

CITY COUNCIL MEETING
March 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 March 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, John Hill, Stormy Higgins, Kris Southward and Councilwoman Laura Moore. Also present were Assistant City Manager Kathy Merrill, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff. Councilman Anthony Williams and City Manager Larry Gilley were absent.

Councilman Higgins gave the invocation.

Councilwoman Moore introduced Michel Ann Morris a 5th grade student from Austin Elementary who led the Pledge of Allegiance. Michel Ann's mother Robin Morris was also present.

PROCLAMATION / PRESENTATION

Mayor Archibald introduced and presented a proclamation for "Project Re-Directory" to Lesli Andrews, Keep Abilene Beautiful Coordinator, Bill Brock, Recycling Manager for the Solid Waste Division, and Dave Boyll, Keep Abilene Beautiful Board President. Letty Vasquez, Regional Marketing Director for Southwestern Bell unveiled the new Southwestern Bell Yellow Pages phone book, which featured on the front cover, Mayor Norm Archibald, Mayor ProTempore Anthony Williams, Keep Abilene Beautiful Coordinator Lesli Andrews, Keep Abilene Beautiful President Dave Boyll, Keep Abilene Beautiful Board Member Hester Woods, and City of Abilene Recycling Manager Bill Brock. Following the unveiling of the new phone book old phone books were placed into a recycle container to kick off "Project Re-Directory".

EMPLOYEE SERVICE AWARDS

Mayor Archibald, assisted by City Secretary Jo Moore, presented Employee Service Awards to the following individuals for their years of service:

20 Years	James D. Atkins	Police Officer Police
20 Years	Danny L. Blankenship	Police Officer Police
20 Years	Patrick J. Fenner	Police Officer Police
20 Years	Willie A. Ford	Police Officer Police
20 Years	Stephen E. Livingston	Police Officer Police
20 Years	Dennis D. Southerland	Police Officer Police
20 Years	David J. Varner	Police Officer Police

PROCLAMATIONS

Mayor Archibald presented a proclamation for “Severe Weather Week”, March 6th – 12th to Jim Bryan, Emergency Management Coordinator. Mr. Bryan introduced a representative from the National Weather Service who designated Abilene as a “Storm Ready Community”.

Mayor Archibald presented a proclamation for “Lions White Cane Day”, Saturday, March 19, 2005 to James Wheeler.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the February 22, 2005 City Council Retreat Meeting Minutes and the February 24, 2005 Regular Council Meeting Minutes Councilman Chase 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

Items 3.1, 3.13, and 3.17 were removed from the consent agenda at the request of Councilman Chase to be considered separately.

3.0 Councilman Hill made a motion to approve consent agenda items 3.2 through 3.5, first reading of items 3.6 through 3.12, and items 3.14 through 3.16 as recommended by staff. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

3.1 Item 3.1 was removed from the consent agenda to be considered separately.

3.2 Oral Resolution approving a proposal in the amount of \$42,000.00 from Guidance Pathways Systems, Inc. as a Destination/Wayfinding Signage Consulting Firm and authorization to enter into a Professional Services Agreement.

3.3 Resolution designating election precincts and polling locations, appointing election officials and fixing their rate of compensation for the May 7, 2005 General Election.

The Resolution is numbered **6-2005** and captioned as follows:

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS; DESIGNATING ELECTION PRECINCTS AND POLLING PLACES; APPOINTING VARIOUS ELECTION OFFICIALS AND FIXING THEIR RATE OF COMPENSATION; AND PROVIDING FOR A PROCLAMATION NOTICE AND PUBLICATION OF NOTICE FOR THE MAY 7, 2005 CITY GENERAL ELECTION.

- 3.4 Oral Resolution approving the Election Services Contract with the Taylor County Elections Administrator for the City General Election May 7, 2005.
- 3.5 Oral Resolution approving a Professional Services proposal for the construction of the Communications Center, and authorizing the City Manager or his designee to enter into an agreement for professional design services.

Ordinances:

- 3.6 Ordinance amending Chapter 27, Refuse, Article II, Receptacles, Sec. 27-21. (Unauthorized Removal), to allow law enforcement officials to gather evidence from city receptacles.

AN ORDINANCE AMENDING CHAPTER 27, REFUSE, ARTICLE II, RECEPTACLES, OF THE CITY OF ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTION AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

- 3.7 Amend Section 23-356.2 (Board of Adjustment), of the Zoning Ordinance regarding approval standards for the Board of Adjustment; and set a public hearing for March 24, 2005 at 8:30 a.m.

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT", SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

- 3.8 **Z-2005-2** – Rezone approximately 5 acres from AO (Agriculture Open Space) and LI (Light Industrial) to PDD (Planned Development District) zoning district, property located at 4002 Buffalo Gap Road; and set a public hearing for March 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-96 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.9 **Z-2005-3** – Rezone from RM-3 (Residential Multi-family) to CU (College University) zoning district, property located at 809 and 825 E.N. 16th Street; and set a public hearing for March 24, 2005 at 8:30 a.m.

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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.

- 3.10 **Z-2005-4** – Addition of Patio Home Overlay zoning to 3.88 acres described as Lots 16 through 33, a replat of Lot 1, Block A, ACU Addition and Lots 1-17, Block L, Section 2, University Hills Addition; property located on the west side of Pemelton Street; and set a public hearing for March 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.

- 3.11 **Z-2005-5** – Rezone 5 parcels from RM-3 (Residential Multi-family) to LC (Limited Commercial) zoning district, property located at 2902, 2918, 2926, 2934 South 2nd Street, and 126 Mockingbird Boulevard; and set a public hearing for March 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.

- 3.12 **Z-2005-6** – Ordinance to amend existing PDD #77 (Planned Development District) zoning district and to add a .54-acre parcel, property located near Catclaw Drive and Curry Lane; and set a public hearing for March 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-77 AND ORDINANCE NO. 38-2002 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Bid Awards:

- 3.13 Item 3.13 was removed from the consent agenda to be considered separately.
- 3.14 **Bid #CB-5031**–Haul truck for the Street Services Division. The bid was awarded to Corley-Wetsel Freightliner, Abilene, TX in the amount of \$89,865.00.
- 3.15 **Bid #CB-5032** – Pickup trucks. The bid was awarded as follows:

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- Item 1 – Utility Truck awarded to Arrow Ford, Abilene, TX in the amount of \$19,638.00
- Item 2 – Pickup Trucks awarded to Lawrence Hall, Abilene, TX in the amount of \$22,267.70.

3.16 **Bid #CB-5038** – Randy Street Alley Drainage Project. The bid was awarded to Bontke Bros. Construction Co., Abilene, TX in the amount of \$92,453.33.

3.17 Item 3.17 was removed from the consent agenda to be considered separately.

3.1 Oral Resolution authorizing the City Manager to execute Task Order 14 of the Airside Engineering services contract with HNTB Corporation for design and bidding services for the North General Aviation Ramp Reconstruction project and the Taxiway D Extension, Phase II project.

Councilman Chase stated in researching Council's action concerning Task Orders 12 and 13: Taxiway D Extension, Phase I, that were discussed in December 2004 in conjunction with today's agenda item 3.17, he could not find where either Task Order 12 or 13 were ever approved. Dan Weber, Director of Aviation, stated since the bid concerning Task Order 12 was not awarded that that Task Order will come back to Council within the next few weeks. Mr. Weber further stated that Task Order 13 was approved in January 2005.

Councilman Chase asked, from a funding impact perspective, why the small sum of \$5,916 for Task Order 14, is being funded with Certificates of Obligation instead of from the General Fund. David Wright, Director of Finance explained that last spring \$800,000 in Certificates of Obligation were sold for airport purposes, for the matching of these federal grants and that this funding is a small component of that larger picture.

3.13 **Bid #CB-5030** – Crane truck for the Stormwater Utilities Division. Staff recommended the bid be awarded to R.L. Anderson International Inc., Abilene, TX in the amount of \$129,400.00.

Councilman Chase noted that three (3) vendors submitted bids on this item with one not meeting specifications, one having bid a 6.4 liter engine whereas a 7.2 liter engine was specified and the third vendor having met the specifications. Councilman Chase asked why is it important to have a 6.4 liter or a 7.2 liter engine when both are powerful engines. David Wright, Director of Finance explained the purpose for and use of the crane trucks, and the basis for the 7.2 liter engine specifications. Mr. Wright noted the bid was not a single source engine and reiterated staff's efforts to acquire competitive bids.

3.17 **Bid #CB-5039** – Runway 17L Safety Area Improvements, Taxiway D Extension Phase General Aviation Ramp Taxiway Reconstruction, Taxiway C Lighting Rehabilitation, Taxiway D Electrical Homerun Rehabilitation. Staff recommended the bid be awarded to Orval Hall Excavating Co., Ft. Worth, TX in the amount of \$4,840,136.75.

Councilman Chase stated in December 2004 Council rejected these projects (without the two Task Orders) in order to try to attract more bidders to the process. Councilman Chase noted the results of the re-bid process, as being presented to Council today, reflects a savings to the city in the amount of \$1,637,193.00 and commended the staff and others involved for their efforts that contributed to that savings. Dan Weber, Director of Aviation thanked the Council for their foresight and direction in the re-bid process and also noted that the \$1,637,193.00 federal funding is still available for other city projects.

Following Council and staff discussion Councilman Chase made a motion to approve items 3.1, 3.13, and 3.17 as recommended by staff. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Mayor Archibald stated agenda item 4.1 on the Regular Agenda concerns an interlocal agreement on water issues and before Council considers that item they will convene into 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, to consider the purchase, exchange, lease or value of real property and to consult with attorneys concerning contractual matters and their legal ramifications.

REGULAR AGENDA

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

4.1 Tommy O'Brien, Director of Water Utilities briefed the Council on an Interlocal Agreement between the City of Abilene, the West Central Texas Municipal Water District and the Brazos River Authority.

Mr. O'Brien stated the agreement addresses issues associated with enhancing our current water rights as well as preserving future water supplies for Abilene and the Water District. The City staff and District have been negotiating the agreement since early December and Mr. O'Brien noted it is City staffs opinion that the agreement is fair and reasonable and secures future water supplies for the Abilene Region. Staff recommends the City Council authorize the Mayor to execute an Interlocal Agreement with the Brazos River Authority and the West Central Texas Municipal Water District facilitating the development and delivery of water resources.

Mayor Archibald stated, for the record, the Interlocal Agreement will be between the City

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of Abilene, the West Central Texas Municipal Water District, and the Brazos River Authority. The Mayor further stated the agreement will provide the City of Abilene with various options including the ability to permit water and in the future to build a new reservoir. The Mayor recognized the efforts of Senator Troy Frazier as being instrumental in achieving the Interlocal Agreement and noted Senator Frazier will have a news conference acknowledging the historic day beginning at 2:00 p.m. today, March 10th at City Hall. Mayor Archibald recognized City of Abilene Water Attorney Martin Rochelle, Water District Board member Kathy Webster, City Manager Larry Gilley, and Assistant City Manager Mike Morrison for their efforts toward achieving the agreement.

Councilman Higgins made a motion to approve by oral resolution an Interlocal Agreement between the City of Abilene, the West Central Texas Municipal Water District, and the Brazos River Authority facilitating the development and delivery of water resources. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

4.2 Jon James, Director of Planning & Development Services briefed the Council on an ordinance considered on first reading to amend sections 23-306.4 (Permitted Uses), 23-306.5B (Accessory and Incidental Use), and 23-363 (Definitions) of the City of Abilene Zoning Ordinance regarding the placement and screening of Freight Containers; and set a public hearing for March 24, 2005 at 8:30 a.m.

Mr. James stated the City has a current ordinance, adopted in 2002, that prohibits the use of freight containers as buildings and the proposed ordinance before Council today would amend that ordinance to allow the containers in some zoning district with restrictions. Mr. James noted the staff recommended ordinance would permit freight containers only in HI (Heavy Industrial), LI (Light Industrial), and HC (Heavy Commercial) zoning districts. Mr. James further stated the proposed ordinance would also require opaque screening (fencing, masonry walls, berms, or landscaping) of equal or greater height from any street right-of-way, or other properties zoned differently than HI, LI, or HC, as well as requiring a building permit be obtained for freight containers to meet all building and development regulations. Mr. James noted the Planning and Zoning Commission heard this item at their meeting held on July 7, 2003 and approved the request in three separate motions. 1) the definition of Freight Containers was approved unanimously; 2) the motion to approve Section 23-306.4 (Permitted Uses) was approved unanimously, with the addition of allowing freight containers in GC zoning, and; 3) the motion to approve Section 23-605.b was approved, with the provision that freight containers be allowed in GC zoning, and must be located in the rear of the property and be screened. Mr. James further noted the two issues surrounding the proposed ordinances are 1) building standards issues, and; 2) aesthetic issues. Mr. James then presented various pictures of businesses and freight containers located at those businesses and addressed various uses of containers and requirements that would and would not apply. Mr. James stated staff recommends approval of the ordinance amendment originally brought forth to the Planning and Zoning Commission, and to not include the provision allowing

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freight containers in the GC zoning district, as well as, deletion of the wording “for those freight containers being used for storage”, in Section 23-306.5.B (Accessory and Incidental Use) sub-part (c) of the proposed ordinance. With that deletion sub-part (c) would then read “A building permit shall be obtained and shall meet all building and development regulations”.

Mayor Archibald stated this is the first reading of the proposed ordinance, there will be no public hearing at today’s meeting but a public hearing will be held on the second and final reading of the proposed ordinance at the March 24th Council meeting.

Council and staff discussion included: 1) merchants using freight containers for seasonal use beginning in July; 2) freight containers being used as storage but also being used to house layaways for merchants; 3) merchants using freight containers for storage in lieu of proper storage; 4) the question of Abilene having a shortage of warehouse storage; 5) the cost of proper warehouse storage versus using the freight containers; 6) the City’s current enforcement policy on freight containers already on site; 7) other cities screening regulations; 8) concerns with additional stipulations; 9) how screening will be defined; 10) will additional screening be cost effective to the merchants; 11) location and appearance of freight containers and addressing those issues in the Comprehensive Plan; 12) clarifying set back requirements (a rear location where there is no traffic versus a street running behind a building); 13) freight containers being allowed on site for only 6 months; 14) freight containers not being allowed in Shopping Centers; 15) the difference between S.C. (Shopping Center) and G.C. (General Commercial) zoning; 16) freight containers being required to have electricity, separate door, etc., depending on the use; 17) the need for understanding of what is allowed and restricted in each zoning district; 18) the safety and protection of individuals stocking items; 19) other laws or statutes that address safety issues; 20) Council’s concerns with the balance of helping businesses with inexpensive, reliable storage, aesthetics, and the safety of individuals; 21) other current enclosures allowed for storage need to be balanced with the freight container rules; 22) will permits be issued for each freight container or will the permit be issued to the businesses to have the freight container; 23) OSHA not addressing freight containers versus the City’s regulation of the containers; 24) staff working further with businesses in the community to address concerns; 25) Council’s request for a copy of today’s power point presentation, and a identifying matrix of issues surrounding the freight containers, and; 26) concerns of freight containers being treated as buildings when they are only used for storage.

Mayor Archibald requested that Mr. James, as soon as possible, provide Council with a matrix, as discussed, that would help to identify requirements specific to various zoning districts, building codes, ordinances, etc.

Following Council and staff discussion Councilman Hill made a motion to approve the first reading and to move to second reading an ordinance to amend sections 23-306.4 (Permitted Uses), 23-306.5B (Accessory and Incidental Use), and 23-363 (Definitions) of the City of Abilene Zoning Ordinance regarding the placement and screening of Freight Containers, and to delete the wording, “for those freight containers being used for storage”, under Section 23-306.5.B (Accessory and Incidental Use) sub-part (c) of the proposed ordinance; and set a public hearing for March 24, 2005 at 8:30 a.m. Councilman Southward seconded the motion, and the motion carried.

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

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT", SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

4.3 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on first reading to amend sections 23-306.5.B & H (Accessory and Incidental Use), and 23-363 (Definitions) of the City of Abilene Zoning Ordinance regarding the regulation of Itinerant Businesses; and set a public hearing for March 24, 2005 at 8:30 a.m.

Mr. James stated the proposed ordinance provides a recommendation for the definition of itinerant business and the staff recommended ordinance would also establish a permitting process for these businesses, provide location standards, and require property owner permission. Mr. James noted the Planning and Zoning Commission approved the proposed ordinance at their meeting on August 5, 2004 and since that meeting staff has added wording regarding setback requirements to the proposed ordinance. Mr. James summarized the requirements that must be met under the proposed ordinance.

Council and staff discussion included: 1) the proposed ordinance primarily originating from numerous complaints about itinerant businesses on vacant lots throughout the city; 2) the possibility of dual fee structure for non-profits and for profit organizations; 3) identification of non-profits and their regulation through the Solicitation Ordinance; 4) the effect the ordinance may have on many organizations and that the ordinance not hinder legitimate businesses and non-profit organizations; 5) the permitting process; 6) staff's request for Council direction concerning the prohibition of certain uses, and; 7) staff to review the permitting process for appropriate exceptions.

City Attorney Sharon Hicks noted the Planning and Development Services Department, the City Secretary's office (concerning the regulation of non-profits) and Legal can review the current permits and processes and bring options back to Council.

Following Council and staff discussion Councilman Southward made a motion to approve the first reading and to move to second reading an ordinance to amend sections 23-306.4 (Permitted Uses), 23-306.5.B & H (Accessory and Incidental Use), and 23-363 (Definitions) of the City of Abilene Zoning Ordinance regarding the regulation of Itinerant Businesses; and set a public hearing for March 24, 2005 at 8:30 a.m. Councilman Hill seconded the motion, and the motion carried.

AYES: Councilmen Chase, Hill, Higgins, Southward, Councilwoman Moore, and Mayor Archibald.
NAYS: None

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT", SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

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 Southward left the meeting.

REGULAR SESSION

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

5.4 Mayor Archibald presented his appointments to the Office of Neighborhood Services Advisory Council and the Community Access Task Force and noted that the appointment to the *Frontier Texas!* Board has not been confirmed and will be considered at a later date. Councilman Hill made a motion to approve Mayor Archibald's appointments to the Office of Neighborhood Services Advisory Council, and the Community Access Task Force as listed below. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

Office of Neighborhood Services Advisory Council

2 year terms

Appoint:

- Susan Robinson, term expires 11/2006

Community Access Task Force

3 year terms

Appoint:

- Janet Ardoyno
- Billy Riggs
- Patricia Hernandez
- Karen Talbert
- Cheryl Carpenter

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There being no further business, the meeting was adjourned at 12:10 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor