

## **CITY COUNCIL MEETING**

**April 22, 2004, 5:30 p.m.**

### **CITY COUNCIL OF THE CITY OF ABILENE, TEXAS UPSTAIRS CONFERENCE ROOM, ABILENE CIVIC CENTER**

The City Council of the City of Abilene, Texas, met in Regular Session on April 22, 2004, at 5:30 p.m. in the Upstairs Conference Room of the Civic Center, 1100 North 6<sup>th</sup> Street. Mayor Grady Barr was present and presiding with Councilmen Anthony Williams, John Hill, Norm Archibald, Jimmy McNeil and Councilwoman Kay Alexander. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff. Councilman Southward was absent.

Councilman McNeil gave the invocation.

Xavier Flores a fifth grade student from Ortiz Elementary School led the Pledge of Allegiance. Xavier's mother and grandmother were also present.

### **PROCLAMATIONS**

Mayor Barr presented a proclamation to Robert Mason recognizing May 11, 2004 as "Motorcycle Safety Awareness Day".

Mayor Barr addressed the audience and requested a show of hands from the people/retirees in the audience who were present to hear item 4.7 (Retirement Program) on the Regular Agenda. Mayor Barr thanked the audience for their interest, and stated that although item 4.7 does not call for a public hearing, their support was noted by their attendance. Mayor Barr further stated that during the budget review, there would be Council meetings that will provide for public input and those meetings will be officially posted and advertised in the local media, and are tentatively set for August.

### **DISPOSITION OF MINUTES**

2.0 The City Council Minutes from the Regular April 8, 2004 and Special Called April 12, 2004 Council Meetings will be submitted for consideration at the May 13, 2004 Council Meeting.

### **CONSENT AGENDA**

Mayor Barr stated Consent Agenda Item 3.3 "Four (4) roof replacements and the painting of High Level Pump Station for the Water Department, Bid #CB-4038", has been removed from today's agenda.

3.0 Councilman Williams made a motion to approve consent agenda items 3.1, 3.2, and 3.4 through 3.6 as recommended by staff. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

**Resolutions:**

- 3.1 Resolution approving revision of the by-laws for the Keep Abilene Beautiful Board.

The Resolution is numbered **11-2004** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING AMENDMENTS TO THE BYLAWS OF KEEP ABILENE BEAUTIFUL, INC.

- 3.2 Resolution confirming a public hearing, approving a financing by the Stamford Higher Education Facilities Corporation for the benefit of Hardin-Simmons University, and authorizing the Mayor to approve certain related matters.

The Resolution is numbered **12-2004** and captioned as follows:

RESOLUTION CONFIRMING A PUBLIC HEARING, APPROVING A FINANCING BY THE STAMFORD HIGHER EDUCATION FACILITIES CORPORATION FOR THE BENEFIT OF HARDIN-SIMMONS UNIVERSITY, AND AUTHORIZING THE MAYOR OF THE CITY OF ABILENE TO APPROVE CERTAIN RELATED MATTERS.

**Bid Awards:**

- 3.3 **Bid #CB-4038** – Four (4) roof replacements and the painting of the High Level Pump Station for the Water Department, was removed from the Agenda.
- 3.4 **Bid #CB-4042** – Solid Waste Trucks. Items 1 and 3 were awarded to Dallas Peterbilt of Dallas, Texas and Item 2 was awarded to Young's Truck Center of Abilene, Texas representing the low responsive bidders in the total amount of \$1,025,394.
- 3.5 Solid Waste Collection Truck Bodies. Units will be purchased through TLGPC in the amount of \$706,750.20.
- 3.6 Purchase of two (2) Motorgraders for the Street Department directly through the Texas Building and Procurement Commission.

**REGULAR AGENDA**

- 4.1 Mayor Barr noted item 4.1 was removed from the Agenda at the request of the proponent, GoldStar Emergency Medical Services, Inc.

4.2 Richard Burdine, Assistant City Manager for Economic Development briefed the Council on an Ordinance electing to participate in the Enterprise Zone Program and nominating DMA Development Company, LLC as an enterprise project for consideration by the Office of the Governor Economic Development and Tourism.

Mr. Burdine stated the item before Council is the 2<sup>nd</sup> reading of the Ordinance that outlines what the City will do to support Enterprise Zones. Mr. Burdine noted the program has changed substantially since last discussed and acted on by the City Council. Mr. Burdine reviewed the changes to the program and recommendations to update the current Enterprise Zone Ordinance. Staff recommends City Council approve the Ordinance ordaining the City's participation in the Texas Enterprise Zone Program and nominating DMA Development Company, L.L.C. as an enterprise project.

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.

Following Council and staff discussion Councilwoman Alexander made a motion to approve an Ordinance electing to participate in the Enterprise Zone Program and nominating DMA Development Company, LLC as an enterprise project for consideration by the Office of the Governor Economic Development and Tourism. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **6-2004** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ORDAINING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING DMA DEVELOPMENT COMPANY, LLC TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM (EDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK) AS AN ENTERPRISE PROJECT (PROJECT).

4.3 Shannon Meinhold of Planning & Development Services briefed the Council on Z-1004, an Ordinance on second and final reading to rezone from SC (Shopping Center) to MH (Mobile Home) zoning district, property located at 5501 Highway 277 South.

Ms. Meinhold stated the applicant, Faith Deliverance Community Church, intends to house itinerant preachers in a mobile home next to its main facility that fronts on Highway 277. The subject tract has split zoning with the back half of the tract already being zoned MH. The request is consistent with other MH zoning immediately to the south. Ms. Meinhold further stated reassurances from the applicant's representative during the Planning & Zoning Commission meeting that only one

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mobile home would be placed on the property, and the mobile home would be situated next to the abutting mobile home park, seemed to ease concerns of surrounding property owners. 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:

- Mike Barber – owns business adjacent to Church, stated he disagreed with the rezoning request because if the church sells the property it could be turned into a mobile home park.
- Jerry Jordan – Church Pastor, addressed Council by stating that the church has no intentions of putting in a mobile home park. Mr. Jordan further noted that the east side of the property is a flood zone and that is why a mobile home should not be put in that area.
- Jack Harkins – Planning & Zoning Commission Chair, stated one issue that the Planning & Zoning Commission struggled with was that staff did not want to split (MH / SC) zoning. Planning & Zoning wanted to allow the zoning needed but not to allow it to go all the way to Highway 277.
- Eddy Boykin – Planning & Zoning Commission member, encouraged City Council to consider PDD (Planned Development District) zoning. Mr. Boykin further noted that if rezoned as a PDD the church could put the mobile home anywhere in the zoned area.

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

Council and staff discussion included: 1) mobile home zoning allowing for future development of a mobile home park; 2) activities allowed within PDD zoning; 3) the proposed zoning in relation to the Comprehensive Plan, and; 4) the proponent stating only one mobile home would be placed on the property.

Councilman Hill made a motion to table Z-1004, an Ordinance to rezone from SC (Shopping Center) to MH (Mobile Home) zoning district, property located at 5501 Highway 277 South, and to instruct staff to bring back to Council a proposed PDD zoning at the May 13, 2004 City Council meeting. Councilman McNeil seconded the motion, and the motion carried.

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

NAYS: None

4.4 Shannon Meinhold of Planning & Development Services briefed the Council on the Appealed item; Z-1104, an Ordinance on second and final reading to rezone from RS-6 (Residential Single-Family) to LC (Limited Commercial) zoning district, property located at 3033 & 3025 Bickley Street.

Ms. Meinhold stated the co-applicants intend to demolish the existing structures and build a coin-operated laundry and retail gift shop. Ms. Meinhold noted the subject property is part of a stable

neighborhood and introducing commercial land uses would unnecessarily hasten a transition along Barrow Street and would not promote cohesion in the stable existing neighborhood. Ms. Meinhold further noted the potential for incompatibility in land uses may impact traffic, noise, and congestion in the area and that the Comprehensive Plan supports maintaining older, stable single-family residential neighborhoods. Staff and the Planning & Zoning Commission recommend denial of the request.

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

- Choong Park – proponent, requested that Council approve the Ordinance stating that it would be good for the future of Abilene.

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

Following Council and staff discussion Councilman McNeil made a motion to deny Z-1104, an Ordinance considered on second and final reading to rezone from RS-6 (Residential Single-Family) to LC (Limited Commercial) zoning district, property located at 3033 & 3025 Bickley Street as recommended by staff and the Planning & Zoning Commission. Councilman Archibald seconded the motion, and the motion carried.

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

NAYS: None

4.5 Elizabeth Grindstaff, Interim Director of Planning & Development Services briefed the Council on the Appealed item; Z-1204, an Ordinance on second and final reading to rezone from AO (Agriculture Open Space) and PDD (Planned Development District) to GC (General Commercial) zoning district, property located on SE corner of Industrial Blvd. & Loop 322.

Ms. Grindstaff stated the request of Cisco Junior College to have the property rezoned to GC zoning district could result in the property developing as any large number of commercial uses that would be inappropriate for the area. The applicant has indicated that developing or selling the land for commercial purposes is a distinct possibility, but the College's primary motivation is to rezone the land for future expansion of the institution. Staff recommends the property be rezoned to College-University (CU). The CU district would limit objectionable uses yet allows Cisco to utilize the property for any of its future needs. During the Planning & Zoning Commission meeting, the Commissioners felt strongly that the property should be rezoned to CU. However, a motion to deny GC zoning was approved first and precluded the Commission from further consideration of the item.

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

- Jenny McAlister – Cisco Junior College, stated in 1998 the Planning & Zoning Commission and Council approved a GC zoning for the property at Cisco Junior College with no

controversy, per an excerpt from the 1998 City Council minutes. Ms. McAlister briefed the Council on what has developed at Cisco since 1998 and requested to Council to approve the request for GC zoning.

- John Miller – President of Cisco Junior College, addressed the Council by stating that he was surprised by the Planning & Zoning Commission decision. Mr. Miller further noted that Cisco Junior College were good citizens of Abilene and that there was no error with the GC rezoning in 1998. Mr. Miller requested Council approve the GC zoning.
- Terry Franklin, stated he was uncomfortable with the unknown that the rezone to GC would result in and requested that Council withdraw the GC and that CU be considered.

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

Council, staff and Cisco Junior College representative discussion included: 1) what is permitted in CU and GC zones; 2) Cisco Junior College representative agreeing to CU zoning, and; 3) if CU zoning is approved Cisco Junior College would have a 1 year wait before they could resubmit a request for GC zoning.

Councilman Williams made a motion to approve Z-1204, an Ordinance considered on the second and final reading to rezone from AO (Agriculture Open Space) and PDD (Planned Development District) to CU (College/University) zoning district, property located on SE corner of Industrial Blvd. & Loop 322. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **7-2004** 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.

Council recessed for a break from 7:35 p.m. to 7:45 p.m.

4.6 Shannon Meinhold of Planning & Development Services briefed the Council on Z-1304, an Ordinance on second and final reading to rezone from RM-3 (Residential Multi-Family) to LC (Limited Commercial) zoning district, property located at 4201 Bob-O-Link.

Ms. Meinhold stated the applicant wishes to use the subject property, which is vacant, as a cellular phone service center. Ms. Meinhold further stated the prospect that the lot will ever develop for residential purposes is remote and the LC request provides a traditional zoning buffer from the

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GC use at the corner of Catclaw Drive and Bob-O-Link. Staff and the Planning & Zoning Commission recommend approval.

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

- Mike DeSpain – applicant, requested Council approve the request.

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

Councilman Archibald made a motion to approve Z-1304, an Ordinance considered on second and final reading to rezone from RM-3 (Residential Multi-Family) to LC (Limited Commercial) zoning district, property located at 4201 Bob-O-Link. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered 9-2004 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.

4.7 Mayor Barr stated to the audience that item 4.7 is part of the budget workshop presentations that Council has been having since January. Mayor Barr further stated those workshops are held at the end of the Council's agenda and Public Hearings are placed at the beginning of the Regular Agenda. Mayor Barr reiterated to the audience as he had stated at the beginning of the Council meeting that item 4.7 is not a Public Hearing.

City Manager Larry Gilley introduced Gary Anderson, Executive Director of TMRS to brief the Council on the Retirement Program.

Council and staff discussion included: 1)

No Council action was required.

### **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.

### **REGULAR SESSION**

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

5.4 Mike Morrison, Assistant City Manager briefed the Council on a Resolution authorizing the purchase of Bynum property, a 445 – acre tract to the south of the Wastewater Treatment Plant site.

Mr. Morrison stated the City of Abilene Water Department staff is recommending that the City purchase the Bynum property, a 445-acre tract to the south of the Wastewater Treatment Plant site. The seller is asking for \$525.00 dollars per acre. The purchase will provide additional room for future plant expansion to the south, expand the buffer one around the treatment process equipment for added security, and prevent the encroachment of development to the south of the plant property. The undeveloped Bynum property acts as a barrier between the plant and several small acreage residences along CR-309. Plant staff is concerned that future development of the Bynum property may place homes too close to the plant thus complicating later expansion opportunities and possibly limiting options on future process and operational selections. The recommended proactive purchase allows the City to obtain the property and immediately squelch the mentioned concerns. The City could later divide the property and retain only that amount necessary to protect its interests. The Land purchase will be funded from the Water and Sewer Fund. Staff recommends purchasing the property.

Councilman McNeil made a motion to approve the Resolution to purchase the property as recommended by staff with the stipulation that the seller provides the title policy and the survey at closing. Councilwoman Alexander seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered **13-2004** and captioned as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, FOR THE PURCHASE OF PROPERTY ADJOINING THE CITY OF ABILENE WASTEWATER TREATMENT PLANT.**

There being no further business, the meeting was adjourned at 9:15 p.m.

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Jo Moore  
City Secretary

Grady Barr  
Mayor