

CITY COUNCIL MEETING
October 21, 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 October 21, 2004, at 8:30 a.m. in the Council Chambers at 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 Southward gave the invocation.

Hadley Riddle a 5th grade student from Ward Elementary led the Pledge of Allegiance. Hadley's mother and Mr. Hodges, principal of Ward Elementary were also present.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- Domestic Violence Awareness Month, October 2004.
- Habitat for Humanity 100th Home Day, October 30, 2004.

DISPOSITION OF MINUTES

2.0 The minutes from the October 14, 2004 Regular Council meeting will be considered for approval at the November 4, 2004 Council meeting.

CONSENT AGENDA

3.0 Councilman Southward made a motion to approve consent agenda items 3.1 through 3.3, item 3.7, final reading of items 3.4 and 3.5, and first reading of item 3.6, as recommended by staff. Councilwoman Moore 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 authorizing the City Manager to execute Supplemental Agreement Number 1 to the General Services Administration lease of office space in the Airport Terminal for Transportation Security Administration use.
- 3.2 Oral Resolution approving a Street Use License request from Abilene Christian University to allow extension of ACU utilities from the main ACU campus to a new ACU student housing development and existing buildings west of Campus Court.

- 3.3 Oral Resolution approving a Street Use License request from the Development Corporation of Abilene (DCOA) for the purpose of constructing and maintaining a fence in the public right-of-way of Vine Street adjacent to DCOA property at 4009 Vine St.

Ordinances:

- 3.4 An Ordinance amending the City of Abilene Municipal Code Chapter 18, “Motor Vehicles and Traffic”, Sections 18-196, Parking Not to Obstruct Traffic, Section 18-286, Decreased Speed Limits – School Zones, Section 18-293, Parking Prohibited – At All Times, and Section 18-299, Parking Time Limited.

The Ordinance is numbered **31-2004** 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.

- 3.5 An Ordinance electing for the City of Abilene to make current and prior service contributions to the Texas Municipal Retirement System.

The Ordinance is numbered **32-2004** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE AUTHORIZING CHANGES TO BE MADE TO THE CURRENT SERVICE AND PRIOR SERVICE CONTRIBUTIONS TO THE CITY’S ACCOUNT IN THE MUNICIPAL ACCUMULATION FUND OF THE TEXAS MUNICIPAL RETIREMENT SYSTEM AT THE ACTUARIALLY DETERMINED RATE OF TOTAL EMPLOYEE COMPENSATION.

- 3.6 **Z-2304** – Rezone from Residential Single-family (RS-6) to Planned Development District (PDD), property located at 1541 Lytle Acres Drive; and set a public hearing for November 4, 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, CONCERNING PDD-94 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Bid Award:

- 3.7 **Bid #CB-5001** – Playground equipment for Bowie Park. The bid for play structures, ages 5-12, was awarded to Harpers Recreation Design for \$21,577.00 and for play structures, ages 2-5, was awarded to Jim Lee Associates for \$9,427.00.

REGULAR AGENDA

Mayor Archibald welcomed Jon James to his new position as Director of Planning & Development Services.

4.1 Jon James, Director of Planning & Development Services briefed the Council on **Z-2704**, an Ordinance considered on second and final reading to rezone from Shopping Center (SC) to General Commercial (GC) zoning district, property located at 2465 Buffalo Gap Road.

Mr. James stated the rezoning request involves a lot with an occupied structure at the northeast intersection of Highland Avenue and Buffalo Gap Road. The rezoning from Shopping Center (SC) to General Commercial (GC) is desired to support a used vehicle business. Mr. James further stated the applicant has owned the property since 1997, at which time the site supported a gas station with 3 bays for auto repair. In 2001 the owners decided to cease the gas station/auto repair business, and transitioned to the sale of used vehicles. Since no change of occupancy occurred, they were not aware that the new business was not in compliance with the existing zoning ordinance. Staff and the Planning & Zoning Commission recommend approval of the rezoning request.

Council and staff discussion included staff's support of the rezoning request being based on the proximity of the property to other General Commercial (GC) zoned property, the density of residential property in the area, the higher concentration of other General Commercial (GC) zoned parcels nearby, and the visibility and traffic counts in the area warranting a rezoning approval.

Following Council and staff discussion Mayor Archibald opened a public hearing on the item. There being no one present and desiring to be heard the public hearing was closed.

Councilman Williams made a motion to approve **Z-2704**, an Ordinance considered on second and final reading to rezone from Shopping Center (SC) to General Commercial (GC) zoning district, property located at 2465 Buffalo Gap Road as recommended by staff and the Planning & Zoning Commission. Councilman Chase 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 **33-2004** 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 Andy Anderson, Director of Public Works stated prior to the formal presentation of agenda item 4.2 clarifications of some number discrepancies in the information Council has is needed. Mr. Anderson noted the original agreement executed by city manager Larry Gilley included a cost amount of approximately 1.3 million dollars. The memorandum Council has before them has the number of 1.85 million dollars and the number that will be focused on during today's presentation is 1.728 million dollars. Mr. Anderson then explained the differences in the three numbers. Mr. Anderson noted that staff was up against a time crunch for signature on an agreement with the Corps of Engineers and the number that was included in the agreement, the 1.3 million dollars, was based upon the best information that was available at that time. Since that time and before the memorandum was written for today's council agenda better information was provided, a better estimate was made and that number was adjusted to 1.85 million. Before coming to Council today final adjustment was made to that number and staff is very comfortable with the number of 1.728 million. Staff is requesting ratification of Mr. Gilley's signature on the original agreement and in addition staff is requesting authorization for signature on an amended agreement that will include the adjusted amount of 1.728 million dollars.

Mr. Anderson then briefed the Council on an Oral Resolution ratifying the original agreement and an amended agreement, and the City Manager's authority to execute the original agreement and amended agreement, with the U.S. Army Corps of Engineers and the authorization to proceed with the Digital Mapping Project. Mr. Anderson stated staff is currently working with the U.S. Army Corps of Engineers and the Natural Resource Conservation Service on an update to the previously drafted 1990 Elm Creek Feasibility Study (flood study). Mr. Anderson noted these efforts should ultimately result in a series of recommendations for flood mitigation for Elm Creek and that the study will also result in a large amount of technical data that will be helpful in future master planning efforts. Further work by the Corps of Engineers requires a cost sharing agreement with the City of Abilene. It was discovered late in September by the Corps that the agreement had to be executed before the end of Fiscal ending September 30, 2004. Mr. Anderson noted as previously stated staff is seeking ratification of the City Manager's signature on a cost share agreement, dated September 29, 2004. Mr. Anderson also noted as was mentioned during the Stormwater Utility update, presented to the City Council in August, staff is in need of aerial photography and elevation contour information to support the Corps study update. The Council was advised staff would be pursuing this Digital Mapping Project due to its effect on several Stormwater Utility initiatives. This Digital Mapping Project has been identified as needed for several reasons. Two of those associated with Stormwater projects are as follows:

- The Army Corps of Engineers will utilize this new mapping information for the Elm Creek Flood Study Update, which will allow for a much more accurate product than what was produced previously.
- The Federal Emergency Management Agency (FEMA) is proceeding with the Floodplain Remap project and will utilize the new aerial photography and topographic information. This new information is necessary to receive updated floodplain information and Flood Insurance Rate Maps. If this new digital mapping information is not available for the Remap project, the result will only be digitization of the current floodplain maps and no new detailed creek study. It should be noted that this

floodplain remap project was identified as a significant need in both the ACE Report and the Emergency Management Plan.

Staff is therefore seeking authorization to proceed with development of those projects. Mr. Anderson further stated the total cost for the Elm Creek Feasibility Study update is approximately \$1.728 million. The City of Abilene will be responsible for 50% of those costs, with the other 50% to be funded by the Army Corps of Engineers. Mr. Anderson noted in-kind efforts, as well as expenditures by the City for technical information which supports the Corps effort, will go toward fulfillment of the City's obligation. The total cost of the aerial photography and elevation contour project is estimated at \$466,000. Several sources have been identified for funding this effort.

Mr. Anderson briefed the Council on the history of the two major initiatives the City of Abilene has been involved in for the past three to four years, the storm water and flooding within the community and planning efforts to try to determine how to resolve some of those issues. Mr. Anderson stated one initiative, the Federal Emergency Management Agency floodplain and floodway maps of the community were done two to three decades ago and are significantly dated and in some areas their accuracies are questionable based upon the data available at the time and on the work that has occurred throughout the community over the years. Mr. Anderson then stated the other initiative is the Corps of Engineer study that was done in the early 1990's, but was then suspended and only recently has been re-initiated.

Mr. Anderson reviewed the Floodplain Remap Chronology of Events from August 2001 to the present and the Elm Creek Feasibility Study Reactivation By Corps of Engineers Chronology of Events from July 2002 to the present.

Mr. Anderson further reviewed the cost versus funding sources for the Elm Creek Flood Study noting the City's funding portion will be provided through a combination of offset expenditures and cash payment. Mr. Anderson also reviewed the \$466,000 Aerial Photography/Elevation Contour Digital Mapping Project noting the interest in the project, and contributions being made by outside agencies (Taylor County Appraisal District contributing \$20,000 and the Metropolitan Planning Organization contributing \$30,000) with the balance being funded through the city's Water (\$50,000) and Stormwater (\$366,000) Utilities funds.

Discussion by Council, staff and Michael Anderson (representative from the consulting firm contracted by FEMA) included: 1) staff continuing to look for additional funding to help lower the cost of the projects; 2) the study not including Lytle, Cedar, Rainey or Deadman creeks; 3) Council's interest in Rainey and Deadman creeks being studied due to potential future development in those areas; 4) the study being a beginning for stormwater planning efforts; 5) staff addressing unknown costs and projects referenced in the agreement; 6) the Appraisal District's contribution possibly increasing depending on their end of year budget balance; 7) staff providing Council with information on the current funds available in the Stormwater Utility Fund; 8) the re-mapping project expected completion date to be within two years and Elm Creek Study expected to take approximately three years; 9) Council's concerns for residents that currently have flood insurance that don't need it; 10) the expected results and products from the projects; 11) FEMA's total project amount (covering all of Taylor County); 12) Certificate of Obligations no longer being considered as a funding source; 13) the Elm Creek study not including Ft. Phantom;

14) the limited work on Elm Creek past F.M. 600; 14) staff noting Ft. Phantom will be a separate project; 15) utilizing Lake Abilene's capacity for detention; 16) balancing detention, retention and water yield and Council's concerns that what is captured in Ft. Phantom is not minimized; 17) the completed projects expecting to be valid for up to two decades, and; 18) the City's commitment being a total of one million seven thousand dollars (\$366,000 for mapping from the Stormwater Utility Fund, \$50,000 for mapping from the Water Utility Fund, and borrowing \$591,000 from the General Fund to be repaid by the Stormwater Utility Fund).

Councilman Chase made a motion to ratify by Oral Resolution the agreement and the city manager's authority to execute the agreement with the U.S. Army Corps of Engineers as signed by city manager Larry Gilley on September 29, 2004, to authorize execution by Mr. Gilley of an amendment to that agreement to reflect the total amount of \$1.728 million and to authorize proceeding with the Aerial Photography/Elevation Contour Digital Mapping Project in the amount of \$466,000. Councilman Hill seconded the motion and the motion carried.

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

NAYS: None

Mayor Archibald recognized and welcomed to the council meeting Boy Scout Koty Green.

Councilman Hill left the Council meeting before Executive Session.

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 Council meeting after Executive Session.

REGULAR SESSION

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

There being no further business, the meeting was adjourned at 10:50 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor