixed Base Operators. He is in full agreement that the present minimum standards are restrictive. He favors the proposed revisions to the minimum standards with one reservation. His only reservation is in relation to the mandated square foot requirements, as mentioned by Mr. Payne. He suggested that some variance or room for negotiation be allowed whereby the number of square footage to be leased could be addressed by the Airport Manager and taken to the City Council for final approval. Overall, he feels the remainder of the changes will benefit the City and the Airport. As far as the temporary sites for fuel dispensers, he feels are good if they, in fact, remain temporary. Some time frame should be specified in the lease.

Mayor Ferguson moved to amend the minimum standards for Aeronautical Activities, Section H, Specialized Commercial Flying, to allow variances from the minimum square foot use requirements upon review and authority of the Airport Manager and final approval by the Council. The motion was seconded by Councilman Wheat and the motion carried. Therefore, Section H, Specialized Commercial Flying, Section 2, Minimum Standards, subpart (a) shall be amended by adding the following language at the end of Subpart (a): Any person may request a variance from the square footage lease requirements for ground space, floor space for aircraft storage, and/or office space by filing written notice of the request in the Office of the Airport Manager. Upon review and authority of the Airport Manager, the variance request shall be submitted to the City Council for final approval.

The Council requested an opinion from the City Attorney on the proposed Minimum Standards. Harvey Cargill, City Attorney, responded to the comments made by Abilene Aero. The lease between the City and Abilene Aero, specifies specific services (in paragraph 23) which they must provide. The lease between the City and Jetwest specifies that they shall provide services in accordance with the minimum standards, or any amendments to same that may be approved by the City Council. The proposed minimum standards are very similar to present lease requirements with Abilene Aero. The proposed minimum standards and the Abilene Aero lease were both submitted to FAA. After their review, FAA suggested language that is presently in the proposed minimum standards. In particular, the staff was concerned about whether the standards would be discriminating and, under FAA guidelines, improper. Basically, the City Attorney responded that he believes the standards that are proposed are in conformity with FAA guidelines.

The motion on the floor was then voted and carried as follows:

AYES: Councilman McCaleb, Councilwoman Ray, Councilmen Wheat, Ceniglis, Robinson, Nixon, and Mayor Ferguson.
NAYS: None.

Councilman Ceniglis moved to approve the entire recommendations of the Committee as presented and amended. The motion was seconded by Councilman Wheat and the motion carried.
AYES: Councilmen Wheat, Ceniglis, Robinson, and Mayor Ferguson.

NAYS: Councilmen McCaleb and Nixon.
ABSTAIN: Councilwoman Ray.

Mayor Ferguson recessed the Council into executive session in accordance with State law, Sections 2e and 2g of the Open Meetings Act, to consider pending and contemplated litigation and the appointment and evaluation of public officials.

The Council reconvened from executive session and reported no action taken in Executive Session.

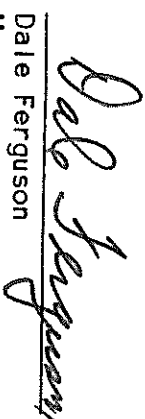
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The Resolution is numbered 13-1988 and is captioned as follows:

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AND THE BOARD OF TRUSTEES, ABILENE INDEPENDENT SCHOOL DISTRICT; APPOINTING VARIOUS ELECTION OFFICIALS FOR THE JOINT CITY/SCHOOL ELECTION FOR THE MAY 7 AND MAY 21, 1988 ELECTIONS.

There being no further business, the meeting adjourned at 12:45 p.m.


Patricia Hancock
City Secretary


Dale Ferguson
Mayor