

CITY COUNCIL MEETING
August 28, 2003, 8:30 a.m.

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

The City Council of the City of Abilene, Texas, met in Regular Session on August 28, 2003, at 8:30 a.m. in the City Council Chambers of City Hall. Mayor Grady Barr was present and presiding with Councilmen Kris Southward, Anthony Williams, John Hill, Norm Archibald, and Jimmy McNeil and Councilwoman Kay Alexander. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, Assistant City Secretary Renee Scott, and various members of the City staff.

Councilman Hill gave the invocation.

Lillian Boswell, a 5th grader at Reagan Elementary School, led the Pledge of Allegiance. Lillian was accompanied by her mother, Amy Boswell.

Mayor Barr, assisted by City Secretary Jo Moore, presented Employee Service Awards to the following individuals for their years of service:

30 Years	Gary Hudson	Technical Services Manager Public Works
25 Years	Jim Fleming	Fire Captain Fire

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the August 14, 2003 Regular City Council Minutes, Councilman Williams made a motion to approve the minutes as printed. Councilman Southward seconded the motion, and the motion carried.

AYES: Councilmen Williams, Archibald, Hill, Southward, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: None

CONSENT AGENDA

3.0 Councilman Archibald made a motion to approve consent agenda items 3.1 through 3.10, and first reading of items 3.11 through 3.13, as recommended by staff. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Archibald, Williams, Southward, Hill, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: None

Resolutions:

3.1 Oral Resolution authorizing the City Manager to accept AIP grant 3-48-0002-027-2003, which represents federal earmark funds, as offered in the grant agreement transmitted August 18, 2003.

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- 3.2 Oral Resolution authorizing the City Manager to execute the lease with the Federal Aviation Administration for a storage building site.
- 3.3 Oral Resolution approving the Abilene/Taylor County 9-1-1 District FY03 Revised and FY04 Proposed Budgets.
- 3.4 Oral Resolution approving continuation of agreement with Cingular Wireless Services, to include service enhancements.
- 3.5 Oral Resolution authorizing the City Manager to execute final change orders to allow final payment of Ivie Pipeline Project related contracts and ratification of contract payments to Hughes National Power and Smithwick Construction for emergency electrical repairs.
- 3.6 **Resolution** approving schedule of rates and charges for Solid Waste Services Division.

The Resolution is numbered **23-2003** and captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE, TEXAS, REVISING RESOLUTION NO. 29-2002, THE SCHEDULE OF RATES AND CHARGES FOR THE SOLID WASTE SERVICES DIVISION, ADOPTED OCTOBER 10, 2002.

Resolution approving fee schedules for the Building Inspection Division.

The Resolution is numbered **24-2003** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING A FEE SCHEDULE FOR CERTAIN BUILDING CONSTRUCTION FEES, AND ESTABLISHING AN EFFECTIVE DATE.

- 3.7 Resolution authorizing \$34,000 of TIF funds to the Abilene Cultural Affairs Council for 2003/2004 programming.

The Resolution is numbered **25-2003** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE ABILENE REINVESTMENT ZONE NUMBER ONE BOARD A/K/A TAX INCREMENT FINANCING DISTRICT BOARD (TIF) OF THE CITY OF ABILENE, TO USE TAX INCREMENT FINANCING FUNDS TO SUPPORT THE PROGRAMMING ELEMENTS OF THE ABILENE CULTURAL AFFAIRS COUNCIL (ACAC).

- 3.8 Resolution authorizing the change in use of TIF funds to support Frontier Texas!

The Resolution is numbered **26-2003** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE ABILENE REINVESTMENT ZONE NUMBER ONE BOARD A/K/A TAX INCREMENT FINANCING DISTRICT BOARD (TIF) OF THE CITY OF ABILENE, TO USE TAX INCREMENT FINANCING FUNDS TO SUPPORT THE OPERATIONAL ELEMENTS OF FRONTIER TEXAS!

Bid Awards:

- 3.9 **Bid #CB-3054** - Water Truck for Street-Drainage Services. The bid was awarded to Young's Truck Center, the low responsive bidder, in the amount of \$50,200.00.
- 3.10 **Bid #CB-3049** - Wheel Loaders for Street-Drainage Division and Water Department. The bid for Item 1 was awarded to Asco Equipment and Item 2 was awarded to Abilene New Holland, the low responsive bidders, in the amount of \$255,708.00.

Ordinances:

- 3.11 **Z-03503** – Rezone from AO (Agriculture Open Space) to PDR (Planned Development Residential) zoning district property located on Rebecca Lane and set a public hearing for September 11, 2003 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-80 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.12 **Z-02903** – Rezone from AO, GC & PDD (Agriculture Open Space, General Commercial & Planned Development) to PDD (Planned Development) zoning district property located on Loop 322 and set a public hearing for September 11, 2003 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-81 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.13 **Z-03303** – To amend PDD-73 regarding type of building materials, landscaping and letter signage and set a public hearing for September 11, 2003 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE; AND ORDINANCE NO. 30-2000 CONCERNING THE PDD #73 PLANNED DEVELOPMENT DISTRICT; DECLARING A PENALTY AND CALLING A PUBLIC HEARING; AND AN EFFECTIVE DATE.

REGULAR AGENDA

Agenda items 4.1 and 4.2 were moved to be considered after item 4.3.

Resolutions:

4.3 David Wright, Finance Director briefed the Council on items 4.3 A., 4.3 B., and 4.3 C. Mr. Wright noted that although these are three separate items, each requiring a separate vote, one public hearing could be held to address all three. As part of the proposed FY 04 budget, staff has proposed the creation of a Stormwater Utility to help decrease flooding in the City. The creation of the utility will assist in continued flood control measures and address stormwater quality issues. The utility will fund approximately \$900,000 of stormwater related costs previously paid by the General Fund. Overall budget for the utility is approximately \$1.9 million, which will be funded by fees as established by the City Council. These rates will be considered for approval at the September 25, 2003 City Council meeting. During the budget worksessions of July 16-17, 2003, the City Council, approved a General Fund Revised 2002-03 Budget of \$54,221,950 and a Proposed 2003-04 Budget of \$55,442,110. The Proposed Budget can be funded at the current tax rate of 64.05 cents. First reading of the FY 2004 Budget approved by Council on July 17, 2003 set the tax rate at 64.05 cents.

Staff recommends that the City Council hold the public hearing and then approve 1) the Ordinance creating the Stormwater Utility System, 2) the Revised 02-03 and Proposed 03-04 Budget Ordinance, and 3) the Proposed 03-04 Tax Levy Ordinance.

Prior to the public hearing Mayor Barr noted in order for Council to hear all comments each speaker would be allowed 5 minutes and can give input on the Stormwater Utility District, the Budget and the Tax Rate.

Mayor Barr stated that following the public hearing, he would ask Council to consider a motion to approve the Stormwater Utility District with an overall budget of approximately \$300,000 less than previously proposed for a total of \$1,680,000 and that although Council will not vote on the fee structure at this meeting, he would also ask that residential rates remain the same as published and that commercial rates be lowered from .00097 to .00050 per square ft. per month with a \$5.00 minimum and \$25.00 maximum cap.

Mayor Barr requested, if approved, that Council review the rate structure in March of 2004 and again in August 2004.

Mayor Barr further stated he would also ask, following the public hearing, Council to consider a motion to lower the City's tax rate by one half cent from 64.05 cents per \$100 valuation to 63.55 cents.

City Manager, Larry Gilley, stated if the Council chooses to approve Mayor Barr's proposals, that staff is committed to implement City programs and services as efficiently as possible. If Council chooses to lower the tax rate to 63.55 cents staff will identify sources and bring back to Council, within the next few weeks, \$165,000 in cuts to offset the decrease in revenue.

Mayor Barr opened a public hearing on the items. The following individuals addressed the Council:

- Alton Smith, 3026 Woodway Circle, stated the utility fee is unfair and questioned why businesses should pay more than residential.
- Bob Hammond, 524 FM 126, Abilene Independent Association of Business Owners, representing 84 Abilene businesses, opposed to fee and questioned what can be expected from the District?
- Raul Ruiz, 2234 Minter Ln., opposed, questioned why others should pay for citizens living in flood prone areas.
- Percy Parsons, 742 Davis Dr., stated “do what’s needed, he’s getting used to it and that he doesn’t get any deals, just pay’s bills”.
- Audrey Lovett, 110 Teakwood Circle flood victim, resents the fact that Elm Creek has not been cleaned out.
- Lynn Ingram, 2210 Piping Rock, small business owner, questioned what citizens will get for their money, is there truly a need and how the City got to this point? Mr. Ingram stated if this is pursued strong accountability is needed.
- Robert Harkness, 3302 Santa Monica, stated this fee will impact business owners and that City government needs to look out for businesses and residences.
- Jack Hadlock, 1209 Lytle Lake Dr., stated he shouldn’t have to pay for what other property owners in his area wouldn’t allow, noting that when the City attempted to install a drainage system other property owners wouldn’t allow the City on to their property.
- Ron Smith, 625 Greenvally, owner of Precision Unlimited, asked the City Council to consider the impact this will have on businesses, citizens and non-profit organizations.
- Burl Harris, 1464 Tanglewood, stated there is a need to increase the tax base and noted this could be done by getting businesses into Abilene.
- Mike Wheeler, 3918 Monticello Circle, concerned about increase in taxes and noted the City could save money by contracting work versus setting up a new Stormwater District Department.
- Gerald Phillips, 8333 Parkway, Wylie ISD employee, suggested that the City use prisoners for creek cleaning.

- Charles Kitchell, 1873 Elmwood Dr., retired Civil Engineer, stated one time funding will not solve the flood problem that continued funding is needed.
- Steve Sitzes, 1742 Sandpiper, owner of Abilene Portable Buildings, stated the City seems more interested in getting new businesses in versus preserving existing ones.
- Raymond Jones, 2016 Sylvan, retired businessman and former Abilene Council member, stated the fee will not bring more businesses to Abilene, if passed the fee will never be removed, and requested Council deny the Ordinance or table it.
- Scott Senter, 3401 Curry Lane, supportive of solving problems, noting many areas of Abilene have flood problems, that it's not just a creek issue, and that there is a need to do something toward a solution.
- Joe Spano, 2909 Arrowhead, asked City Council to be fair, questioned if the freeway being raised possibly contributed to the flood problem.
- Jerry Smith, business owner since 1965, stated he is for anything that will help solve flood problems, but those in Administration should be held accountable.
- Gerald Edwards, 1533 Rainey Rd., owner of car washes, stated he cannot stay in business if cost is passed on to customers, and that he hopes for a solution for everyone.
- Melvin Henson, Comanche Trail, Lot 824, Ft. Phantom Lake, business owner, stated he cannot afford anymore taxes.
- Jack Langford, 734 Westview Dr., representing retirees, stated there is no work in Abilene, that this fee is a hidden property tax and the answer is to get businesses into Abilene.
- W. M. Glover, 1739 N. 10th, stated DCOA tax should be used for something since Abilene is not getting any new businesses, and that the best economic development is to make the City receivable for newcomers.
- Ray Sisneros, 8333 Horseshoe Circle, auto business owner, distributed a handout on "Sales needed to compensate for Stromwater Utility Fee", addressed what sales volume is needed to compensate for fee and stated City Council needs to assess what is being done to businesses.
- Welton Robinson, 1749 Hillview, stated this is an unnecessary new debt and that retirees and senior citizens cannot afford it.

- Valentino Hernandez, 742 Mandella, plant manager for Bandag, stated this is not the way to do business and that the City Council needs to look at resources and ways to retain businesses.
- Jesse Summers, 2760 Victoria, disabled vet, stated he doesn't feel the issue has been fully researched and that the solution is a flat charge (development tax).
- Tom Ceniglis, Sr., 702 Oak St., tire storeowner, stated he cannot increase prices because he would go out of business if he did.
- Celia Davis, 2441 S. 10th, Vice President, Hendrick Health System, stated Hendrick is fully supportive of the fee due to the 2002 flood impact on hospital employees and that the cost will not be passed on.
- Delbert Ball, 418 Woodlawn, opposed, noted another route needs to be looked at (using prisoners for creek cleaning).
- Herman Slone, 1249 Matador, questioned why inmates in City jail are not being used for creek cleaning and stated he would like to meet with City Manager and Mayor to discuss issues.
- Tom Britting, questioned fairness and equitability of fee, concerned that good decisions are not being made.
- Ronnie Ingle, 3910 S. Treadaway, stated with all the fees added up he cannot stay in business and cannot pass the cost on to customers, that creating a new tax and a new department is not the answer.
- Cal Sanford, 2110 Rim Rock Rd., of the Clock Doc, addressed income not being equitable to the increased expenses in Abilene, collectively we should all help the community, but how that is being approached is questioned.
- Chris Nafe, 3848 Georgetown, asked City Council to consider other options than the fee and addressed accountability issues.
- Bruce Bixby, 4349 Oldham Ln., President, Abilene Independent Association of Business Owners, asked City Council to find innovative ways to hold spending line; sale or auction City property (returning it to tax roles), noted tax dollars are not supposed to be used on Frontier Texas! and asked City Council to stay aware of that.

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

Council and staff discussion included: 1) clarification of storm water utility fees being assessed monthly based on square footage of hard surface (hard surface of residential being house roof line, garage and outbuildings with commercial hard surface to include paved parking areas);

2) employees for district to include 18 current employees, one new engineer (supervisory position), and one new contract administrator; 3) activities and projects of the utility; 4) DCOA funds not qualifying for utility use; 5) use of inmate labor; 6) federal funding, possibility of reinitiating Corp of Engineer study, and required local match; 7) affect on property owner insurance rates and economic development; 8) mitigating cost where detention ponds were established; 9) accountability, communication, quality and quantity issues; 10) tax increase required if system were funded by general fund; 11) benefits to all users of Abilene water but only Abilene citizens pay; 12) the 1.9 million fund consisting of approximately \$725,000 in new costs; 13) concerns about imposing the new storm water utility fund on Abilene property owners without any offsetting cuts in property tax; 14) considering best interest of Abilene citizens and being as fair as possible in taking positive step forward in addressing flood control; 15) proposed ½ cent reduction in tax rate viewed as a good faith effort in being sensitive to the public, and; 16) the previous year budget accomplishments and continued needs.

Mayor Barr thanked the Council and staff then stated if the Storm Water Utility Fund is approved he recommends the Council review the Utility in six months and again in one year. Mayor Barr also thanked the public in attendance and encouraged those with solutions to consider serving the community by running for City Council.

Mayor Barr noted a separate vote would be needed on each of the ordinances.

4.3 A. Councilwoman Alexander made a motion to approve the Ordinance amending Chapter 32 “Utilities” of the Abilene Municipal Drainage Utility System (Stormwater Utility System) with an overall budget of approximately \$300,000 less than previously proposed for a total budget of \$1,680,000. Councilman McNeil seconded the motion, and the motion carried.

AYES: Councilmen Archibald, Williams, Hill, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: Councilman Southward

The Ordinance is numbered **30-2003** and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 32 “UTILITIES”, OF THE CITY OF ABILENE MUNICIPAL CODE BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENFORCEMENT; AND CALLING FOR A PUBLIC HEARING.

4.3 B. Councilman McNeil made a motion to approve the Revised 2002-03 Budget and Proposed 2003-04 Budget Ordinance. Councilman Archibald seconded the motion, and the motion carried.

AYES: Councilmen Archibald, Williams, Hill, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: Councilman Southward

The Ordinance is numbered **31-2003** and captioned as follows:

AN ORDINANCE APPROVING REVISED BUDGET FIGURES FOR FISCAL YEAR 2002-2003; APPROVING AND ADOPTING BUDGET FOR THE FISCAL YEAR OCTOBER 1, 2003, THROUGH SEPTEMBER 30, 2004, FOR THE CITY OF ABILENE; APPROPRIATING FUNDS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING

4.3 C. Councilwoman Alexander made a motion to approve the Ordinance setting the FY 2003-04 Tax Levy at 63.55 cents per \$100 valuation. Councilman Archibald seconded the motion, and the motion carried.

AYES: Councilmen Archibald, Williams, Hill, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: Councilman Southward

The Ordinance is numbered **32-2003** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, APPROVING THE ASSESSMENT ROLL FOR 2003, LEVYING AN AD VALOREM TAX FOR THE CITY OF ABILENE, TEXAS, FOR THE YEAR 2003; PROVIDING FOR THE ASSESSMENT AND COLLECTION THEREOF; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING; PROVIDING AN EFFECTIVE DATE.

4.1 Sharon Hicks, City Attorney briefed the Council on the Rural Metro rate increase request. Ms. Hicks noted Rural Metro's last rate increase was in June 2000 and the services provided are funded from user fees only. Rural Metro provides standby services to the City and non-profit organizations free of charge and have assisted in purchasing disposable medical supplies for the Abilene Fire Department. Rural Metro is requesting the current rate: Basic Life Support \$300.00, Advanced Life Support \$342.00 and Mileage \$6.50 be increased to Basic Life Support \$342.00, Advanced Life Support \$370.50, and Mileage \$8.25. Staff recommends, following the public hearing, that Council approve by Oral Resolution the rate increase per Rural Metro's request.

Mayor Barr opened a public hearing on the item, and the following individual spoke in favor of the request:

Rick Stotts, Rural Metro General Manager, requested City Council approve the request and noted Rural Metro provides several thousand dollars worth of free services each year.

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

Councilman Southward made a motion to approve by Oral Resolution the request by Rural Metro Ambulance Services for an emergency ambulance service rate increase. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Archibald, Williams, Southward, Hill, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: None

Ordinances:

4.2 Sharon Hicks, City Attorney briefed the Council on the second and final reading of the Ordinance denying the TXU gas rate increase request. Ms. Hicks noted on May 23, 2003 TXU Gas filed a *Statement of Intent of TXU Gas Distribution* to change the rates charged for natural gas service in Abilene. TXU's request was for a *Statewide* Distribution System increase of 69.5 million of 7.24%. TXU anticipates that the average residential increase would be approximately \$3.59 per month. TXU wants to move to a single Statewide rate.

The City has joined and is participating with an Allied Coalition of Cities comprised of over 120 other Cities in opposition to the Company's filing at the Railroad Commission. The Coalition is hiring consultants and attorneys and is reviewing this single Statewide rate request.

The last rate increase occurred in January 2002. TXU requested a 12.49% increase, and the Council approved an increase of 10.12%, approximately 80% of the initial request. Costs of the rate analysis are borne by TXU Gas.

Staff recommends, following the public hearing, that Council approve on second and final reading the Ordinance denying TXU's rate increase request. The case will then proceed at the Railroad Commission where a decision will be rendered, which is anticipated to take up to one year.

Mayor Barr opened a public hearing on the item, and there being no one present and desiring to be heard, the public hearing was closed.

Councilman Hill made a motion to approve the Ordinance denying the TXU Gas rate increase request. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Williams, Southward, Hill, Archibald, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: None

The Ordinance is numbered **29-2003** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, DENYING TXU GAS COMPANY'S REQUEST TO CHANGE RATES IN THIS MUNICIPALITY AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY SYSTEM; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; PROVIDING AN EFFECTIVE DATE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; CALLING A PUBLIC HEARING; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO TXU GAS COMPANY.

EXECUTIVE SESSION

Mayor Barr recessed the Council into Executive Session pursuant to Sections 551.071, 551.074, and 551.072 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, and to consider the purchase, exchange, lease or value of real property.

Councilmen Archibald and Williams left the meeting following the Executive Session.

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

There being no further business, the meeting was adjourned at 12:27 p.m.

Jo Moore
City Secretary

Grady Barr
Mayor

