

CITY COUNCIL MEETING
February 9, 2006, 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 9, 2006 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, John Hill, Stormy Higgins 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.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Amanda Stites who led the Pledge of Allegiance. Amanda is a 5th grade student from Johnston Elementary School. Amanda's mother and principal were also present.

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:

| | | |
|----------|--------------------|----------------------|
| 35 Years | Robert F. Waggoner | Police Lieutenant II |
| | | Police Department |

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- "Career and Technical Education Week" February 12th –18th
- "LULAC Week" February 13th – 19th

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.072, and 551.074, of the Open Meetings Act, to consult with the City Attorney, to discuss the potential acquisition or real property, and to consider the appointment and evaluation of public officials.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

DISPOSITION OF MINUTES

2.0 Mayor Archibald noted that Council has been given the minutes from the January 10 and January 24, 2006 Regular Council Meetings and also a memo from the City Attorney that proposes the January 10 minutes be considered for approval with the exception of item 4.5 which was Zoning Case #2005-40. The Mayor further noted that due to lack of notice on Zoning Case

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#2005-40 the case will be reheard today and is on the Council's agenda as item 4.2. There being no further considerations, corrections, additions, or deletions to the January 10 or January 24, 2006 Regular Council Meeting Minutes Councilman Chase made a motion to approve the minutes as presented with the exception of Item 4.5 in the January 10, 2006 minutes, which is voided, due to lack of notice. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Councilwoman Moore made a motion to approve consent agenda items 3.1 through 3.3, first reading of items 3.4 and 3.5, and items 3.6 through 3.9 as recommended by staff. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

- 3.1 Oral Resolution authorizing the City Manager to execute a professional services contract with Thelen Reid & Priest LLP for an estimated annual amount of \$50,000 to cover the period of January 1 through December 31, 2006.
- 3.2 Oral Resolution approving the appointment of Brett Monroe and Sarah Mulkey to the Office of Neighborhood Services Advisory Council, terms expiring November 2006.
- 3.3 Oral Resolution adopting the City of Abilene Air Service Development Incentive Policy.

Ordinances:

- 3.4 Ordinance to amend Sections 23-303.2.D and 23-345 of the Abilene Municipal Code regarding regulations within the Corridor Overlay Zone; and set a public hearing for February 23, 2006 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.

- 3.5 **Z-2006-03** – Ordinance to approve request to apply COR (Corridor Overlay) zoning to property located within 600 feet of the centerline of Arnold Boulevard, Dub Wright

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Boulevard, and Rebecca Lane, extending from Buffalo Gap Road to I-20; and set a public hearing for February 23, 2006 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 **Bid #CB-6025** – Police Uniforms. The bid was awarded to Nardis, Inc., Kilgore, TX with the option to extend for two (2) additional one (1) year terms as follows:

- 250 Class A Long Sleeve Shirts \$50.94 each
- 250 Short Sleeve Shirts \$50.94 each
- 250 Class B Trousers \$49.95 each
- 24 Class A Trousers \$47.95 each

3.7 **Bid #CB-6026** – Annual Street maintenance materials. The bid was awarded as follows:

- **Morris Ready Mix, Abilene, TX**
 - 300 CY – Portland Cement, 7-Sack Unit Price \$82.50
 - 100 CY – Portland Cement, 5-Sack Unit Price \$74.50
- **Abilene Lumber/BMC West, Abilene, TX**
 - 2,800 SACK – Portland Cement, Type I Unit Price \$8.09
- **Deery American, Fruita, CO**
 - 50,000 LB – CMC-200 Unit Price \$.2202
- **Southern Asphalt & Petroleum, Ft. Worth, TX**
 - 12,000 GAL – CRS 2 Unit Price \$1.28
- **Unique Paving Materials, Cleveland, OH**
 - 125 TON – HPPM Unit Price \$79.89
- **Austin White Lime Company, Abilene, TX**
 - 50 TON – Quicklime Pellets Unit Price \$94.99
- **Vulcan Materials Company, Abilene, TX**
 - 400 TON – Limestone Rock Asphalt, Type CC Unit Price \$51.30
 - 30 TON – Limestone Rock Asphalt, Type A Unit Price \$51.30
 - 5,000 TON – Hot Mix, Type D Unit Price \$42.50
 - 18,000 TON – A-1 Flex Base, Delivered Unit Price \$ 9.53
 - 9,000 TON- A-1 Flex Base Unit Price \$ 5.75
 - 2,000 TON – Crushed Limestone #5 Unit Price \$18.28
 - 200 TON – PB-4 Coverstone Unit Price \$29.78

3.8 **Bid #CB-6027** – Miscellaneous Parks projects. The bid was awarded to J.H. Strain & Sons, Inc. Tye, TX in the amount of \$243,592.81.

3.9 **Bid #CB-6029** – Soft body armor for Patrol Division. The bid was awarded to Nardis, Inc., Kilgore, TX for the quantity of 75 Soft Body Armor/Vests at the Unit Price of \$424.00.

REGULAR AGENDA

4.1 Councilman Hill made a motion to remove from the table **Z-2005-37**, an ordinance to rezone property from AO (Agriculture Open Space) to MH (Mobile Home) zoning district, property located at 6834 East Lake Road. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

4.1 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-37**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to MH (Mobile Home) zoning district, property located at 6834 East Lake Road.

Mr. James stated the applicant Gary Massingill recently purchased the property and plans to possibly construct a site-built home for himself over the next couple years and is proposing to locate and occupy a mobile home near the center of the 76 acre tract. Mr. James further stated the applicant foresees this proposal as a temporary necessity, and eventually plans to subdivide and develop the site with multiple single-family homes. Mr. James noted due to financial and logistical factors, construction of his own home will not begin immediately. This delay eliminates the possibility of requesting a Temporary Security Residence from the Board of Adjustment, due to the fact that a Temporary Permit for such a use requires active construction on the site for the duration of the presence of the mobile home. Staff feels this option is more appropriate than permanently changing the zoning. Mr. James further noted there is very little MH (Mobile Home) zoning currently in place around Lake Fort Phantom Hill, and of the 9,618 acres included in the Fort Phantom Area Super Neighborhood, less than 30 acres have MH (Mobile Zoning) zoning. Furthermore, the majority is located on the west side of the lake and the City would be setting a precedent for the expansion of the use if it allowed additional MH zoning on the east side. Staff recommends that the applicant wait to place the mobile home until he begins construction and is eligible to request the Temporary Security Residence. The Comprehensive Plan designates the area around the subject parcel as the Lake Fort Phantom Hill Super Neighborhood. There are no specific goals for the area, although the Future Land Use map generally calls for "Restricted Open Space" for the majority of the land surrounding the lake. The area has an active neighborhood association that produced a Neighborhood Plan in 2005. It anticipates residential and recreational development to create a unique multi-use Special Activity Center. The Neighborhood Plan gives no specific details for future land use around the subject parcel and the City is currently conducting a major land use study for the entire area surrounding the lake. The first phase has already been completed, but the second phase is still under review. City staff is hesitant to recommend any land use changes prior to an analysis of the final results. The main concern of the Planning and Zoning Commission was the large area being proposed for rezoning and the possibility that multiple homes could be placed there in the future. Their recommendation reflects the smallest possible area that would be permissible under the Subdivision Regulations, but does not take into account the need for an on-site septic system. Staff recommends denial of the request and the Planning and Zoning Commission approved the rezoning of a 5,000 square foot lot with a 50 foot wide access, which is the minimum area required for MH zoning.

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Council and staff discussion included: 1) concerns with the proposed rezoning notice process and lack of opportunity for input from people that would be affected; 2) the 1977 Ordinance that provided for the phasing out of mobile homes at Lake Fort Phantom, certain conditions on the mobile homes that were present at that time and prohibiting more mobile homes; 3) the 1989 Ordinance that provided for the regulation of mobile homes at Lake Fort Phantom; 4) the City's general policy being to not permit new mobile homes at the Lake, and; 5) staff noting the request before Council is for Mobile Home zoning and that the applicants intentions are not binding.

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

- Jay Massingill, father of the applicant – Mr. Massingill stated he is at today's meeting representing his son Gary, who was not able to attend the Council meeting. Mr. Massingill further stated Gary's intentions are to not keep a mobile home on the property any longer than necessary and wants to see what the City plans on doing with their land that surrounds his property. Mr. Massingill noted that his son plans to place something nice on the property.
- Faith Gage – Ms. Gage distributed handouts consisting of an acknowledgement form, a map, and information from a consultants group. Ms. Gage stated the City has progressed in moving mobile homes off of Lake Fort Phantom. Ms. Gage further stated she feels that the lake has the possibility of becoming a tourist attraction but if the City allows the placement of mobile homes on the lake it will jeopardize that possibility.
- Roger Huber, Fort Phantom Association President – Mr. Huber stated he feels that staff's recommendation of denial is excellent and that it is in line with the Plan. Mr. Huber further stated the Fort Phantom Association would like to work with Mr. Massingill but that land developers would view mobile home zoning as a negative. Mr. Huber noted the vision of the Fort Phantom Association which included the lake being a safe, clean, wholesome neighborhood, with recreation and quality of life features.

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

Council and staff discussion continued and included: 1) Council wanting to review the sunset date for the mobile homes at the Lake; 2) the "Acknowledgement of Restriction on Mobile Homes" form, required to be signed by property owners, and enforcement issues; 3) citizens notification process now includes notifying Neighborhood Associations; 4) today's technology enhancements contributing to assuring that the city organization policies will be properly enforced and continually tracked; 5) staff referenced the letter from Gary Massingill provided to Council in their agenda packets, and; 6) staff noted that the direction of Council is understood.

Councilwoman Moore made a motion to deny **Z-2005-37**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to MH (Mobile Home)

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zoning district, property located at 6834 East Lake Road, as recommended by staff. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: Councilman Southward

Councilwoman Moore left the meeting.

4.2 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-40**, the rehearing of a request to consider an ordinance on second and final reading to rezone property from O (Office) to PDD (Planned Development District) zoning district, property located at 4901 Buffalo Gap Road.

Mr. James stated this parcel is in the COR (Corridor Overlay) and this request would not remove the overlay zoning. Mr. James noted a setback variance for the existing sign on this site was denied by the Board of Adjustment, with 3 votes in favor, one opposed, and one abstaining (4 affirmative votes are needed for approval). The applicant then submitted this request for a PDD (Planned Development District) that would allow the sign closer to the property line than the O (Office) zoning district would otherwise allow. Mr. James further noted in an effort to address concerns expressed by citizens and members of the Board of Adjustment and Planning and Zoning Commission, staff added language to the proposed ordinance to address flashing, blinking, and animation of the electronic message sign. However, the applicant was not notified of this change and did not have an opportunity to be heard prior to the adoption of this ordinance. Staff is proposing that Council rehear the ordinance and staff has proposed language to address the applicant's concerns. Staff's initial recommendation on this case was for denial based on the argument that this is not an appropriate use of PDD (Planned Development District) zoning district. While that has not changed, given that the Planning and Zoning Commission and City Council have both approved this case, staff is in support of rehearing the ordinance as now presented.

Council and staff discussed the language revision and staff's clarified that the language on the original ordinance was taken from documents, that were received from a sign company, which were related to multi-line messages and not applicable to the applicant's sign. The proposed wording to be removed from the ordinance is "Minimum Display Time: Each message on the sign must be displayed for a minimum of 15 seconds."

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

- David Ballard, applicant – Mr. Ballard expressed his appreciation to staff for their work on the zoning case.

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

Councilman Chase made a motion to approve as reheard **Z-2005-40**, an ordinance considered on second and final reading to rezone property from O (Office) to PDD (Planned Development

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District) zoning district, property located at 4901 Buffalo Gap Road. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilwoman Moore

The Ordinance is numbered 4-2006 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-102 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.3 Paul Knippel, Director of Public Works briefed the Council on an Oral Resolution approving three road humps along Glen Abbey between Medina and Antilley Road.

Mr. Knippel stated on November 17, 2005 Council approved placement of two road humps on Glen Abbey and directed staff to evaluate placement of more than two road humps on Glen Abbey. This direction was given based on comments made by Glen Abbey residents during the public hearing. After further review, staff and representatives of Glen Abbey are in agreement with respect to the location of a total of three road humps. Mr. Knippel noted there is no direct cost to the City for the road humps and staff recommends Council approval of three road humps to be located on Glen Abbey.

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

- David Todd – Mr. Todd stated after the November 2005 Council meeting a poll of the original petition area was conducted and the consensus was that three (3) road humps were needed. Mr. Todd commended staff for their work on the project.

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

Council and staff discussion included: 1) staff stated notices were sent out to the notification area, and; 2) if approved the three (3) road humps would be installed within approximately 30 days.

Councilman Williams made a motion to approve by Oral Resolution three road humps along Glen Abbey between Medina and Antilley Road. Councilman Southward seconded the motion and the motion carried.

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

NAYS: None

ABSENT: Councilwoman Moore

4.4 City Manager Larry Gilley briefed the Council on the proposed ballot language for the proposed Bond Election Propositions and the appropriate documents to order a Bond Election.

At the January 24th Council meeting Council directed staff to proceed, in considering the ordering of a Bond Election, with preparing ballot language for the proposed seven bond projects, as recommended by the Bond Committee, to be presented as separate propositions and to move the Miscellaneous Residential Street in the Fort Phantom Super Neighborhood paving project at a cost of \$600,000 into the Street Rehabilitation/Reconstruction Project. Staff has prepared the ballot language for Council consideration and if Council chooses to order a Bond Election to be held in conjunction with the May 13, 2006 City/AISD Joint Election staff will prepare the appropriate documents for Council consideration at the February 23, 2006 Council meeting.

Councilman Chase recommended adding language (as highlighted below) to Proposition #5 to read:

PROPOSITION NO. 5

“Shall the City Council of said City be authorized to issue the bonds of said City, in one or more series or issues, in the aggregate principal amount of \$1,125,000, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of City Council, for the purpose of constructing, improving and equipping City parks at Lake Fort Phantom Hill, **to include boat ramps/docks and a dedicated Dyess Recreation Area**, and shall said City Council be authorized to levy and cause to be assessed and collected annual ad valorem taxes in an amount sufficient to pay the annual interest on said bonds and provide a sinking fund to pay said bonds at maturity?”

Council and staff discussion included: 1) the advantages/disadvantages and legal ramifications of bundling projects; 2) the Bond Committee's expectations in areas of possibly bundling projects; 3) related projects that might be bundled; 4) the Airport project being a stand alone project due to FAA funding restrictions; 5) having separate propositions provides the community with greater flexibility and helps Council better determine community support for projects; 6) the City's role is to not be advocates but to provide factual information to the voters; 7) staff noted if some propositions fail in the Bond Election and there are areas such as safety issues that need to be addressed the projects would still need to be done, and; 8) the impact potential advocacy groups for the propositions may have.

Councilman Williams made a motion to approve by Oral Resolution the ballot language for the proposed Bond Election Propositions as presented to Council with the additional wording as recommended by Councilman Chase to Proposition No. 5 that reads **“to include boat ramps/docks and a dedicated Dyess Recreation Area”** and to direct staff to prepare the appropriate documents to order a Bond Election to be held in conjunction with the May 13, 2006 Joint City/AISD General Election. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilwoman Moore

Mayor Archibald noted a ceremony would be held on Friday, February 10, 2006 at 2:00 p.m. at the Hendrick Medical Center in recognition of the branch of the Texas Tech University Health Science Center School of Pharmacy that is being brought to the City of Abilene.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.072, and 551.074, of the Open Meetings Act, to consult with the City Attorney, to discuss the potential acquisition or real property, and to consider the appointment and evaluation of public officials.

Councilman Williams left the meeting after Executive Session.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

5.4 No Council consideration or action was taken on the appointments and re-appointments to the Planning and Zoning Commission and the Housing Authority Board.

5.5 Discussion and possible action concerning appointment of an Assistant City Attorney.

Sharon Hicks, City Attorney requested Council approve the appointment of Teresa James as Assistant City Attorney II, effective February 20, 2006.

Councilman Southward made a motion to approve the appointment of Teresa James as Assistant City Attorney II, effective February 20, 2006 as recommended by City Attorney Sharon Hicks. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Williams and Councilwoman Moore

There being no further business, the meeting was adjourned at 11:30 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor