

**CITY COUNCIL MEETING
February 10, 2005, 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 February 10, 2005, 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, Assistant City Attorney Trish Aldridge, City Secretary Jo Moore, and various members of the City staff.

Councilman Williams gave the invocation and then left the Council meeting due to a death in his family.

Mayor Archibald led the Pledge of Allegiance.

EMPLOYEE SERVICE AWARD

Mayor Archibald, assisted by City Secretary Jo Moore, presented an Employee Service Award to the following individual for his years of service:

20 Years	Mickey Chaney	Program Administrator Wastewater Treatment
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PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- February 13th – 19th as “Career and Technical Education Week”.
- February 11, 2005 as “2-1-1 Texas Day”.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the January 13, 2005 and January 27, 2005 Regular Council Meeting Minutes and the January 18, 2005 Special Council and Retreat Meeting Minutes Councilman Higgins made a motion to approve the minutes as printed. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

3.0 Councilwoman Moore made a motion to approve consent agenda items 3.1, 3.4 and 3.5, and first readings of items 3.2 and 3.3 as recommended by staff. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

- 3.1 Oral Resolution approving a contract with Thelen Reid & Priest LLP for an estimated annual amount of \$60,000 and authorizing the City Manager to execute the contract.

Ordinances:

- 3.2 **Z-0105** – Rezone from AO (Agriculture Open Space) and LI (Light Industrial) to GC (General Commercial) or staff-supported alternative: LC (Limited Commercial) and SC (Shopping Center) zoning district, property located at 4002 Buffalo Gap Road; and set a public hearing for February 24, 2005 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.

- 3.3 **Z-0205** – Ordinance to amend existing PDD #95 (Planned Development District) zoning district, property located at 402 Arnold Boulevard; and set a public hearing for February 24, 2005 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 AND ORDINANCE NO. 38-2004 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Bid Awards:

- 3.4 **Bid #CB-5008** – Locknetics Electronic Access Control System at the Taylor County Law Enforcement Center. The bid was awarded to the only bidder, Tex-Oma Builders Supply, Abilene, TX in the amount of \$27,850.00.
- 3.5 **Bid #CB-5028** – Zoo Repairs Phase I which includes Nelson Park parking lot islands; Redbud Park curb ramp at Willis and S. 32nd; and Lytle Trail flume widening. The bid was awarded to Bontke Bros. Construction Company, Abilene, TX in the amount of \$63,979.07.

REGULAR AGENDA

4.1 Jon James, Director of Planning & Development Services briefed the Council on an ordinance considered on first reading to annex and establish zoning on approximately 1600 acres of land located between Hardison Lane and Colony Hill Road from Maple Street to the existing City limits located east of Vinson Road. Mr. James noted the previous public hearings that had been held on the annexation issue and stated the second reading and public hearing on the ordinance to consider annexation and establish zoning is scheduled for February 24, 2005 at 8:30 a.m.

Mr. James stated staff received a request from Aaron Waldrop to annex approximately 70 acres of land located off of Maple Street across from Kirby Lake. Mr. James noted staff typically looks at a larger area to study and consider for annexation when such a request is made. Mr. James further stated in October 2004 the Planning and Zoning Commission discussed this item by reviewing the options for a possible annexation, it was recommended that the entire 1600 acres be studied, as contemplated by the Comprehensive Plan. Mr. James stated staff began the study of the area and moved forward with annexation proceedings for the entire 1600 acres. Mr. James noted Section 23-304.3 of the Zoning Ordinance states, "All territory hereafter annexed to the City of Abilene shall be classified in the AO, Agriculture Open-space district..." Therefore, zoning of any property that is annexed should be AO until such time that a property owner requests some other classification through the normal rezoning process. Mr. James again noted that two public hearings were held in January 2005, several individuals spoke in opposition to the request, there were no individuals who spoke in favor of the request, and there was also written opposition to the request submitted to the Council.

Mr. James stated staff's recommendation is as follows: The Comprehensive Plan recommends that this area and a much larger area to the south and southeast be annexed in the future. However, the annexation of all 1600 acres does not have to occur immediately. Staff recommends only annexing the proposed street right-of-way of Maple Street at this time. The remainder of the area, plus the surrounding area indicated in the Comprehensive Plan, should be included in the City's 3-Year Annexation Plan for annexation in 2008. This will allow staff additional time to research the implications of annexation and will allow the residents of the area more time and greater involvement in the development of a Service Plan for the area. Staff is recommending the immediate annexation of the proposed right-of-way of Maple Street, which is needed for the City to proceed with planned improvements to Maple Street. Currently the city limits falls approximately on the centerline of Maple Street. In order to have complete jurisdiction over the road, the city needs to incorporate the remainder of the street right-of-way, including planned acquisitions, into the city limits. Staff recommends against annexing only the Waldrop property, the subject of the original annexation request. Annexing only this property would create city boundaries that are not easily discernable and could be confusing for determining jurisdiction for such things as emergency response and could create conflicting service areas for water service. If the Council desires to annex the Waldrop property, staff recommends that the Council consider annexing an approximately 320 acre area that is located in the west end of the study area and would include Mr. Waldrop's property.

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Mayor Archibald clarified staff's recommendation noting that the recommendation from staff today is to annex only the proposed street right-of-way of Maple Street (from Hardison Rd to Colony Hill Rd., approximately one mile). For further clarification purposes the Mayor noted that if Mr. Waldrop's property is not annexed he can still develop his property with homes, one per acre tract (or per county regulations), without any approval from the city.

The Mayor stated that the options before Council today include: 1) take no action, approve no annexation of any property; 2) approve the proposed street right-of-way of Maple Street; 3) approve Mr. Waldrop's 70 acre's only; 4) approve all or part of the 1,600 acre area; 5) place all or part of the 1,600 acre area in a comprehensive annexation plan that would require three years of study before annexation

Council and staff discussion included: 1) annexation providing more urban density development with city sewer; 2) the acquiring of air easements to control development in proximity to the airport; 3) providing city services in other areas and/or retrofitting existing services; 4) cost sharing of the extension of services; 5) current infrastructure possibly not being built to city standards; 6) rationale for 3-year annexation plan and window of time process; 7) types of homes that could be built if area not annexed; 8) geography, land use issues; 9) if annexed zoning would be AO, and would have to come back to P&Z to change zoning; 10) Council's concerns of staff's original recommendation going from annexing the full 1,600 acres to the current recommendation that the area be included in the City's 3-year annexation plan for annexation in 2008 and that only the road portion now be annexed and the negative impact that these changes have had on the county resident's and the cost of Council's time; 11) the Comprehensive Plan's vision for this area, staff's concerns if only the 70 acres are annexed and the state law requirements in annexation wording; 12) the options available to Mr. Waldrop's with or without the property being annexed; 13) land deed restriction, ETJ, potential flooding issues (post and pre-development); 14) services provided to annexed areas, services not required to be paid for if not provided; 15) current master plan for annexation, city's plan being written per state law (state mandated); 16) 1999 annexation plan required by state law; 17) 3 year plan explicit in Comp. Plan and area covered; 18) the city working with developers to bring infrastructure to specific areas (development agreements); 19) existence or availability of study/data indicating demands/needs for "starter" homes to serve Abilene citizens and school districts; 20) promotion of infill not to be seen as discouraging growth on outer edges of city; 21) facets of public/private partnership; 22) benefits of high density development; 23) benefits of planning, studies and surveys; 24) development pressures and problems that could result if city waits 3 years to annex (no city controls/compatibilities), and; 25) annexation required by state law within 31 days after end of the 3 year period and if not done within 31 days a 5 year period would have to pass before annexation can be considered again.

Council recessed for a break from 10:00 a.m. to 10:05 a.m.

Council reconvened following the break and Mayor Archibald opened the public hearing stating there would be a time limit of 4 minutes allowed for each individual wishing to address the Council. The Mayor noted another public hearing will be held on February 24th.

The following individuals addressed the Council:

- Alex Eyssen – Mr. Waldrop’s attorney. Mr. Eyssen read a statement on behalf of Mr. Waldrop addressing Mr. Waldrop’s request that Council approve his request for his property (70 acres) be annexed into the city of Abilene. Mr. Eysen stated Mr. Waldrop has no opinion concerning any land but his own in the annexation request.
- Charles Crandall – opposed. Mr. Crandall noted he had read his letter of protest at the previous public hearing. Mr. Crandall then read his 2nd letter of protest.
- Samuel Britton – opposed. Mr. Britton asked Council to not take away people’s rights to be independent of city government.
- David Jolly – opposed to annexation and development (concerned with quality of potential homes).
- Cathy King – opposed. Ms. King stated she sold the property to Mr. Waldrop and that that property has deed restrictions (including size of homes, materials that can be used on homes, restrictions on certain types of animals that can be on property, no junk yards, etc.)
- M.L. Hughes – opposed. Mr. Hughes stated he’s opposed to the potential development (water drainage issues).
- Kathy Butcher – opposed. Ms. Butcher stated her property has severe flood/drainage issues and asked Council to consider these issues if Maple St. is annexed.
- Spencer Butcher – opposed. Mr. Butcher presented power point pictures of flooding/drainage issues on his property.
- Chuck Tilbrook – opposed. Mr. Tilbrook stated children would be in WISD and that AISD needs the children.
- Sue Beth Jolly – opposed. Ms. Jolly stated her plans were to live in the country not the city.
- Ken Barbian – opposed. Mr. Barbian addressed the law concerning annexation of land by the city surrounding property and that no service plan has been proposed.
- Bill Yoes – opposed to annexation and particularly development. Mr. Yoes asked Council to consider the effect their decision will have on the people in the area.

Mayor Archibald asked Mr. Eyssen to research the deed restriction issue and to communicate his findings back to City Manager Larry Gilley prior to the February 24th public

hearing. The Mayor then reminded the audience of the time and date for the next public hearing and encouraged them to continue communicating their concerns to the Council.

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

In order to move the ordinance to the second reading and public hearing on February 24, 2005, Councilman Southward made a motion to approve the first reading of an Ordinance to annex and establish zoning on approximately 1600 acres of land located between Hardison Lane and Colony Hill Road from Maple Street to the existing City limits located east of Vinson Road. Councilman Hill seconded the motion, and the motion carried.

AYES: Councilmen Chase, 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.

REGULAR SESSION

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

5.4 Councilman Hill made a motion to remove item 5.4 from the table to consider: Moisture Barrier installation at the Central Fire Station, **Bid #CB-5019**, and; Interior Renovations to the Central Fire Station, **Bid #CB-5024**. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

5.4 A. Larry Gilley, City Manager briefed the Council on the Moisture Barrier installation at the Central Fire Station, **Bid #CB-5019**. The Central Fire Station at 250 Grape Street was completed in August 2001 and since the construction, continued movement and heaving of the floating slab has resulted in numerous drywall cracks, misalignment of floor and ceiling tile, separation of exterior expansion joints and caulking. The City has completed its analysis of how to remedy the situation, and this first phase will construct a "Moisture Barrier" around the perimeter of the Fire Station. Mr. Gilley stated this is designed to accomplish two goals; prevent moisture from entering from external sources around the perimeter and to prevent moisture from evaporating from within the building perimeter, which should result in decreased movement of the foundation in the building. Staff recommends approval of the bid to Waldrop Construction in the amount of \$56,356.40.

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Councilman Hill made a motion to approve awarding the Moisture Barrier installation at the Central Fire Station, **Bid #CB-5019**, to Waldrop construction in the amount of \$56,356.40. Councilman Higgins seconded the motion.

Councilman Chase stated in awarding this bid and any others under this issue, going forward with these matters and remediation should not and does not in any way affect Council's desire, intention or ability to seek reimbursement from the potential parties that may be responsible for the City having to spend this extra money. Councilman Chase reiterated the need for these matters to be kept in the forefront with the Cities legal staff so that it is clear that the City gets it's dollars worth out of each contract entered into with the contractors and builders.

Mayor Archibald noted for the record that Councilman Chase's comments do describe the intent of the Council that in approving **Bid #CB-5019** and **Bid #CB-5024** the Council is not precluded from seeking those payments.

The motion carried.

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

NAYS: None

5.4 B. Mr. Gilley briefed the Council on the Interior Renovations to the Central Fire Station, **Bid #CB-5024**. The second phase of the repairs will consist of repairing the interior damages and the repairs include floor leveling, installation of expansion joints, replacement of floor covering, drywall repairs, paint, ceiling repairs, and exterior repairs with sealants and moisture proofing. Staff recommends approval of the bid to The Crowe Group, Inc., in the amount of \$55,000.00.

Mayor Archibald noted the same Council discussion that occurred under 5.4 A. is applicable to this item.

Councilman Higgins made a motion to approve the Interior Renovations to the Central Fire Station, **Bid #CB-5024**. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

There being no further business, the meeting was adjourned at 11:40 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor