

CITY COUNCIL MEETING
February 24, 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 24, 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, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff.

Councilman Hill gave the invocation.

Mayor Archibald introduced Andrew Hall a 6th grade student from Wylie Elementary who led the Pledge of Allegiance. Andrew's father, Harley Hall was also present.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the January 31, 2005 Joint City Council/AISD Meeting and the February 10, 2005 Regular Council Meeting Minutes Councilman Hill made a motion to approve the minutes as printed. Councilman Higgins 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 Williams made a motion to approve consent agenda items 3.1 through 3.5 as recommended by staff. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

3.1 Resolution ordering the May 7, 2005 General Election for the offices of Mayor, Council Place 3 and Council Place 4, and providing for a Runoff Election on June 11, 2005, if needed.

The Resolution is numbered 5-2005 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ORDERING AN ELECTION TO BE HELD IN SAID CITY ON MAY 7, 2005; PROVIDING FOR THE ELECTION OF PERSONS TO SERVE AS MAYOR AND IN PLACES 3 AND 4 ON THE CITY COUNCIL OF THE CITY OF ABILENE; PROVIDING METHOD OF APPLICATION FOR PLACEMENT OF CANDIDATE'S NAME ON

BALLOT; PROVIDING A FILING DEADLINE FOR ALL CANDIDATES; DESIGNATING THE MAIN EARLY VOTING POLLING PLACE AND PROVIDING FOR BILINGUAL ELECTIONS FOR CITY ELECTIONS.

- 3.2 Oral Resolution ratifying an agreement, and the City Manager's authority to execute the agreement, with the Natural Resource Conservation Service (NRCS).

Bid Awards:

- 3.3 **Bid #CB-5035** – Renovation of the grit removal system at the Buck Creek Sewer Lift Station. The bid was awarded to Purcell Contracting, Ltd., Meridian, TX in the amount of \$748,400.00.
- 3.4 **Bid #CB-5036** – Personal Protective Equipment for the Fire Department. The bid was awarded to Casco Industries, Euless, TX in the amount of \$34,650.00.
- 3.5 **Bid #CB-5009** – Tandem Axle Dump Trucks. The bid was awarded to Corley-Wetsel Freightliner, Abilene, TX in the amount of \$128,544.00.

REGULAR AGENDA

- 4.1 Jon James, Director of Planning & Development Services briefed the Council on **Z-0205**, an ordinance considered on second and final reading to amend existing PDD #95 (Planned Development District) zoning district, property located at 402 Arnold Boulevard.

Mr. James stated the PDD was approved by the City Council in December 2004, however the applicant, Jim Fox continues to have problems developing the site as intended. Mr. James further stated Mr. Fox requested two variances from the Board of Adjustment that were denied by the Board. The Board of Adjustment believed that it would be more appropriate for the applicant's requests to be considered as PDD amendments, feeling it was appropriate that the Planning and Zoning Commission examine the case. Mr. Fox is requesting amendments to the PDD that would allow each interior block of the mobile home park to have a row of 90' deep x 45' wide spaces and a row of 45' deep by 100' wide spaces. Mr. Fox is also asking that the westernmost row of spaces be allowed to be 90 feet deep and have a rear setback along Chapel Hill Rd. of 5 feet instead of the usual 15 feet.

Mr. James stated staff recommends approval of the request with the addition of a 6 foot opaque fence along the property line adjacent to Chapel Hill Road, and that the Planning and Zoning Commission recommend approval of the PDD amendment with changes recommended by staff, as well as an additional requirement for a 6' opaque fence along the north property line.

Council and staff discussion included: 1) the developer having expressed support of all changes; 2) aesthetically the changes will cause no problem for others in the area, and; 3) approval of the request will not change the current RV regulations.

City Council Meeting
February 24, 2005
Page 3

Mayor Archibald opened the public hearing and the following individual addressed the Council:

- Paul Washburn – Mr. Washburn stated this property borders his property on the north and west and that he supports the request noting it is the best plan for the property.

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

Councilman Chase made a motion to approve as recommended by staff and the Planning and Zoning Commission **Z-0205** an Ordinance considered on second and final reading to amend existing PDD #95 (Planned Development District) zoning district, property located at 402 Arnold Boulevard. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **4-2005** and captioned as follows:

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.

4.2 Jon James, Director of Planning & Development Services briefed the Council on an ordinance considered on second and final reading to annex and establish zoning on all or part of 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 stated Council has been provided four possible annexation options for consideration. The four options include: 1) the Maple Street right-of-way; 2) the Waldrop tract; 3) the 320 acres, and; 4) the total 1600 acres. Mr. James further stated if Council chooses an option other than one of these four staff would prepare the appropriate legal description. Mr. James noted that three public hearings were held on this issue on January 13th, January 18th, and at the first reading of the ordinance on February 10th. Today is the final reading, public hearing and consideration of the ordinance. Mr. James reviewed the annexation study area and explained the basis for annexation of the area.

Staff's comments and recommendations were 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. However, if the Council is interested in including the entire area in a 3-year Annexation Plan, the immediate annexation of the Waldrop tract would allow the City to ensure that Mr. Waldrop's development meets all City requirements, while anticipating the future annexation of the surrounding property.

Council and staff discussion included: 1) Maple Street from the Loop to just north of Colony Hill Road being a current major city reconstruction project; 2) the larger area that is recommended to be considered with the 70 acres for annexation; 3) the contrast between the possible highly developed density area and the surrounding current country area; 4) the annexed area would be zoned AO; 5) consideration being given to future urban development of the area or staying consistent with current development; 6) staff could be directed to bring back to Council a 3 year annexation plan; 7) the state law formula, process and timeline required following annexation; 8) staffs rationale for annexation recommendations; 9) cost and financing method for rehabing Maple Street; 10) other annexation options Council could consider; 11) consideration being given to land study for annexation as addressed in the Comprehensive Land Use Plan; 12) considering a shorter time frame than the 3 year study plan; 13) a change from AO zoning requiring Planning and Zoning Commission action; 14) the de-annexing process; 15) the Planning and Zoning Commission having given direction to staff to proceed with the Comprehensive Plan implementation which included preparing a 3 year annexation plan for areas identified in the Comprehensive Plan; and; 16) the need to study even more area for annexation.

Mayor Archibald opened the public hearing and the following individuals addressed the Council:

- Cathy King – Ms. King stated she sold the land to Mr. Waldrop and asked Council if they are going to annex the proposed area why not take in more land. Ms. King further stated that her husband's grandfather paid to have Maple Street paved many years ago and that he didn't own land in the area.
- Victoria Yoe – Ms. Yoe stated her appreciation for the freedom to speak and to Council for listening.
- Charles Crandall – opposed. Mr. Crandall read a letter noting problems and concerns dealing with flooding in area, threat of annexation and three principles he believes in: 1) peace, safety, family; 2) home and national security, and; 3) the freedom to choose and act. Mr. Crandall stated his family was told, by Jeff Armstrong that the land would not be annexed for 5 years.

- Evelyn Tilbrook – opposed. Ms. Tilbrook stated her appreciation to Council for their responses to the concerns noted. Ms. Tilbrook further stated she chose to live in the country and wants to stay in the country. Ms. Tilbrook noted this issue has been a strain on everyone involved and that she wants it resolved. Ms. Tilbrook also stated there is a lot of land in the area that is flood prone and cannot be developed.
- Mary Gibson – opposed.
- David Jolly – Mr. Jolly stated his appreciation to the Mayor for his support of the 3 year study plan which he feels contributes to the integrity of the City.
- Sam Choate, attorney representing Floyd McComas – Mr. Choate stated Mr. McComas owns the most eastern section of the land located east of Vinson Road. Mr. Choate noted the potential for growth is down Oldham Lane and Maple Street and addressed flood prone areas. Mr. Choate noted the lack of support for the annexation and suggested Council consider alternatives to annexing the 1600 acres.
- Alex Eyssem, attorney for Mr. Waldrop – Mr. Eyssem reiterated the request for the approval of annexing Mr. Waldrop's 70 acres and requested Council bring closure to the issue today.
- Ken Barbian – opposed. Mr. Barbian addressed the annexation and service plan stating the land north of Hardison Lane that was annexed in 1980 still had inadequate fire protection and City services. Mr. Barbian stated the service plans are incorrect dealing with sewer location. Mr. Barbian further stated he feels it is the City's responsibility to provide services at no cost to the land owner, resulting in a high cost to the City. Mr. Barbian stated land owners could within a 2 ½ year period de-annex and request refunds on city taxes. Mr. Barbian further stated the need for long range plans for the extension of services.

Sharon Hicks, City Attorney noted some of the representations made by Mr. Barbian on what the law dictates are incorrect and that the City would comply with provisions of city services as required by state law.

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

Council and staff discussion included: 1) the time and study that has been given to this annexation issue; 2) involuntary annexation seldom has support from residents in the proposed annexed area, but understanding the benefit of annexation is sometimes realized; 3) one individual present at today's meeting noted support, under the 3 year plan, of annexation, and; 4) the need for fairness, compromise, and vision on annexation issues.

City Council Meeting
February 24, 2005
Page 6

Jeff Armstrong, Development Services Manager addressed the comments made by residents in the proposed annexation area that implied the City would not be annexing land in the area for five years. Mr. Armstrong stated that although he cannot specifically recollect the questions asked of him in the particular phone call concerning this issue he would note there would be no reason for him to address a "5 year period". Mr. Armstrong further stated he would have mentioned the City's 3 year annexation plan, which is posted on the City's website, was adopted by the City Council and says the City has no plans to annex any property in 3 years that falls under the requirements of the annexation plan. Mr. Armstrong noted his understanding of where his authority ends and the authority of the Planning and Zoning Commission and the City Council. Mr. Armstrong further noted that in every circumstance he attempts to only say what is within the realm of his authority and occasionally may give some counsel to what he would recommend as a way of proceeding. Historic information sometimes is asked on what Councils have done in these kind of circumstances before. Mr. Armstrong also stated he had no intention of making decisions for the Council or trying to make anyone believe he was acting on behalf of the Council. Mr. Armstrong reiterated the fact that he would have had no reason to address a five year period because that time line has no meaning.

Council stated appreciation to Mr. Armstrong for his comments.

Councilman Chase read into the record the following e-mail from Ken Rogers that was sent to the Council in reference to the proposed property annexation. Councilman Chase stated the e-mail sums up for him the difficulty he is having with this process.

Mayor and Council Members,

My name is Kenneth Rogers (Ken) and I live at 6 Lytle Place, Abilene, TX., 79602.

I am a full time professional Realtor with Re/Max Of Abilene. Over the past several years I have always been in the top 5% or so of all the agents in Abilene in home sales. Two of those years I sold more homes than any other agent. I work hard at my business and try to keep as informed as possible as too the needs of Abilene in the real estate market.

I just did a complete search of the Abilene Board of Realtors MLS system and searched for homes priced from \$80,000. up to \$120,000., that are (1) out of the flood plane, (2) that have three bedrooms, two baths, and two car garage, (3) that will sell on a FHA or VA Loan, & (4) are not under contract. The result: There are 10 homes that fall in this range which 7 of them are built in the 50's through the 80's and the other three are 1995, 2004 & 2005. That is all at the present time. There are approximately 300 Realtors in Abilene and I would guess 75 or more of them are looking for a client in this price range. The only home sites that I can locate where you can build a 1200 square foot home is way out past Potosi and most of our military do not want to be that far from the base. At the present time there are about 15 or so lots in Lytle South on the south side of Industrial Blvd, and they are building 1400 sq. ft. or more and at today's building cost that is a starting price of \$112,000. and upward. Next in line is Heritage Parks and the square foot minimum there is 1600 and that puts the starting price at \$128,000. This makes it very hard for first time home buyers and for most of our military friends and clients. Looking back several years, what if the city had not annexed the land from South 14th out to the Wylie area? We would not have all the homes and business that we have today and Abilene would be frozen in time. I think the city should annex the land or at least 70+ acres that Mr. Waldrop asked for and get

City Council Meeting
February 24, 2005
Page 7

started building homes to add to the tax base of Abilene. It is my understanding that Mr. Erie, who spoke at the Realtors luncheon about a month ago, said that very soon there would be about 350 to 400 of our military people displaced because of the renovation that is going on at Dyess. I have been on the development side, building side, selling side, and the purchasing side, and I am sure Mr. Waldrop could go a different route and go with 1 acre lots with septic systems & jump the price up on the one acre, to cover his cost, but by doing this we will loose our younger people just getting started, loose our first time home buyers, and we will not be able to meet the needs of our good friends at Dyess. We need all of these in our city. With a nice home in the price range we are talking here, we might be able to keep some of younger people and also have some nice homes for the empty nesters that are looking to down size. In my professional opinion we need the annexation to happen and we should be saying thank you to Mr. Waldrop for the insight he has on Abilene and for trying to provide us with the very much needed development. I was planning on being at the meeting Thursday but conflicts with out of town clients will not allow me the time. Thank you for your time and for saying yes to the annexation of the land.

Ken Rogers
Re/Max of Abilene

Councilman Chase stated his concerns and questions are based on comments such as expressed by Mr. Rogers. Councilman Chase further stated he feels the Council should pursue answers to the questions of reaching a compromise between the residents of the proposed annexation area, Mr. Waldrop and the community as a whole. Councilman Chase noted his apprehension on just annexing Maple Street and delaying everything else for three years.

Further Council discussion included: 1) Mr. Waldrop having a plan for his land; 2) the option to annex the 70 acres and the Maple Street right-of-way, and; 3) doing a further study in a shorter time frame than 3 years.

Mayor Archibald stated with the time and effort that has been given to the annexation issue and based on staff's recommendation that only the proposed Maple Street right-of-way be annexed, which would allow staff additional time for further research, his motion is to annex only the proposed Maple Street right-of-way.

Motion died for lack of a second.

Councilman Hill made a motion to approve the annexation of the western 320 acres of the proposed annexed area, including the Maple Street right-of-way. Councilman Chase seconded the motion, and the motion failed.

AYES: Councilman Chase, Hill, and Councilwoman Moore.

NAYS: Councilman Southward, Williams, Higgins, and Mayor Archibald.

Council and staff discussion included: 1) clarification on where services would be provided to the annexed area; 2) Council's authority on how annexed areas are developed and encouraging those present today, if the area is annexed, to stay involved and voice their concerns to contribute toward achieving a balance between the current quality of homes in the area with the anticipated quality of

homes; 3) City Council's control of property within the city limits versus land outside city limits (ETJ) and concerns noted on the type of development that could occur during a 3 year time frame that the City would have no authority over; 4) Mr. Waldrop's responsibility to provide specific studies if annexed; 5) a 30 – 90 day period allowing area residents a transition time if annexed; 6) additional annexation options available for Council consideration; 7) development concerns if the small southern strip of land (Mr. Waldrop's property) is not annexed and to what extent the City could require the strip (road) to be developed to City standards, and; 8) potential water and sewer lines, if needed to be run down the un-annexed side of the property, not having city frontage, which could be an issue.

Councilman Williams made a motion to approve the ordinance considered on second and final reading to annex an approximate 70 acre tract of land (Waldrop property) located east of Maple Street, excluding the 60 foot wide strip of land on the southern part of the property, and to annex the Maple Street right-of-way between Hardison Lane and Colony Hill Road. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: Councilman Hill and Mayor Archibald.

The Ordinance is numbered **5-2005** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, PROVIDING FOR THE EXTENSION OF THE BOUNDARY LIMITS OF THE CITY OF ABILENE, TEXAS, AND THE ANNEXATION OF CERTAIN TERRITORY LYING ADJACENT AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF ABILENE.

Council recessed for a break at 10:55 a.m.

Council reconvened at 11:05 a.m.

Councilman Williams left the meeting at 11:15 a.m.

4.3 Andy Anderson, Director of Public Works gave a budget presentation on street maintenance and rehabilitation. Mr. Anderson briefed the Council on the street division history, the services that have been reduced, the magnitude of responsibilities, the total street maintenance budget, the maintenance approach since the mid 1980's, the pavement life cycle, street rehabilitation expenditures, CIP projected funding needs, the Community Development Task Force, the City of Abilene's overall pavement condition, and the total annual estimated requirements. Mr. Anderson concluded his presentation noting that the City is losing ground in the area of street maintenance and rehabilitation, and the long term implications of that short fall.

Council and staff discussion included: 1) information provided by staff being beneficial for future budget sessions and possible bond issue; 2) responsibilities of different departments in areas of street and water line repairs, and; 3) the possibility of specific infrastructure issues being addressed in the Comprehensive Plan.

No action was required by Council.

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.

There being no further business, the meeting was adjourned at 11:55 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor