

**CITY COUNCIL MEETING**  
**July 8, 2004, 8:30 a.m.**

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

The City Council of the City of Abilene, Texas, met in Regular Session on July 8, 2004, at 8:30 a.m. in Council Chambers, 555 Walnut Street. Mayor Norm Archibald was present and presiding with Councilmen Sam Chase, Anthony Williams, John Hill (arrived at 9:30 a.m.), Stormy Higgins, Kris Southward, and Councilwoman Laura Moore. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff.

Councilman Higgins gave the invocation.

Kourtney Lewis a third grade student from Wylie Elementary School led the Pledge of Allegiance. Kourtney's mother, Stephanie Lewis, and grandmother, Connie Jacobsen, who is employed by the City of Abilene's accounting office, were also present.

**EMPLOYEE SERVICE AWARDS**

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

25 Years	James O. Frazier	Assistant Fire Chief
		Fire
25 Years	Jerry L. Tarver	Firefighter
		Fire
20 Years	Arthur F. Jennings	Maintenance Crew Chief
		Parks

**PROCLAMATIONS**

Mayor Archibald presented a proclamation to Steve Teaff, AEP/WTU representative, recognizing July 15, 2004 as "Neighbor to Neighbor Day".

**PRESENTATIONS**

Mayor Archibald, assisted by Donna Littlefield, Police Communications Manager, presented the 2004 Employee Scholarship Awards to the following individuals.

- William Dezern, son of Billy Dezern, GIS Analyst, Information Technology.
- Bryce Hagelstein son of Lee Hagelstein, Internal Auditor, Finance.
- Meagan Harris, daughter of Eddy Harris, Firefighter, Fire.
- Chelsey, Hughes, daughter of Cassie Hughes, Program Manager, Public Works.
- Kristin Keefer (was not in attendance), daughter of Tony Keefer, Firefighter, Fire .
- Blake Lohse, son of Randhl Lohse, Firefighter, Fire.

Mayor Archibald, assisted by Lesli Andrews, Keep Abilene Beautiful Coordinator, presented Keep Abilene Beautiful and Keep Texas Beautiful Awards to the following recipients.

- Keep Abilene Beautiful recipient of the Keep Texas Beautiful Gold Star Affiliate Award.
- Bill Brock recipient of the Keep Texas Beautiful Lifetime Individual Achievement Award.
- Woodson Early Childhood recipient of the Sadie Ray Graff Education Leadership Honorable Mention Award.
- Keep Abilene Beautiful recipient of the Governor's Community Achievement Award of Excellence.
- Donna Albus recipient of the Keep Texas Beautiful President's Award.

Following the presentations of awards Ms. Andrews distributed autographed, first edition, Keep Texas Beautiful Christmas Ornaments to each City Council member from the Keep Abilene Beautiful Board of Directors.

Mayor Archibald introduced Staff Sergeant Allen Lipson of the United States Marine Corp who presented a plaque to Dean Carter, Engineering Technician for the Water Department and the city employee coordinator for the "Toys for Tots" toy drive, in appreciation to all City employees as a "Thank You" for their participation in the 2003 "Toys for Tots" toy drive.

### **DISPOSITION OF MINUTES**

2.0 The June 29, 2004 Regular City Council Minutes will be presented for Council's consideration at the July 22, 2004 Council meeting.

### **CONSENT AGENDA**

3.0 Mayor Archibald requested item 3.3 be considered separately for clarification purposes and Councilman Chase requested 3.1 be considered separately. Councilman Williams made a motion to approve consent agenda items 3.2, and first reading of item 3.4, as recommended by staff. Councilman Southward seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

Consent agenda items 3.1 and 3.3 were considered separately. Item 3.3 was considered before item 3.1.

3.3 **Z-1904** – Rezone from AO (Agriculture Open-space) and HC (Heavy Commercial) District to PDD (Planned Development District), property located at the northern corner of I-20 and Hwy. 351; and set a public hearing for July 22, 2004 at 8:30 a.m.

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Mayor Archibald requested clarification from City Attorney Sharon Hicks concerning the 7 acres of the proposed PDD, owned by Mr. Kenneth Musgrave that is being withheld from the PDD that is before Council for consideration.

Ms. Hicks stated that although the P&Z approved the Wal-Mart PDD in its entirety the 7 acres of the proposed PDD owned by Mr. Kenneth Musgrave, (currently zoned HC) is being withheld from the PDD for Council consideration (both first and second reading) until after Wal-Mart closes on the property. Wal-Mart wants council's approval of the PDD prior to their closing on the property and Mr. Musgrave does not want his property rezoned until he's assured the Wal-Mart land deal is finalized. The item is before Council today for first reading and second reading is scheduled for July 22, 2004. If approved Wal-Mart can proceed with development with the partial PDD and the HC zoning. The remaining 7 acres can be brought back to Council at a later date for consideration.

Councilman Southward made a motion to approve consent agenda item 3.3, considered on first reading as presented and clarified by staff. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Williams, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

ABSTAIN: Councilman Chase

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-91 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

**Resolution:**

3.1 Oral Resolution authorizing a contract with Hibbs and Todd Engineering for design of the Solids Removal Rehabilitation Project at Buck Creek Sewer Lift Station. Councilman Chase questioned what the Sewer Operating Fund account #500-800-8070-4441 identifies. City Manager Larry Gilley stated the account number identifies the Sewer Operating (Utility) funds that are designated, if approved, for the contract design and related professional services.

Councilman Higgins made a motion to approve by Oral Resolution a contract with Hibbs and Todd Engineering in the amount of \$49,800.00 to provide design and related engineering services and to authorize the City Manager or his designee to execute all necessary documents related to the contract, as recommended by staff. Councilman Chase seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

**Ordinances:**

- 3.2 Ordinance amending Chapter 18, "Motor Vehicles and Traffic", of the Abilene Municipal Code.

The Ordinance is numbered **15-2004** and captioned as follows:

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.

- 3.4 **Z-2004** – Rezone from RM-2 (Residential Multi-family) District to SC (Shopping Center) District, property located in the 6600 block of Buffalo Gap Rd.; and set a public hearing for July 22, 2004 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

**REGULAR AGENDA**

Councilman Hill arrived at 9:30 a.m.

- 4.1 Elizabeth Grindstaff, Interim Director of Planning & Development Services briefed the Council on **Z-1704**, an Ordinance considered on second and final reading to rezone property located at 7133 West Lake Road from AO (Agriculture Open Space) to MH (Mobile Home) zoning district.

Ms. Grindstaff stated the applicant recently located a mobile home on the subject parcel without obtaining a permit and when this came to staff's attention the applicant was informed that the existing zoning would not permit a mobile home. The applicant then chose to pursue rezoning of the property to MH zoning which would permit the home. Ms. Grindstaff further stated the location of a mobile home would not be out of character with the nearby area where other mobile homes exist. The Planning & Zoning Commission and staff recommend approval.

Council and staff discussion included: 1) clarifying the definitions of manufactured, mobile and modular homes; 2) precedence concerns on approval being sought after the home was already placed on the site; 3) compliance with the policy that restricted mobile homes at Ft. Phantom after 1992 and the item before Council being a separate issue from that policy due to the property being privately owned and; 4) staff's evaluation of this request being based on sound planning principals and practices and not on the fact that an error had occurred.

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

Councilwoman Moore made a motion to approve **Z-1704**, an Ordinance considered on second and final reading to rezone property located at 7133 West Lake Road from AO (Agriculture Open Space) to MH (Mobile Home) zoning district. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Williams, Hill, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: Councilman Higgins

ABSTAIN: Councilman Chase

The Ordinance is numbered **16-2004** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.2 Elizabeth Grindstaff, Interim Director of Planning & Development Services briefed the Council on **Z-1804**, an Ordinance considered on second and final reading to rezone property located between Vogel and Lowden Streets, from Grape Street to Simmons Street from RM-3 (Residential Multi-family) and RS-6 (Residential Single-family) to CU (College University) zoning district.

Ms. Grindstaff stated Hardin-Simmons University is requesting the rezoning of a number of parcels owned by the university to CU zoning that would allow for a variety of university related activities. Ms. Grindstaff further stated that the rezoning request is consistent with the recommendations of the Comprehensive Plan. Planning and Zoning Commission and staff recommend approval.

Council and staff's discussion included: 1) the uses permitted in the CU zone; 2) proper notification of the request having been made and; 3) encouraging development and the revitalization of neighborhoods and HSU supporting both of these endeavors.

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

Councilman Williams made a motion to approve **Z-1804**, an Ordinance considered on second and final reading to rezone property located between Vogel and Lowden Streets, from Grape Street to Simmons Street from a RM-3 (Residential Multi-family) and RS-6 (Residential Single-family) to CU (College University) zoning district. Councilman Chase seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

ABSTAIN: Councilman Hill

The Ordinance is numbered **17-2004** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Item 4.4 was considered before item 4.3.

4.4 Elizabeth Grindstaff, Interim Director of Planning & Development Services briefed the Council on **TC-0404**, an Ordinance considered on second and final reading for a thoroughfare abandonment of 34 feet of right-of-way adjacent to the lot at 2498 Buffalo Gap Rd.

Ms. Grindstaff stated the applicant Highland Oaks Apartments is requesting that a portion of right-of-way be abandoned to locate a sign for the apartment complex that would be visible to those traveling along Buffalo Gap Rd. The Planning and Zoning Commission and staff recommend approval subject to the Plat Review's Committee recommendation that the area be maintained as both a utility and drainage easement.

Mayor Archibald opened a public hearing on the item and the following individual addressed the Council:

- Michael Tackett – apartment complex manager, requested Council's approval of the thoroughfare abandonment request.

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

Councilman Hill made a motion to approve the Ordinance considered on second and final reading for a thoroughfare abandonment of 34 feet of right-of-way adjacent to the lot at 2498 Buffalo Gap Rd with the area to be maintained as both a utility and drainage easement as recommended by the Plat Review Committee. Councilwoman Moore seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Hill, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **18-2004** and captioned as follows:

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.

4.3 Elizabeth Grindstaff, Interim Director of Planning & Development Services briefed the Council on **TC-0504**, an Ordinance considered on second and final reading for a thoroughfare abandonment of 30 feet of a north-south alley and 20 feet of an east-west alley between North 10<sup>th</sup> and State Streets and N. Willis and Westview Streets.

Ms. Grindstaff stated the applicant FountainGate Fellowship Church is planning to convert the former Food Lion grocery store to a church and they intend to locate some of their parking on the vacant land north and east of the alleys. They are requesting abandonment of the alleys so that a footbridge could be built over an existing drainage channel and the alley that would connect the parking lot with the remainder of the church property. Such a bridge could not be constructed over a public right-of-way, including an alley. The Planning and Zoning Commission and staff recommend approval subject to the entire area of both alleys being retained as utility and open drainage easements.

Mayor Archibald opened a public hearing on the item and the following individual addressed the Council:

- Wayne Hester, Associate Pastor of the FountainGate Fellowship Church stated the church's plans for the property and requested Council's approval of the thoroughfare abandonment request.

Councilman Southward made a motion to approve the Ordinance considered on second and final reading for a thoroughfare abandonment of 30 feet of a north-south alley and 20 feet of an east-west alley between North 10<sup>th</sup> and State Streets and N. Willis and Westview Streets with the entire area of both alleys being retained as utility and open drainage easements as recommended by the Plat Review Committee. Councilman Hill seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Hill, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **19-2004** and captioned as follows:

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.

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4.5 Richard Burdine, Assistant City Manager for Economic Development briefed the Council on the DCOA Semi-Annual Report of activities through March 31, 2004. The DCOA Board approved the report during the May 25, 2004 meeting and staff recommends the Council approve by oral resolution the report of activities for the period ending March 31, 2004.

Mr. Burdine stated the report has been prepared in compliance with the Development Corporation of Abilene, Inc. (DCOA) by-laws requirement and that it covers the 6-month period beginning 10-1-03 and ending 3-31-04.

Following Mr. Burdine's presentation and Council and staff discussion the Council requested, in order to help appraise the success and progress level of Abilene growing new businesses, a report reflecting those numbers be submitted to Council.

Mayor Archibald noted, and staff confirmed, that employment numbers in Abilene are higher today than they were a year ago. The Mayor noted the need to accentuate the positive and asked the media to report that Abilene is making progress with job creation and retention.

Mr. Burdine then briefed the Council on the last quarter, April-June '04 of the DCOA activities.

Councilman Southward made a motion to approve by Oral Resolution the DCOA Semi-Annual Report of activities through March 31, 2004. Councilman Chase seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Hill, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

### **EXECUTIVE SESSION**

Mayor Archibald 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 following the Executive Session.

### **REGULAR SESSION**

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

5.4 Councilman Hill made a motion to approve Mayor Archibald's appointment of Dale Barthelemy to the Housing Authority Board, term expiring November 2005. Councilwoman Moore seconded the motion, and the motion carried.



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AYES: Councilmen Chase, Hill, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.

NAYS: None

There being no further business, the meeting was adjourned at 11:55 a.m.

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Jo Moore  
City Secretary

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Norm Archibald  
Mayor