

CITY COUNCIL MEETING
July 28, 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 July 28, 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, Kris Southward, and John Hill. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff. Councilman Stormy Higgins and Councilwoman Laura Moore were absent.

Mike Patrick, Chaplin from Hendrick Medical Center gave the invocation.

Mayor Archibald introduced Carlee Lane a 4th grade student from Bonham Elementary School and Jolee Lane a Kindergartener from Bonham Elementary School who led the Pledge of Allegiance. Carlee and Jolee's mother was also present.

Mayor Archibald noted Councilwoman Laura Moore and Councilman Stormy Higgins absence from today's meeting due to their being out of town.

DISPOSITION OF MINUTES

2.0 There being one noted correction, and no additions, or deletions to the July 14, 2005 Regular Council Meeting Minutes Councilman Chase made a motion to approve the minutes as corrected. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Item 3.8, **Bid #CB-5072** – Catclaw Drive Rehabilitation – Southwest Drive to South Clack and approval of a Resolution affirming the local preference award to Stephens Martin Paving, LP, was removed from the consent agenda to be considered separately at the request of Tom Lindley, President of Contract Paving Company.

3.0 Councilman Southward made a motion to approve first reading of consent agenda items 3.1 and 3.2, second and final reading of items 3.3 and 3.4, items 3.5 through 3.7, and item 3.9 as recommended by staff. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

Ordinances:

3.1 Ordinance adopting the 2003 International Building, Plumbing, Mechanical, Residential, and Fuel Gas Codes, with Local Amendments to each; and setting a public hearing for August 11, 2005 at 8:30 a.m.

AN ORDINANCE AMENDING: (1) CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 2, "BUILDING CODE"; OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; (2) CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 4, "PLUMBING CODE"; OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; (3) CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 5, "MECHANICAL CODE"; OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; AND AN ORDINANCE APPROVING: (4) CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 8, "RESIDENTIAL CODE", OF THE ABILENE MUNICIPAL CODE, BY ADDING CERTAIN SECTIONS AS SET OUT BELOW; (5) CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 9, "FUEL GAS CODE", OF THE ABILENE MUNICIPAL CODE, BY ADDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

- 3.2 Z-0404 – Rezone property from GC (General Commercial) and RS-6 (Residential Single-family) to PDD (Planned Development District) zoning district, property located in the 2600-2700 block of South 7th Street; and set a public hearing for August 11, 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-84 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.3 Ordinance amending Chapter 18, "Motor Vehicles and Traffic", of the City of Abilene Municipal Code.

The Ordinance is numbered **34-2005** and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 18, "MOTOR VEHICLES AND TRAFFIC" OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

- 3.4 Ordinance denying the request of Atmos Energy Corp., Mid-Tex division, for an annual Gas Reliability Infrastructure Program (GRIP) rate increase.

The Ordinance is numbered **35-2005** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, DENYING THE REQUEST OF ATMOS ENERGY CORP., MID-TEX DIVISION, FOR AN ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM (GRIP) RATE INCREASE IN THIS

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MUNICIPALITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY DISTRIBUTION SYSTEM; APPROVING COOPERATION WITH OTHER CITIES WITHIN THE ATMOS ENERGY CORP., MID-TEX DIVISION DISTRIBUTION SYSTEM AS PART OF THE ATMOS CITIES STEERING COMMITTEE (ACSC); AUTHORIZING ACSC TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION; AUTHORIZING INTERVENTION AS PART ACSC IN ANY APPEAL OF THE CITY'S ACTION TO THE RAILROAD COMMISSION; APPROVING COSTS INCURRED AS REASONABLE AND PROVIDING A REQUIREMENT FOR PROMPT REIMBURSEMENT OF COSTS; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO ATMOS ENERGY CORP., MID-TEX DIVISION.

Bid Awards:

- 3.5 **Bid #CB-5053** – Taxiway D Extension and General Aviation Ramp Reconstruction. The bid was awarded to Epic Construction, Abilene, TX in the amount of \$2,827,131.61.
- 3.6 **Bid #CB-5056** – Buffalo Gap Road Rehabilitation Phase II, from South 27th Street to South 34th Street. The bid was awarded to Contract Paving Co., Tye, TX in the amount of \$388,030.79.
- 3.7 **Bid #CB-5069** – North 10th Street reconstruction from Danville Drive to Elm Creek Bridge. The bid was awarded to J.H. Strain & Sons, Inc., Tye, TX in the amount of \$458,570.51.
- 3.8 Removed from the consent agenda to be considered separately. **Bid #CB-5072** – Catclaw Drive Rehabilitation – Southwest Drive to South Clack and approval of a Resolution affirming the local preference award to Stephens Martin Paving, LP.
- 3.9 **Bid #CB-5073** – Reconstruction Phase I – Clack Street to Little Elm Creek Bridge. The bid awarded to Stephens Martin Paving, LP, Abilene, TX in the amount of \$427,427.53.

Removed From Consent Agenda:

- 3.8 **Bid #CB-5072** – Catclaw Drive Rehabilitation – Southwest Drive to South Clack and approval of a Resolution affirming the local preference award to Stephens Martin Paving, LP.

Tom Lindley, Abilene resident and President of Contract Paving Company briefed the Council on the origin of Stephens Martin Paving, LP, the history of the Contract Paving Company and their record of employment. Mr. Lindley reviewed documents that he had provided to Council concerning the Central Appraisal District property value and taxing jurisdiction information on his company and Stephens Martin Paving, LP. Mr. Lindley requested Council award the bid to Contract Paving as the lowest responsible bidder.

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Discussion included: 1) the Local Government Code Section 271.905 that allows the City to award a bid to a bidder whose principal place of business is in the incorporated City limits, if the City receives one or more bids from a bidder whose principal place of business is in the incorporated City limits and whose bid is within three percent of the lowest bid price received by the City from a bidder with a residence outside the City, if the governing body of the City determines, in writing, that the local bidder offers the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the City and increased tax revenues to the City; 2) the basis for staff's recommendation that the bid be awarded to the local bidder; 3) bids having been submitted by three contractors and the possible impact the state law could have on companies decisions to bid in the future; 4) the importance of consistency in light of the state law being discretionary, and; 5) issues that may arise in awarding bids when all companies bidding are located outside of the City.

Following discussion Councilman Southward made a motion to award **Bid #CB-5072** – Catclaw Drive Rehabilitation – Southwest Drive to South Clack and approve the Resolution affirming the local preference award to Stephens Martin Paving, LP, Abilene, TX in the amount of \$215,083.60. Councilman Williams seconded the motion.

AYES: Councilmen Williams, Southward, and Mayor Archibald.
NAYS: Councilmen Hill and Chase.

Motion failed.

Councilman Hill made a motion to award **Bid #CB-5072** – Catclaw Drive Rehabilitation – Southwest Drive to South Clack to Contract Paving Co., Tye, TX in the amount of \$214,749.54. Councilman Chase seconded the motion.

AYES: Councilmen Hill and Chase.
NAYS: Councilmen Williams, Southward, and Mayor Archibald

Motion failed.

Councilman Hill made a motion to table agenda item 3.8, **Bid #CB-5072** – Catclaw Drive Rehabilitation – Southwest Drive to South Clack and the Resolution affirming the local preference award to Stephens Martin Paving, LP, to be considered at the August 11, 2005 Council meeting. Councilman Southward seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Hill, Southward, and Mayor Archibald.
NAYS: None

REGULAR AGENDA

4.1 Jon James, Director of Planning & Development Services briefed the Council on an ordinance considered on second and final reading to amend Section 23-306.4 of the Zoning Ordinance pertaining to parking requirements for certain uses.

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Mr. James stated there are five Permitted Uses (Modular Homes, Governmental Administrative Offices, Social Service Organization Offices, Elementary and Middle Schools or Junior Highs) that currently have parking requirements that need to be changed. Mr. James further stated after staff reviewed several site plans for recent school renovations it was determined that the required parking for elementary and middle schools is excessive when compared to the actual needs of the schools and the amounts required in the peer cities. Mr. James noted staff expects to review several more site plans in the near future and amending the parking requirements would bring schools that do not meet the current regulations into compliance. Mr. James stated the Planning and Zoning Commission discussed the wording of the proposed requirements for elementary, junior high, and middle schools and came to the conclusion that the “place of assembly” should be the “primary place of assembly” due to the fact that many schools have more than one. Staff, after additional review, recommends that it be further clarified to be the “largest place of assembly” for cases where the largest is not the same as the primary place of assembly.

Council and staff discussion included: 1) definition of “largest” and “primary” in reference to place of assembly; 2) parking accommodations and appropriateness of various parking locations; 3) the trend is moving toward requiring less parking; 4) the impact of “similar requirements for similar uses” on parking requirements; 5) the fact that cities vary greatly in their parking requirements, and; 6) parking requirements in reference to the Comprehensive Plan and Infill.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard, the public hearing was closed.

Councilman Hill made a motion to retain the current parking requirements for permitted uses at Governmental Administrative Offices and Social Service Organization Offices and to approve the ordinance considered on second and final reading to amend Sections 23-306.4 of the Zoning Ordinance to change the parking requirements for permitted uses for: 1) Modular Home to 2/dwelling; 2) School: Public, Private or Denominational (Elementary) to 2.2/classroom or 1/4 seats in **primary** place of assembly, whichever is greater, and; 3) School: Public, Private or Denominational (Middle School or Junior High) to 2.8/classroom or 1/4 seats in **primary** place of assembly, whichever is greater. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **36-2005** and captioned as follows:

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.

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4.2 Jon James, Director of Planning and Development Services briefed the Council on, **TC-2005-3** – an ordinance considered on second and final reading for a thoroughfare closure of all of Lockheed Way, property located along the north line of 300 Wall Street.

Mr. James stated this portion of Lockheed Way is a dead-end street that extends approximately 900 feet west from Wall Street. Mr. James further stated the expansion of the street would cross Little Elm Creek in order to access Arnold Boulevard. Mr. James noted the area between Wall Street and Arnold Boulevard is primarily vacant, except for the former Lockheed development to the south that fronts on North 1st Street. Mr. James stated currently the streets primary use is to provide a second access point to the industrial development to the south. The Development Corporation of Abilene (DCOA) has a real estate sales contract with the owner of the former Lockheed Plant to purchase DCOA-owned land along the entire frontage on the north side of Lockheed Way. Mr. James noted the buyer already owns all the land along the south frontage of Lockheed Way and there are no plans to extend the street any further west to connect with Arnold Boulevard. Mr. James stated therefore, it would better serve as a privately owned driveway into the property than as a city-maintained roadway so long as the full width of the right-of-way is maintained as a utility and drainage easement. Abandonment of the right-of-way will also allow it to become taxable property. Mr. James noted additionally, the platting process has begun to extend Marigold Street to connect with Arnold Boulevard just to the north of the request and eventually Marigold Street will be paved past Arnold Boulevard and connect with Fulwiler Road to provide access to Interstate 20. The Plat Review Committee and staff recommend approval of the thoroughfare closure with the condition that the full 60' right-of-way be retained as a utility and drainage easement. The Planning and Zoning Commission recommends approval of the request.

Council and staff discussion included: 1) if the request is approved the street would become private property and could be used as an access road, for parking and etc., and; 2) staff's explanation of the benefits of thoroughfare closures.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard, the public hearing was closed.

Councilman Williams made a motion to approve **TC-2005-3** – an ordinance considered on second and final reading for a thoroughfare closure of all of Lockheed Way, property located along the north line of 300 Wall Street, with the condition that the full 60' right-of-way be retained as a utility and drainage easement as recommended by staff, the Plat Review Committee and the Planning and Zoning Commission. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **37-2005** and captioned as follows:

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.

4.3 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-23**, an ordinance considered on second and final reading to amend PDD-92 to increase the maximum dwelling density from 8 units per acre to 9 units per acre located on the northwest corner of Jennings Drive and Delaware Road.

Mr. James stated the applicant, Weatherbee Builders, is proposing to increase the number of units on the parcel from 24 to 28, and increase the density from 8 to 9 units per acre. Mr. James further stated staff foresees no negative effects on public facilities or the surrounding land uses from the addition of four more units. Mr. James noted the property to the north is developed with base housing within the boundaries of Dyess Air Force Base. Dyess Elementary is across the street to the south and there are homes located in RM-3 (Residential Multi-family) zoning to the east and vacant RM-3 (Residential Multi-family) zoning land to the west. Mr. James stated the development's driveways would open onto Jennings Drive, which should provide sufficient access due to its classification as a collector street. Mr. James added four more units would have a minimal effect on the amount of traffic already in the neighborhood. Mr. James further stated it is in area that is planned for future residential use and will provide a greater variety of housing options in a neighborhood that is primarily developed with single-family homes at this time. Staff and the Planning and Zoning Commission recommend approval of the request.

Staff noted the map in Council's agenda packet showing the City of Abilene as owner of Dyess Elementary property was information obtained from the records of the Central Appraisal District and that the Central Appraisal District is making the needed corrections to those records.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard, the public hearing was closed.

Councilman Hill made a motion to approve **Z-2005-23**, an ordinance considered on second and final reading to amend PDD-92 to increase the maximum dwelling density from 8 units per acre to 9 units per acre and increasing the maximum number of units from 24 to 28, located on the northwest corner of Jennings Drive and Delaware Road. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **38-2005** 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-92 AND ORDINANCE NO. 25-2004 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.4 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-24**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to RS-8 (Residential Single-family) zoning district, property located in the 4500 block of Antilley Road, east of Twin Oaks Subdivision, and south of Wylie High School.

Mr. James stated the applicant, Charles “Lee” Bledsoe, is proposing to construct 42 single-family residential homes with one entrance onto Antilley Road and a continuance of Velta Lane from Twin Oaks Subdivision. Mr. James further stated all homes would front on new local streets and the Subdivision regulations would require homes with a reverse frontage lot to have a no-access easement along Antilley Road. Mr. James noted there are no known plans for the rest of the owner’s adjacent property. Mr. James stated the area is currently agriculture land, which is adjacent to residential homes (RS-6 zoning) to the west and the area to the south and east is undeveloped agriculture land. Mr. James further stated the properties located north of Antilley Road are zoned AO (Agriculture Open Space) and are presently being used for agriculture and a high school and there are some residential homes located to the northeast. The subject property is identified in the Comprehensive Plan as a low-density residential area. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included the nature of opposition to the request being concerns over the potential for additional traffic in the area and loss of the open space and view.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard, the public hearing was closed.

Councilman Williams made a motion to approve **Z-2005-24**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to RS-8 (Residential Single-family) zoning district, property located in the 4500 block of Antilley Road, east of Twin Oaks Subdivision, and south of Wylie High School. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **39-2005** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, “ZONING”, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Mayor Archibald recessed Council for a break at 9:55 a.m. during which time a press conference was held concerning the response to the railcar derailment incident on Tuesday, July 26th. Prior to the press conference Mayor Archibald stated following the press conference Council would 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, 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 approve Mayor Archibald's appointment of Nancy Stephenson to the Library Board, term expiring November 2005. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

5.5 Mayor Archibald noted immediately following the Council meeting some members (less than a quorum) of the Council would tour the new Public Health Facilities Building.

There being no further business, the meeting was adjourned at 11:00 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor

Following the Council meeting Mayor Archibald, Councilmen Chase and Southward and various members of staff toured the new Public Health Facilities Building.