

**CITY COUNCIL MEETING**  
**September 25, 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 September 25, 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.

Mayor Barr pointed out to the Council and the audience that the bottled water at the Council's places is the first water flowing from Lake Ivie to Abilene.

Councilwoman Alexander gave the invocation.

Emanuel Hernandez, a 4<sup>th</sup> grade special education student at Thomas Elementary School, led the Pledge of Allegiance. Emanuel was accompanied by his principal and two of his teachers.

**PROCLAMATIONS**

Mayor Barr presented to Mary Lou Garrett, a proclamation recognizing October as "National Physical Therapy Month". Mayor Barr also presented to Dee Wilson, a proclamation recognizing October as "Domestic Violence Awareness Month".

**DISPOSITION OF MINUTES**

2.0 There being no corrections, additions, or deletions to the September 11, 2003 Regular City Council Minutes, Councilman Archibald made a motion to approve the minutes as printed. Councilman Williams 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 Southward made a motion to approve consent agenda items 3.1 through 3.12, and first reading of items 3.13 and 3.14, as recommended by staff. Councilman Hill 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 approving: DCOA's annual contract renewals with the City of Abilene, and authorizing the City Manager to execute the contract on behalf of the City; the Abilene Industrial Foundation, Inc.; Texas Tech University Small Business Development Center; and the Chamber of Commerce for the Military Affairs Committee.
- 3.2 Oral Resolution approving the appointment of Sandy Bowen to the Community Action Program Board of Directors.
- 3.3 Oral Resolution authorizing the City Manager to enter into a contract for Architectural/Engineering Services, for the new Public Health Facility, with The Tittle Luther Partnership for a fixed fee of \$180,000 for basic services, plus reimbursable items at costs.
- 3.4 Oral Resolution confirming the City Manager's appointment of Mr. R. Bradford Fitzer as Fire Chief for the City of Abilene, effective October 1, 2003.
- 3.5 Oral Resolution authorizing Heil of Texas to make emergency repairs to refuse truck #3216 for an estimated amount of \$48,832.33.
- 3.6 Resolution in support of the continued operation and expansion of the Veterans Medical Center in Big Spring, Texas.

The Resolution is numbered **28-2003** and captioned as follows.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS IN SUPPORT OF THE CONTINUED OPERATION AND EXPANSION OF THE VETERANS MEDICAL CENTER, BIG SPRING, TEXAS.

- 3.7 Resolution re-designating Habitat for Humanity – Abilene, Inc., as a Community Housing Development Organization (CHDO) and authorizing disbursement of HOME Investment Partnerships (HOME) funds.

The Resolution is numbered **29-2003** and captioned as follows.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING THE REDESIGNATION OF HABITAT FOR HUMANITY, ABILENE, INC., AS A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO), AND AUTHORIZING DISBURSEMENT OF HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUNDS.

- 3.8 Resolution authorizing the City Manager or his designee to execute an Electric Supply Agreement pursuant to the contract to be signed by Cities Aggregation Power Project, Inc. (CAAP) for deliveries of electricity effective January 1, 2004.

The Resolution is numbered **30-2003** and captioned as follows.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE WHICH MAY INCLUDE THE CHAIRMAN OR CITIES AGGREGATION POWER PROJECT, INC., (CAAP) TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT PURSUANT TO THE CONTRACT TO BE SIGNED BY CAPP FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2004.

**Bid Awards:**

- 3.9 **Bid CB# 3076** – Construction of Colobus Monkey Exhibit at the Abilene Zoological Gardens. The bid was awarded to BullDog Contractors, Abilene, Texas in the amount of \$28,638.00.
- 3.10 **Bid CB# 3072** – Truck-mounted Sewer Jet Rodder for the Sewage Collection Division. The bid was awarded to Underground, Inc., in the amount of \$79,371.00.
- 3.11 **Bid CB# 3080** – Eight treadmills to equip all Fire Stations. The bid was awarded to Fitness Specialist, Odessa, Texas in the amount of \$31,592.00.
- 3.12 **Bid CB# 3082** – Plastic pipe for new and replacement line installation for the Water Distribution and Sewage Collection Divisions. The bid was awarded to Plastic Wholesale, Abilene, Texas in the amount of \$87,984.80.

**Ordinances:**

- 3.13 **Z-03703** – To amend PDD-76 to allow hospital, medical diagnostic center, medical technology center and medical research center uses, property located at 5500 Hwy 277 and set a public hearing for October 9, 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. 30-2002 CONCERNING THE PDD #76 PLANNED DEVELOPMENT DISTRICT; DECLARING A PENALTY AND CALLING A PUBLIC HEARING; AND AN EFFECTIVE DATE.

- 3.14 Zoning Ordinance amendment of Section 23-363, "Definitions", to change the number of unrelated persons allowed to live in a single dwelling unit from 3 to 4, and set a public hearing for October 23, 2003 at 5:30 p.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.

## REGULAR AGENDA

### Ordinances:

4.1 Andy Anderson, Director of Public Works, briefed the Council on a Resolution approving the Municipal Drainage Utility (Stormwater Utility System) fee schedule, and establishing an effective date of October 1, 2003.

Mr. Anderson noted as part of the proposed FY 04 budget, staff proposed the creation of a Stormwater Utility to help decrease flooding in the City. The ordinance amending Chapter 32 "Utilities" of the Abilene Municipal Code and the creation of a municipal drainage utility system was approved by the City Council on August 28, 2003. The overall budget for the utility is approximately \$1.6 million, which will be funded by fees as established by the City Council. Staff recommends that the City Council hold the public hearing and approve the resolution establishing the following rates:

### EXHIBIT A

#### STORMWATER UTILITY RATE OPTION

RESIDENTIAL RATE:		
		<u>UNDER ROOF</u>
\$1.85	PER MONTH - PER WATER METER	< OR = 1,280 SQUARE FEET
\$2.45	PER MONTH - PER WATER METER	>1,280 AND < OR = 2,880 SQUARE FEET
\$2.95	PER MONTH - PER WATER METER	> 2,880 SQUARE FEET
Excludes Water Meters For Irrigation Purposes		

COMMERCIAL RATE:		
		<u>UNDER ROOF + PARKING</u>
\$ .00050 PER SQ FT – PER MONTH – PER PROPERTY PARCEL		RATE TIMES AREA (SQUARE FEET)
MINIMUM MONTHLY RATE	\$5.00 (PER PARCEL)	10,000 SQ. FT. OR LESS
MAXIMUM MONTHLY RATE	\$25.00 (PER PARCEL)	50,000 SQ. FT. OR MORE
Single Ownership of Contiguous Parcels That Are Not Separated By A Public Street Will Be Assessed On The Total Sq. Ft. Of All Such Parcels		

Mayor Barr opened a public hearing on the item, stating that each individual addressing the Council would have 4 minutes to speak, with an additional 30 seconds to conclude their statements.

The following individuals addressed the Council:

- Audrey Lovett, 110 Teakwood Circle, stated she felt it was an unfair fee for elderly people and would hurt them financially.

- Steve Sitzes, 1742 Sandpiper, owner of Abilene Portable Buildings, stated that although the implementation of the Stormwater Utility System has the ability to help people, 90% of small businesses don't make enough to support the cost and that there should be a more fair way to spread the burden.
- Bob Hammond, P.O. Box 706, Abilene Independent Association of Business Owners, stated the plan, costing 1.6 million dollars does not have anticipated results. Mr. Hammond further stated an objective should be found and then it should be determined if citizens can afford it.
- Bruce Bixby, 4349 Oldham Ln., President, Abilene Independent Association of Business Owners, stated there has been a 130% increase in taxes over the past 20 years and that the Council should not let that happen over the next 20 years.

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

Council and staff discussion included: 1) the plan addresses the need for flood control; 2) the possibility of looking at a two tiered system (to consider those in the flood plain and those that are not); 3) the rate structure will be reviewed in 6 months and 1 year; 4) clarification on the \$300.00 fee, as published in the Abilene Reporter News; 5) the minimum fee is detrimental to small businesses and the cap benefits large businesses; 6) what's fair, who benefits and who should pay; 7) calls and e-mails received after the flood exceeding the number of those received on the Stormwater issue, and; 8) the need to be proactive and willing to financially support the City in flood control.

Councilman Williams made a motion to approve the Resolution, establishing the Municipal Drainage Utility (Stormwater Utility System) fee schedule and an effective date, as recommended by staff. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: Councilman Southward.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
APPROVING MUNICIPAL DRAINAGE UTILITY FEE SCHEDULE AND  
ESTABLISHING AN EFFECTIVE DATE.

4.2 Jeff Armstrong, Development Services Manager, briefed the Council on a Resolution approving an amendment of the Thoroughfare Plan. Mr. Armstrong noted the proposed amendment is a follow-up to a rezoning action approved by the City Council earlier in the year. At that time a proposed collector was shifted to the edge of the applicant's property to allow for a unified development. The proposed amendment includes the formal relocation of that collector as well as the realignment of connecting collectors in the vicinity of Hwy 277 and Dub Wright Blvd. One of the most important changes to note is that for the area north of Autumn Sage Lane collectors will no longer appear west of Virginia St. That is deemed the western boundary for future residential

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development in order to prevent encroachment on Dyess AFB. Staff and the Planning & Zoning Commission recommend approval.

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.

Councilwoman Alexander made a motion to approve the Resolution amending the Thoroughfare Plan as recommended by staff and the Planning & Zoning Commission. Councilman Archibald seconded the motion, and the motion carried.

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

NAYS: None

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS TO  
AMEND THE 2000 THOROUGHFARE PLAN.

4.3 Jeff Grindstaff, Land Agent, briefed the Council on a Resolution authorizing an extension of an Oil & Gas Lease.

Mr. Grindstaff stated on January 16, 2002 the City executed an Oil & Gas Lease, covering 510 acres, to RIO-TEX, Inc. The lessee, RIO-TEX, Inc. is requesting a 6-month extension on 160 acres of the 510 acres on the original lease, which expires on January 16, 2004. All terms of the original lease shall apply with the exception of the acreage amount, after expiration of the primary term. Consideration for the extension shall be \$10 per acre of \$1600. Staff recommends that the Council extend this lease and authorize the City Manager to execute said lease extension for six (6) months.

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.

Council and staff discussion included: 1) there being no known negatives to this extension, and; 2) 100% of the mineral rights are reserved.

Councilman McNeil made a motion to approve the Resolution authorizing an extension of an Oil & Gas Lease with RIO-TEX, Inc. as recommended by staff. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered **33-2003** and captioned as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS TO  
EXTEND AN OIL AND GAS LEASE.**

4.4 Jeff Armstrong, Development Services Manager, briefed the Council on an Ordinance considered on second and final reading Z-02303 - Rezone from AO (Agriculture Open Space) to LC (Limited Commercial) zoning district property located at 4302 Oldham Lane. Mr. Armstrong stated that due to the level of opposition, exceeds 20% in the notification area, a super majority or 6 positive votes are required to approve the request.

Mr. Armstrong noted the applicant is requesting a rezoning for speculative commercial purposes. The applicant originally sought a General Commercial designation but modified the request upon staff's suggestion that only Limited Commercial would be compatible with the nearby residential area. The site is part of a future Major Commercial/Business Activity Center identified in the draft Comprehensive Plan. Before deciding this and other cases affecting the area, the Planning Commission established high-tech, educational and employment uses as the core activity for the Center. Although the proposed rezoning would not necessarily further development of the core activity, the rezoning could provide important supporting land uses. Two property owners appeared at the Planning & Zoning meeting to speak in opposition to the request. The owner of tract #s 2, 5 and 6 wanted greater definition of the allowable commercial uses and asked for the property to be reviewed pursuant to the mixed-use overlay district procedure. The owner of tract #1 was concerned with the light that may be generated from uses on the subject property. Staff advised the Commission that light and noise performance standards apply generally in all zoning districts and that use of the MX overlay is not applicable as it requires an underlying residential zoning and is intended for established neighborhoods. Staff and the Planning & Zoning Commission recommend approval of the request.

Mayor Barr opened a public hearing on the item, and the following individuals addressed the Council:

- Steve West, 7502 Patricia Ln., West Electrical Service, opposed, due to the large amount of existing undeveloped commercial property in the area and the potential traffic hazard.
- Terry Franklin, 3010 N. 1<sup>st</sup>. St., opposed, negative impact to residential zoning, undeveloped commercial zoned land already exists in the area.
- Bruce Bixby, 4349 Oldham Ln., President, Abilene Independent Association of Business Owners, stated LC (Limited Commercial) zoning does not comply with the Southeast Land Use Study. The zoning as proposed violates the spirit and intent of the LC zoning. Mr. Bixby recommended a compromise be reached between the home builders and Mr. Billings.
- Randy Billings, 1541 N. Pioneer, property owner, requested Council approve the rezoning allowing him to be a part of the changes occurring in Abilene.

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

Council and staff discussion included: 1) current permitted uses in the area; 2) other zoning options; 3) the spirit and intent of LC district; 4) specific uses having not been proposed for the 2.45 acre plot; 5) approving the re-zoning possibly contributing to a small plot of land in the area not being developed; 6) the impact re-zoning would have on the surrounding development, and; 7) an individuals right to develop their land.

City Attorney, Sharon Hicks, noted the City has the right to initiate zoning of its own and suggested the City might want to visit with the property owner of lot #10, Mr. Johnson, and see if he would possibly agree to the option of bringing back to Council a PDD on the entire area.

Councilman Southward made a motion to table the Ordinance considered on second and final reading, Z-02303 – to rezone from AO (Agriculture Open Space) to LC (Limited Commercial) zoning district property located at 4302 Oldham Lane. Councilman Williams seconded the motion. Mayor Barr encouraged Mr. Bixby and Mr. Billings to work toward a compromise, noting it would be difficult for him not to vote for some kind of development in the area. The motion carried.

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

NAYS: None

4.5 Rodney Taylor, Interim Director of Water Utilities, briefed the Council on an Ordinance amending Chapter 32 “Utilities”, Article III, Industrial Wastes of the Abilene Municipal Code. Mr. Taylor noted the proposed changes to Chapter 32, Article III, Industrial Wastes includes an amendment to comply with state and federal requirements relating to industrial waste and to address grease trap usage at some local commercial facilities. Staff recommends approval of the Ordinance.

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.

Mike Homan, Industrial Waste Manager for the City, explained issues restaurants deal with in addressing grease problems.

Councilman Archibald made a motion to approve the Ordinance considered on second and final reading to amend Chapter 32 “Utilities”, Article III, Industrial Wastes of Abilene Municipal Code as recommended by staff. Councilman McNeil seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **36-2003** and captioned as follows:



AN ORDINANCE AMENDING CHAPTER 32, UTILITIES, ARTICLE III, INDUSTRIAL WASTES, OF THE CITY OF ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

**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.

Councilman Williams left the meeting during Executive Session.

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

5.1 Councilman McNeil made a motion to approve salary increases for the Council's four appointed officials, the City Manager, City Attorney, Municipal Judge, and City Secretary, effective October 1, 2003. Councilman Archibald seconded the motion, and the motion carried.

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

NAYS: None

There being no further business, the meeting was adjourned at 12:15 p.m.

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Jo Moore  
City Secretary

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Grady Barr  
Mayor

