

CITY COUNCIL MEETING
August 26, 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 August 26, 2004, at 8:30 a.m. in Council Chambers, 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Anthony Williams, John Hill, 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 Hill gave the invocation.

Che Puente a fifth grade student from Ortiz Elementary School led the Pledge of Allegiance. Mrs. Karen Munoz, Principal of Ortiz Elementary was also present.

Mayor Archibald announced that today's Council meeting is being videotaped and will soon be televised on Channel 7.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions or deletions to the July 27, 2004, July 28, 2004 Council Budget Worksession Minutes and the August 12, 2004 Regular and Budget Worksession Council Minutes Councilman Hill made a motion to approve the minutes as printed. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

3.0 Councilman Southward made a motion to approve consent agenda items 3.1 through 3.3, as recommended by staff. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

3.1 Oral Resolution approving, and authorizing the Mayor to execute, a Street Use License Agreement with Hardin-Simmons University to control vehicular access on Simmons Avenue.

3.2 Oral Resolution approving an Interlocal Cooperation Contract with the Texas Department of

Public Safety for Breath Testing and Laboratory Alcohol and Drug Testing Programs for the Abilene Police Department.

- 3.3 Oral Resolution approving a Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant Acceptance and ratifying the City Manager's execution of the Grant Acceptance on August 25, 2004.

REGULAR AGENDA

- 4.1 Elizabeth Grindstaff, Interim Director of Planning & Development Services, briefed the Council on **Z-2204**, an Ordinance considered on second and final reading to rezone from AO (Agriculture Open-space) to RS-6 (Residential Single-family) zoning district, 5.2 acres of property located at the corner of Catclaw Drive and Chimney Rock Road.

Ms. Grindstaff stated the applicant, Western Horizons, Inc., wishes to rezone 5.2 acres of undeveloped land to create a new single-family residential subdivision. The property is located just south of the intersection of Chimney Rock Road and Catclaw Drive. The subdivision will be adjacent to single family residential homes on both the east and north sides. Ms. Grindstaff noted that twenty-four comment forms were mailed to adjacent property owners, four of those mailed were returned in favor, and two were returned in opposition. Staff and the Planning and Zoning Commission recommend approval of the rezoning request.

Following Council and staff discussion 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 Hill made a motion to approve **Z-2204**, an Ordinance to rezone from AO (Agriculture Open-space) to RS-6 (Residential Single-family) zoning district, 5.2 acres of property located at the corner of Catclaw Drive and Chimney Rock Road. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **22-2004** 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, introduced the PRESERVE AMERICA Presidential Community Designation Application agenda item and stated the Cultural and Heritage Tourism Committee of the Abilene Chamber of Commerce requests the City's assistance in bringing statewide attention to the many accomplishments of the Abilene

community with regard to the preservation of our history and built environment. Ms. Grindstaff introduced Michael Burke, Co-Chairman of the Chamber of Commerce's Cultural and Heritage Tourism Committee. Mr. Burke presented information concerning the designation of the PRESERVE AMERICA program and requested Council's approval of the Resolution indicating a commitment to the preservation of the heritage of the City of Abilene.

Councilman Williams made a motion to approve the Resolution to fulfill the application for the PRESERVE AMERICA Community Designation. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered **21-2004** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
INDICATING A COMMITMENT TO THE PRESERVATION OF THE HERITAGE OF
THE CITY OF ABILENE.

4.3 Andy Anderson, Director of Public Works briefed the Council on the Stormwater Utility update.

Mr. Anderson stated that the City of Abilene Stormwater Utility has been in place since October 1, 2003 and that today's presentation is the second update on the status of the stated objectives of this relatively new division. Mr. Anderson noted the Stormwater Utility billing system is now accurate and is constantly monitored.

Mr. Anderson then distributed to Council and presented the Stormwater Utility Status Report that included the following:

- **Ongoing Activities Leading to Utility Creation:**

1. NPDES Permit Management
2. Creek and Miscellaneous Drainage Maintenance
3. Stormwater Design Review
4. Stormwater Design
5. Flood Response
6. Drainage Planning

- **Goal of Stormwater Utility:**

To provide focused effort toward protecting the quality of storm water runoff, and minimizing the potential of local flooding.

- **Objectives of Stormwater Utility:**

1. Creek Maintenance
2. Funding
3. Permits

4. Projects
5. Plans & Strategies
6. Quality Compliance

Mr. Anderson introduced Tal Fillingim, Stormwater Utility Administrator who presented the following:

- **Creek Maintenance:**

1. Equipment Acquisition-Walking Excavators
2. Elm Creek
3. Recent Maintenance Efforts
4. Maintenance Priorities

- **Recent Maintenance Efforts:**

1. Elm Creek
2. Rainey Creek
3. Cedar Creek

- **Future Maintenance Priorities:**

1. Elm Creek – Old Anson Rd to Confluence with Catclaw Creek.
2. Catclaw Creek-Confluence with Elm Creek to Interstate 20.
3. Elm Creek- Confluence with Catclaw Creek to W. Overland Trail.
4. Cedar Creek – Ambler St. to Confluence with Lytle Creek.
5. Little Elm Creek – Steffens St. to Dub Wright Blvd.
6. Cedar Creek – Confluence with Buck Creek to just south of Confluence with Rainey Creek.
7. Rainey Creek – Confluence with Cedar Creek to E. Stamford St.

Mr. Anderson continued the status report briefing the Council on the following:

- **Funding:**

1. NRCS
2. U.S. Army Corp of Engineers
3. FEMA

Mr. Anderson noted for Council's information the issues that exist and will have to be addressed in the future due to the lack of accurate topographic information in the City of Abilene.

- **Permits:**

1. Elm Creek Bank Stabilization Project
2. Vaughn Camp Park Fishing Pond

- **Projects:**

1. Elm Creek Bank Stabilization Project
2. Northway Drainage
3. Drainage Channel

- **Plans & Strategies:**

1. Floodplain Remap
2. Elm Creek Flood Study Update

- **Quality Compliance:**

1. Municipal Separate Storm Sewer System Permit (MS4 Permit)
2. Continuous compliance with MS4 permit elements
3. Ongoing monitoring efforts for all construction stormwater requirements

Following council and staff discussion Mayor Archibald stated appreciation to staff for the report and reiterated Council's ongoing goals to: 1) eliminate the possibility of flooding in Abilene, and; 2) to get more water into Abilene reservoirs, primarily Fort Phantom.

No Council action was required.

4.4 Andy Anderson, Director of Public Works briefed the Council on **#CB-4069**, a bid award for Phase I of the Elm Creek Bank restoration from N. 10th to N. Danville.

Mr. Anderson stated the project involves Elm Creek Bank Restoration for Phase I, with seven (7) different segments, located on Elm Creek between North Danville and North 10th Street. Each segment will involve the placements of gabion walls and/or gabion structures as outlined in the construction plans. Besides the placement of gabions, seeding, tree planting and other vegetation as well as soil retention blankets will be added on each segment. Mr. Anderson noted that the Natural Resource Conservation Service Existing Federal Grant provides 75% of the funding and the City of Abilene Drainage Funding provides the remaining 25%. Staff recommends that Bid **#CB-4069** be awarded to Harris Acoustics, Inc., of Abilene, Texas, in the amount of \$964,638.92.

Following Council and staff discussion Councilman Williams made a motion to award Bid **#CB-4069**, for Phase I of the Elm Creek Bank restoration from N. 10th to N. Danville to Harris Acoustics, Inc., of Abilene, TX in the amount of \$964,638.92. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

4.5 A. City Manager, Larry Gilley briefed the Council on the Ordinance being considered on second and final reading to approve the Revised 2003-2004 Budget and Proposed 2004-2005 Budget, and the Resolutions 1) adopting the Building Inspection Schedule of Fees, and 2) revising Resolution No. 23-2003, the Schedule of Rates and charges for the Solid Waste Services Division. Mr. Gilley stated staff is prepared to move forward with the budget and tax rate as approved by Council on first reading at the August 12, 2004 Council meeting.

Mayor Archibald noted that first readings of the Budget(s) and Tax Rate Ordinances are actions taken to move the ordinances to the second readings and public hearings. The Mayor reiterated that first readings are not final action and that the ordinances are before Council today for further discussion and then following that discussion the public hearings will be held.

Council and staff discussion included: 1) staff's evaluation of programs and services and financial resources needed to support those programs and services; 2) Council's preference to maintain current programs/services with no increase in property taxes, but with some fee increases; 3) enhancement of the Code Enforcement Program and revenue stream, or reduction in services or other areas needed for that enhancement; 4) employee salary increases with no revenue stream to support; 5) evaluation of all ordinances needed for the appearance, health and safety of Abilene, and; 6) the conducting of a system-wide review of the organization.

Mr. Gilley stated staff's support of the Code Enforcement Enhancement Program but requested Council provide the revenue source for that enhancement and if that revenue is not provided then his first budget proposal would still be his recommendation.

Council questioned Mr. Gilley if an appropriate source of funding for the enhanced Code Enforcement Program could be through a Solid Waste Services fee increase versus a tax increase. Mr. Gilley stated that would be an appropriate funding source and would require an additional 15 cents per month to the Solid Waste services collection fee, to generate the same revenue as the quarter-cent tax increase as approved on first reading, starting in October 2004, with the new Code Enforcement employees to start in January 2005. If the additional 15 cents for code enforcement, 20 cents for bulky brush pickup and \$1.00 for inflationary expenses in current pickup fees is approved by Council the total would be \$1.35 more a month to citizens for refuse service.

Council questioned Mr. Gilley as to the options available for utilization of the brush and bulky pickup equipment in the event following a review of the organization it's determined that outsourcing of alley clean up would be best for the City. Mr. Gilley stated the following options:

1. Lease/purchase the equipment, with a clause stating if funding is not available the City could get out of the lease. Mr. Gilley noted this would be his last recommendation.
2. Review of other possible uses of the equipment within the City.
3. The contracting company may purchase the City equipment.

Mr. Gilley stated the System-wide review of the organization is expected to result in some cost savings but significant savings would probably not be seen until FY06. The review includes:

- Rightsizing
- Structure
- Managed Competition
- Revenues

Further Council and staff discussion included: 1) in the event the enhanced Code Enforcement program is approved, staff will prepare a Community Transition/Outreach Plan by the second Council meeting in October 2004, to inform and educate the community on the Code Enforcement regulations, to make it easier for citizens to comply and to better assist citizens (i.e. additional dumpsters in neighborhoods, multiple alley pick-ups, etc.); 2) reviewing ways of cross sectioning other department employees with code enforcement officers for better code enforcement results, and; 3) the need for pro-active as well as re-active code enforcement.

At 10:25 a.m. Mayor Archibald announced the Council would recess for a 5 minute break.

Council reconvened in Regular Session at 10:30 a.m.

Mayor Archibald stated the Revised FY 2003-2004, and Proposed FY 2004-2005 Budget Ordinances, as well as the Resolutions for the Building Inspection Fees and Solid Waste Fees do call for a public hearing. The Mayor further stated based on the Council's discussion and for the audience's benefit and in the interest of time that he does not believe any city program or the retirement annuities are at risk of being removed from or reduced in the budget(s).

The Mayor then offered the audience the opportunity to be recognized, by a show of hands, for their support of the following programs/services: Library, Call for Help, Senior Citizens programs, Retirement Annuities, and the Cultural Affairs Council. Following the show of hands Mayor Archibald noted to allow time to hear all comments each speaker would be permitted to speak for approximately 3 minutes and although no timer would be used the Mayor requested that there be no repetition of comments.

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

- Victoria Stevenson – in favor of Code Enforcement Officers. Ms. Stevenson explained actions she had taken in support of beautifying Abilene.
- Joe Spano, business owner – in favor of Code Enforcement Officers. Mr. Spano addressed possible cleanup program activities and stated he prefers a fee over a tax increase.
- Joe Specht, member of the Library Advisory Board – Supports Library Material Budget and prefers a fee over a tax increase. Mr. Specht stated he was not aware that any reductions would be from an "increased" library material budget and not from the current budget.
- Pebbles Lee, Executive Director of Downtown Homeowners Association – in favor of Code Enforcement Officers. Ms. Lee questioned where citation revenue would be allocated, noted her preference for citations to be issued, stated violators should carry bigger burden of paying for code enforcement and asked if city should keep streets and curbs clean.
- Libby Rankin, member of the Friends of the Public Library – Addressed previous reductions in library budget (city and state) and benefits of library services.
- Daniel Flatt – in favor of Code Enforcement Officers if laws are enforced properly and within the law. Addressed city enforcement practices and liabilities noting liens are unenforceable and that the Code needs to be updated and equally enforced. Prefers a tax over a fee.

Council and staff discussed: 1) what would be required for a comprehensive Environmental Code rewrite; 2) code issues process to begin with the City Attorney's office; 3) departments and City Attorney to meet on Mr. Flatt's concerns; 4) Solid Waste fees only applying to those with water meters; 5) other avenues of accessing fees on individuals with no water meters, and; 6) enforcing property liens program.

- Jerry Smith, business owner – Supports Stormwater Utility fees. Supports utilizing current employees from other departments to assist with code enforcement.
- Lydia Long – in favor of Code Enforcement Officers. Addressed crime aspects of code enforcement.
- Carrie Blaschke, Town West Organization – in favor of Code Enforcement Officers. Supports tax increase and significant fines to fund code enforcement.
- Ray Garza – in favor of Code Enforcement Officers. Addressed landlords being held responsible for code compliance.
- Margaret Ghant – in favor of Code Enforcement Officers when enforcement is done properly. Addressed neighborhood issues.
- Anita Bowley – Addressed retirees needs and asked Council to consider those needs.
- Wayne McDonald – not supportive of code enforcement due to low income neighborhoods having difficulty complying due to their limited resources. Prefers assistance being provided to citizens in areas such as additional days to use landfill, more use of dumpsters and recycling center.

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

Mayor Archibald summarized the Council, staff and public hearing discussion noting that code enforcement is a critical issue and one that Council has stated their support of.

Councilman Hill made a motion to approve the Revised 2003-2004 Budget and Proposed 2004-2005 Budget Ordinance (which includes funding of the stop sticks and shot guns for the Police Dept. from the ending fund balance of the budget and the funding of two new code enforcement officers, equipment and related expenses), the Resolution adopting the Building Inspection Schedule of Fees, and the Resolution revising Resolution No. 23-2003, the Schedule of Rates and charges for the Solid Waste Services Division, and authorizing staff to amend the schedule to reflect an additional 15 cents to fund the enhanced code enforcement program and an additional 20 cents to fund the brush and bulky alley pickup service. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **23-2004** and captioned as follows:

AN ORDINANCE APPROVING REVISED BUDGET FIGURES FOR FISCAL YEAR 2003-2004; APPROVING AND ADOPTING BUDGET FOR THE FISCAL YEAR OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2005, FOR THE CITY OF ABILENE; APPROPRIATING FUNDS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CALLING A PUBLIC HEARING.

The Resolution is numbered **22-2004** 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.

The Resolution is numbered **23-2004** and captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE, TEXAS REVISING RESOLUTION NO. 23-2003, THE SCHEDULE OF RATES AND CHARGES FOR THE SOLID WASTE SERVICES DIVISION, ADOPTED AUGUST 28, 2003.

Mayor Archibald noted within the next 30-45 days a trolley tour would be conducted to view Abilene. The Mayor stated whoever would like to go on the tour was invited to do so.

City Attorney Sharon Hicks clarified for Council that concerning the discussion on code violations that lien's placed on property are enforceable.

4.5 B. Finance Director David Wright, briefed the Council on an Ordinance considered on second and final reading to set the Ad Valorem Tax Levy at 63.55 cents per \$100.00 valuation for FY 2004-2005.

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 Hill made a motion to approve the Ordinance setting the Ad Valorem Tax Levy at 63.55 cents per \$100.00 valuation for FY 2004-2005. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered 24-2004 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, APPROVING THE ASSESSMENT ROLL FOR 2004, LEVYING AN AD VALOREM TAX FOR THE CITY OF ABILENE, TEXAS, FOR THE YEAR 2004; 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.

4.6 Mayor Archibald noted that item 4.6 is a tabled item and requires council action to remove it from the table.

Councilman Hill made a motion to remove item 4.6 from the table. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

Councilman Williams left the meeting at 12:05 p.m.

James Condry, Traffic and Transportation Administrator then briefed the Council on item 4.6, a Resolution affirming the reversion of Woods Place as a public street. Mr. Condry noted the additional information requested by Councilman Chase at the August 12th City Council meeting had been provided to Council.

Mr. Condry stated in a letter dated June 28, 2004, Vincent Johnson of the Abilene Psychiatric Center requested that Woods Place be officially returned to public street status based upon the conditions of Ordinance 32-1985, which had abandoned the right-of-way. Mr. Condry further stated the right-of-way for the street (known as Poplar Street) was dedicated by the Flat Acres Subdivision plat in 1959. In 1984, the name was changed to Woods Place. In 1985, the right-of-way was abandoned by Ordinance No. 32-1985. This abandonment was conditioned upon the replatting of two lots into one lot within a 16-year period and before the sale of either lot. Mr. Condry noted that the City Attorney's Office has determined that the conditions were not met, and therefore, the street could revert to the City as a public right-of-way. Staff recommends approval of the Resolution affirming the reversion of Woods Place as a public street.

Councilman Chase stated his satisfaction with the additional information provided by staff on the item. Councilman Chase then made a motion to approve the Resolution affirming the reversion of Woods Place as a public street. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered **24-2004** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AFFIRMING THE REVERSION OF WOODS PLACE (FORMERLY POPLAR
STREET) AS A PUBLIC STREET.

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.

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 re-appointment of J. Steven Austin to the Mental Health-Mental Retardation Board of Trustees, term expiring August 2006. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

Mayor Archibald noted the appointment to the Abilene-Taylor County Public Health Advisory Board will be made at a later date.

There being no further business, the meeting was adjourned at 12:55 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor