

CITY COUNCIL MEETING
November 18, 2004, 5:30 p.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 November 18, 2004, at 5:30 p.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 (arrived after item 4.1), Assistant City Attorney Dan Santee, Assistant City Secretary Renee Scott, and various members of the City staff.

Mayor Archibald stated the Council is now providing the opportunity for guest to bring the invocation at the Council meetings. The Mayor then asked Councilman Hill to introduce his guest. Councilman Hill introduced his pastor Scott Mayer, of the Heavenly Rest Episcopal Church, who then gave the invocation.

Mayor Archibald introduced Kyle Charpentier a 2nd grade student from Bassetti Elementary who led the Pledge of Allegiance. Kyle's sister and parents, Bryan and Diane Charpentier were also present.

Mayor Archibald reported on the recent rains noting that Lake Ft. Phantom is less than one foot below the spillway. Mayor Archibald announced when Ft. Phantom goes over the spillway a press conference will be called to inform all the citizens of Abilene.

DISPOSITION OF MINUTES

2.0 With one noted addition to the November 4, 2004 Regular Council Meeting Minutes having been made Councilman Southward made a motion to approve the minutes with the noted addition. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

Mayor Archibald stated that as the public came into the Council Chambers if they desired to speak during the public comment portion of the Agenda they were given an opportunity to complete a public comment form. Mayor Archibald reminded the audience if they wished to address Council in the public comment portion of the Agenda they would need to complete the form. The Mayor stated he would be using the forms to recognize those wanting to speak.

CONSENT AGENDA

3.0 Councilman Higgins made a motion to approve consent agenda item 3.1, first reading of items 3.2 through 3.5, and items 3.6 and 3.7, as recommended by staff. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

Resolution:

- 3.1 Oral Resolution accepting a petition for annexation and directing staff to prepare a Service Plan for property located between Maple Street and an existing City limit boundary located east of Vinson Rd. and between Hardison Lane and Colony Hill Road (Aaron Waldrop property and surrounding area).

Ordinances:

- 3.2 An Ordinance providing for increased Prior and Current Service Annuities for Retirees and Beneficiaries of Deceased Retirees of the City of Abilene, by amending Chapter 2, Article III, Section 2 of the Abilene City Code, and establishing an effective date for the Ordinance.

AN ORDINANCE OF THE CITY OF ABILENE PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM ("SYSTEM") FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY OF ABILENE, BY AMENDING CHAPTER 2, ARTICLE III, SECTION 2.OF THE ABILENE CITY CODE, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

- 3.3 **TC-0704** – Thoroughfare abandonment of the south 10 feet of the South 8th Street right-of-way from Peach Street east 140 feet to a north-south alley located adjacent to 1541 & 1533 South 8th Street; and set a public hearing for December 2, 2004 at 8:30 a.m.

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.

- 3.4 **Z-2604** – Rezone from MH (Mobile Home) and GC (General Commercial) to PDD (Planned Development District) zoning district, property located at 402 Arnold Blvd; and set a public hearing for December 2, 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-95 PLANNED DEVELOPMENT DISTRICT, CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.5 **Z-2904** – Rezone from AO (Agriculture Open Space) to RM-3 (Residential Multi-family) zoning district, property located at 501 EN 10th Street; and set a public hearing for December 2, 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.

Bid Awards:

- 3.6 Diesel exhaust removal system for the Fire Department. Staff has determined that Air Cleaning Technologies, Inc. is the sole source for this system, future systems and replacement systems. Staff recommends purchase of the systems in the amount of \$60,080.00.
- 3.7 **Bid #CB-5005** – 2004 State Homeland Security Grant Items/Tactical body armor for the Police Department. The bid for Police Tactical body armor was awarded to C&G Wholesale, Dallas, TX in the amount of \$28,548.00.

REGULAR AGENDA

Mayor Archibald stated the Report on the status of *Frontier Texas!*, item 4.3 would be presented before item 4.1 on the Regular Agenda.

Mayor Archibald introduced Billye Proctor-Shaw, Chair of the *Frontier Texas!* Board who then presented the report on the status of *Frontier Texas!*

4.3 Ms. Proctor-Shaw recognized and expressed her appreciation for the work of Jeff Salmon, Executive Director of *Frontier Texas!*, Petty Hunter and Chuck Cowell of the *Frontier Texas!* Board. Ms. Proctor-Shaw stated the project for *Frontier Texas!* broke ground in 2002, Board of Directors were appointed in October 2002, Executive Director was hired in August 2003, and the grand opening was on April 3, 2004. Ms. Proctor-Shaw noted that *Frontier Texas!* has been in operation for seven months, has developed articles of incorporation, by-laws, and has entered into a lease with the City of Abilene. Ms. Proctor-Shaw stated that *Frontier Texas!* has a 21 member Board of Directors which are appointed by the City Council. The Board of Directors consist of 11 At-Large members and 10 members being position appointments. Ms. Proctor-Shaw further stated that *Frontier Texas!* is "Inventing the Wheel", with no precedence having been set for the century of adventure. Ms. Proctor-Shaw noted on average *Frontier Texas!* hosts 4,500 attendees monthly with an average expenditure in the gift shop of \$1.78 per attendee. Ms. Proctor-Shaw further noted *Frontier Texas!* hosted their first event, "Spirit of the Frontier", in October. Ms. Proctor-Shaw stated the visitors all rate *Frontier Texas!* with the highest of praises, with *Frontier Texas!* setting a new quality standard for Texas. Ms. Proctor-Shaw noted that 30% of the attendees are from Abilene, 40% from other cities throughout Texas, 18% from other states, 5% from foreign countries, and the remainder of the attendees did not disclose their origin. In addition *Frontier Texas!* has had visitors from all 50 States and representatives from 30 countries. Ms. Proctor-Shaw concluded the report by stating that *Frontier Texas!* has an outstanding and capable staff with many accomplishments to be proud of and that *Frontier Texas!* has the promise and

potential of becoming what is viewed as a tourist magnet and centerpiece of Abilene and the surrounding region.

Mayor Archibald thanked Ms. Proctor-Shaw and Jeff Salmon, Executive Director for their leadership, and Chuck Cowell, Petty Hunter and the other individuals who serve on the Board of Directors. Mayor Archibald stated that Abilene has a jewel in Frontier *Texas!*

No Council action was required.

Mayor Archibald called on David Sartor, Building Official to present regular agenda item 4.1.

Mr. Sartor noted the Building Officials Association of Texas will be coming to Abilene in February 2005 for their Annual Conference. Mr. Sartor stated they are planning on arranging having the banquet and the conference at Frontier *Texas!*

4.1 David Sartor, Building Official briefed the Council on an Ordinance approving the adoption of the 2003 International Existing Building Code, with local amendments.

Mr. Sartor stated the Code before Council is based on a recommendation from the Ace Oversight Committee. The Committee had requested that the Building Inspection Division examine the possibility and benefit of adopting the sub-code for existing structures. Mr. Sartor explained that staff established a committee of citizens to review the 2003 International Existing Building Code, published by the International Code Council. Mr. Sartor noted this comprehensive existing building code establishes minimum regulations for existing buildings using prescriptive and performance-related provisions. Mr. Sartor further noted that the Code is designed to encourage the use and reuse of existing buildings, while requiring reasonable upgrades and improvements to safeguard the public health and safety. Mr. Sartor stated The International Code Council publishes the Plumbing, Mechanical, Electrical, Building Code, Residential Code, and Energy Code that are currently being used. Mr. Sartor stated new and innovative items have been established which include the following different levels of alterations:

- Repairs
- Alteration Level 1 – changing wall finishes, coverings, or ceiling finishes.
- Alteration Level 2 – reconfiguring space in a structure.
- Alteration Level 3 – when 50% of the space of the building is affected.

Mr. Sartor explained the specific Code requirements that come into play with each alteration level and the change of occupancy requirements. Mr. Sartor noted that this code cannot affect any Federal or State Laws or regulations that regulate construction, which includes asbestos abatement requirements through the Texas Health Department, the Texas Accessibility Standards which comply with ADA issues, and the Engineering Practice Law. Staff recommends Council approve the adoption of the 2003 International Existing Building Code, with local amendments.

Council and staff discussion included: 1) savings per square foot for individuals who are rehabilitating property; 2) the new code assisting in the rehabilitation of older homes; 3) the possibility of rehabing commercial buildings into residences; 4) citizens being aided in

understanding the code; 5) staffs ability to interpret the new code in a flexible manner to be more customer service friendly and to accomplish the goals of the City; 6) staffs approach to interpretation of codes when questions arise concerning the intent of the codes, with the International Code Council being contacted for clarification on their intent; 7) staffs additional responsibilities and authority as outlined in the Code; 8) educating contractors on the existence of the Code and the advertising of the new code and; 9) IEBC training seminar.

Following Council and staff discussion Mayor Archibald opened a public hearing and the following individual addressed the Council:

- Ellen Richards – proponent. Ms. Richards stated Council approving the adoption of the 2003 International Building Code, with local amendments would be the best thing to do, and that the media could help to inform the public.

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

Councilman Williams made a motion to approve the Ordinance considered on second and final reading to adopt the 2003 International Existing Building Code, with local amendments. 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 **35-2004** and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 10, "ENERGY CODE", AND CREATING DIVISION 11, "EXISTING BUILDING CODE", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SERVERABILITY CLAUSE, DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

4.2 Tommy O'Brien, Director of Water Utilities briefed the Council on an Oral Resolution authorizing for advertising for receipt of bids for the Northeast and Grimes Water Treatment Plants Upgrade Construction Project; and an Oral Resolution authorizing the remainder of the Professional Services Agreement with Alan Plummer Associates, Inc. for the design of necessary improvements to the Northeast and Grimes Water Treatment Plants. Staff recommends approval.

Mr. O'Brien noted during the September 23, 2004 City Council Meeting, the Council authorized the City Manager to execute the Professional Engineering Services Agreement between the City and Alan Plummer Associates, Inc. for providing professional engineering services associated with the design and construction of a project to upgrade the Northeast and Grimes Water Treatment Plants. Mr. O'Brien stated with the City Council's authorization staff will proceed with advertising for the receipt of bids. Mr. O'Brien further stated during the October 14, 2004 City Council Meeting, the Council was presented with the Water Treatment Plant Master

Plan for the Northeast and Grimes Water Treatment Plants. Mr. O'Brien distributed a Critical Path Timeline to Council and stated the timeline reflects a summary of how the City will proceed over the next several years with plant improvements that were presented at the October 14th Council meeting. Mr. O'Brien noted the Master Plan recommends that the City of Abilene consider making immediate improvements to the Northeast Water Treatment Plant to increase the reliable capacity of the plant to 25 million gallons per day. Mr. O'Brien noted that sometime next year there needs to be discussion on how to proceed with additional improvements to the water treatment system which includes not only improvements at the Northeast Water Treatment Plant, south side of the Hargesheimer Plant, but also the Grimes Water Treatment Plant. Mr. O'Brien stated those decisions will determine the direction for the expansion of the south side of the Hargesheimer Plant, the Northeast Plant expansion, and what direction is to be taken with the Grimes Plant. Mr. O'Brien noted these decisions will not be made at this Council meeting, the only decision needed today is to determine whether the recommended improvements are to be made.

Mayor Archibald clarified that the items to be voted on today include upgrades for both the Northeast Water Treatment Plant and the Grimes Water Treatment Plant, with the majority of the money going towards improvements of the Northeast Water Treatment Plant, and only minor improvements at the Grimes Water Treatment Plant.

Council and staff discussion included: 1) the majority of the money will be used to replace equipment at the Northeast Plant (replacement of clarifier mechanisms, and improvements to the filtration systems), improvements will also include disinfection systems at both the Northeast and Grimes Water Treatment Plants, adding minor improvements at the Grimes Water Treatment Plant which includes a scrubber mechanism, adding a mixer at the Grimes Water Treatment Plant, improvements at the Northeast Water Treatment Plant, on handling the wastewater from the treatment process, bringing it up to State standards; 2) the Northeast Water Treatment Plant and Grimes Water Treatment Plant treatment capacity is currently rated at 20 million gallons per day; 3) the study has shown that the Northeast Water Treatment Plant can consistently treat water at 16 million gallons per day and the Grimes Water Treatment Plant at 18 million gallons per day; 4) the effect cold and hot weather has on each plant; 5) proposal for the upgrades will increase the 16 MGD at the Northeast Water Treatment Plant to 25 MGD for both normal, cold and hot weather days; 6) the portable scrubber for Grimes; 7) paying off indebtedness on the second Hubbard pipeline in the next few months, will result in providing funding for the Northeast Water Treatment Plant; 8) no increase in water rates or any additional fees will occur; 9) the problem of mixing Hubbard water with Lake Ft. Phantom water, with Ft. Phantom being the better quality water and more efficient to treat and now with Ft. Phantom being almost full the possibility of using far less Hubbard water; 11) the issue of cold water being difficult to treat regardless of the source, but the improvements will allow the treatment of the colder water; 12) continuing to meet, but not having exceeded, all standards of State and regulatory agencies; 13) Alan Plummer Associates, Inc. being charged with evaluating why problems existed in treating water at both plants, and what improvements could be made to treat water more efficiently under the assumption that water would be received from both Hubbard Creek and Ft. Phantom; 14) the need to address the best and most cost efficient way to utilize both Hubbard and Ft. Phantom prior to approving upgrades to the system; 15) issues that would have to be addressed if Council does not approve the item before them and risks involved if item is delayed; 16) what will be gained if

improvements are made and demands don't require them; 17) the schedule to open and evaluate bids and the item then being brought back to Council for final decision; 18) past and current million gallons per day (peak day) usage, affect reuse of effluent water and water restrictions has had on reducing maximum per day usage; 19) recommendation being based on good evaluation of data over extended period of time and what that evaluation entailed; 20) what the Northeast Water Treatment Plant is designed to treat within perimeters; 21) percentage of time that .3 turbidity level is to be met; 22) TCEQ's ratings of Abilene's system; 23) high peak demand or other situations may result in Abilene not being able to stay within State standards; 24) whether it's practicable, reasonable or economical based on the facts at this time to spend 7 million dollars or to wait and review the rest of the Master Plan, blending possibilities, etc. at a future date or possibly review other options; 25) Council being faced with business decision, not a quality decision or an urgent matter; 26) standards are being met, good quality water is being provided; 27) staffs professional responsibility to be diligent with a potential situation; 28) the process of rating clarifiers and filters; 29) concerns over the Master Plan not being complete, Ivy issues, the blending issues and other raw water source potentials that haven't been addressed; 30) the treatment of water in the 1980's and 1990's and the standards that existed during those years; 31) the testing process, engineering judgement and reviewing data and plots; 32) utilization of Hubbard bond money if Council does not approve this item - impact to water bills; 33) currently blending 12 million gallons of water a day from Hubbard into Ft. Phantom to help turbidity issue – which temporarily solves that issue. Northeast Water Treatment Plant having been established to soften water not remove turbidity; 34) staff agreeing if Council does not approve the items at this time but assures that restrictions are continued to address the flow issue that would be easier but that there would still be a risk with the current equipment and filters not being up to State standards.

Following Council and staff discussion Councilman Hill made a motion to approve by Oral Resolution authorizing the advertisement for receipt of bids for the Northeast and Grimes Water Treatment Plants Upgrade Construction Project; and by Oral Resolution the authorizing of the remainder of the tasks in the Professional Services Agreement with Alan Plummer Associates, Inc. for the design of necessary improvements to the Northeast and Grimes Water Treatment Plants. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: Councilman Chase (stating no, not now), Councilmen Williams and Higgins.

Council recessed for a 5 minute break at 7:30 p.m. and reconvened at 7:35 p.m.

- 4.4 Mayor Archibald explained the public comment item on the Agenda and reviewed the procedure stating that each person will be allowed to speak for three minutes. The audience was reminded that personnel, litigation and claim issues are not open for public comment.

Mayor Archibald recognized the following individuals:

- Michael J. Armstrong – Is in favor of the public comment portion of the Agenda and wants to see more opportunities for evening meetings. Mr. Armstrong stated that the DCOA is attempting to bring in a medical transcription company to Abilene, hiring

300 people with salaries beginning at \$35,000 per year plus benefits. Mr. Armstrong further stated that the DCOA will be giving Crown, Cork & Seal over a 5 year period \$2,000,000 to upgrade equipment.

- David Perkins – Addressed the issue of State Schools being closed throughout the State and urged the City Council to do all that is possible to protect the Abilene State School from being closed.
- Pat Carey – Addressed the City hiring consultants with taxpayer dollars to conduct studies but then not utilizing the studies.
- Maria Velasquez – In favor of evening Council meetings, utilizing the ½ cent sales tax to promote jobs and protecting the Abilene State School from closing.
- Petty Hunter – In favor of quarterly evening meetings with Public Comment item on the Agenda. Encouraged Councilmembers to be more proactive with neighborhoods and offered to coordinate these efforts with the NAACP and other civil rights organizations.
- Chris Kyker – Urged Council to protect the Abilene State School from being closed. Ms. Kyker distributed The Tenth Texas Silver-Haired Legislature Report. As Speaker of the Texas Silver-Haired Legislature Ms. Kyker requested the Council place an item on their Agenda in the near future to consider freezing taxes, as approved by Taylor County voters on September 13, 2003 (Proposition 13), on the homesteads of the elderly and disabled citizens of Abilene.
- J. Marcus Anderson – Addressed concerns over the cracks in the flooring of Cisco Junior College and requested the City, if appropriate, investigate his concerns.

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 Williams made a motion to approve Mayor Archibald's appointments and reappointments to various boards and commissions as listed below and to table the appointments and reappointments to the Development Corporation of Abilene and the Planning and Zoning Commission. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Abilene Health Facilities Development Corporation

3 year terms

Re-Appoint:

- Harwell Barber
- Raleigh Brown
- Richard Johnson

Abilene-Taylor County Child Advocacy Center Advisory Board

3 year terms

Re-Appoint:

- Dee Moore
- James McCoy, Chair
- Debra McCracken

Abilene-Taylor County Public Health Advisory Board

3 year terms

Re-Appoint:

- Robert R. Hawley, D.D.S

Appoint:

- Stormy Higgins, term expires November 2005
- Jack Turner

Abilene-Taylor County Venue District Board

2 year terms

Re-Appoint:

- David Polnick

Appoint:

- Norm Archibald, term expires November 2005
- Kris Southward, term expires November 2005

Airport Development Board

3 year terms

Re-Appoint:

- Larry Gill
- Robert Patterson
- Vince Swinney

Animal Control Advisory Committee

3 year terms

Re-Appoint:

- Jack Callan, D.V.M.

Appoint:

- Thaddeus Iwuji
- Larry Johnson, term expires November 2006

Board of Adjustment

2 year terms

Re-Appoint:

- Wayne Bradshaw
- Scott Hay
- Jim Salisbury

Appoint:

- Brenda Coleman, Alternate, term expires November 2005
- Tim Cook, Alternate

Board of Building Standards

2 year terms

Re-Appoint:

- Lisa Fairchild, Alternate Banker
- Paige Gollihar, Architect
- Larry Holmes, Realtor
- Robert Roadcap III, Alternate Architect
- Dee Ann Yielding, Banker

Appoint:

- Pamela Yungblut, Alternate Realtor
- Lloyd Turner, Alternate Engineer, term expires November 2005
- Perry Haynes, Engineer

Civil Service Commission

3 year terms

Appoint:

- Pamela Mann, term expires November 2005
- Sandy Self, term expires November 2007

Housing Authority Board

2 year terms

Re-Appoint:

- Valree Brailsford
- Tonya Jones-Brown

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Landmarks Commission

3 year terms

Re-Appoint:

- Ruby Perez

Appoint:

- Steve Butman
- Scott Bishop

Library Board

2 year terms

Re-Appoint:

- Chris Blackmon
- David Scott
- Maryanna Harrell

Appoint:

- Stewart Caffey
- Jane Seamster

Mechanical, Plumbing, Electrical, and Swimming Pool Board of Appeals

2 year terms

Appoint:

- Anthony McColum, Building Contractor, term expires May 2005
- Melissa Sparks, Building Contractor, Alternate, term expires May 2005

Office of Neighborhood Services Advisory Council

2 year terms

Re-Appoint:

- Bob Gomez, At Large
- Paul Gibson, At Large
- Nancy Estes, At Large
- David Hall, At Large

Reinvestment Zone #1 City of Abilene

2 year terms

Re-Appoint:

- Joe Canon
- George Nichols
- Bill Senter
- Tiffany Wagstaff
- Mike Young

There being no further business, the meeting was adjourned at 9:10 p.m.

Renee Scott
Assistant City Secretary

Norm Archibald
Mayor