

CITY COUNCIL MEETING
June 22, 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 June 22, 2006, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Joe Spano, Anthony Williams, Stormy Higgins, and Councilwomen Laura Moore and Celia Davis. 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 Jai Mykal Merrill who led the Pledge of Allegiance. Jai Mykal is the grandson of Kathy Merrill, Assistant City Manager.

PROCLAMATION

Mayor Archibald presented a proclamation to Gail Kiser proclaiming June 25, 2006 as "Breakfast on Beech Street"("BOBS").

RECOGNITION

Mayor Archibald welcomed and recognized approximately 28 Mimes Students (Mentoring Industrious Minds and Educating Students), along with their adult leaders, Gail Jay and Sharon Cochran. The Mayor noted these students are representatives from Franklin, Clack, and Lincoln Middle Schools and have spent this week touring various City locations and will be shadowing various City employees at work.

Mayor Archibald noted he and members of the Military Affairs Committee, and the Chamber of Commerce attended a meeting in Washington D.C. last week where a Texas Bar-B-Que, catered by Tom Perini, was hosted. The Mayor further noted dialogue with leaders of the Pentagon took place at the meeting and that Councilwoman Celia Davis was part of the official program. The Mayor reiterated the importance and the impact that Dyess Air Force Base has on the City of Abilene.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the June 1, 2006 City Council/Planning & Zoning Commission Joint meeting or the June 8, 2006 Regular Council Meeting Minutes Councilwoman Moore made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

CONSENT AGENDA

Councilwoman Davis made a motion to approve consent agenda items 3.1 through 3.4, first reading of items 3.5 through 3.9, and items 3.10 and 3.11 as recommended by staff. Councilman Spano seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

Resolutions:

- 3.1 Oral Resolution authorizing the City Manager to execute Task Order 10 of the landside engineering contract with Enprotec/Hibbs and Todd for construction administration and observation services for the Airport Security Fence Phase II and Terminal Area Drainage Phase II, Detention Pond projects.
- 3.2 Oral Resolution approving a fireworks display permit for Burl Harris of Abilene Dragstrip, to be held at 5601 W. Stamford on July 1, 2006 at approximately 9:00 p.m.
- 3.3 Oral Resolution approving a fireworks display permit for the Boys & Girls Club of Abilene, to be held east of the Round Building at Taylor County Fairgrounds on July 4, 2006 at 9:15 p.m. (alternate rain date July 5, 2006 near Crutcher Scott Baseball Field at 9:15 p.m.).
- 3.4 Resolutions Directing Publication of: 1) Notice of Intention to Issue Combination Tax and Revenue Certificates of Obligation, Series 2006, and; 2) Notice of Intention to Issue Combination Tax and Airport Revenue Certificates of Obligation, Series 2006, and; 3) Approve General Obligation Bond Projects.

The Resolution is numbered **21-2006** and captioned as follows:

**DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE COMBINATION
TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2006**

The Resolution is numbered **22-2006** and captioned as follows:

**DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE
COMBINATION TAX AND AIRPORT REVENUE CERTIFICATES OF OBLIGATION,
TAXABLE SERIES 2006**

Ordinances:

- 3.5 **Z-2006-20** – Request to rezone property from RM-3 (Residential Multi-family) to LC (Limited Commercial) zoning, property located at 3250 South 15th Street; and set a public hearing for July 13, 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.

- 3.6 **Z-2006-21** – Request to rezone 3.97 acres from SC and SC/COR (Shopping Center with Corridor Overlay) to GC/COR (General Commercial with Corridor Overlay) zoning, property located along the east side of Ridgemont Drive, approximately 140 feet north of Rebecca Lane; and set a public hearing for July 13, 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.

- 3.7 **Z-2006-22** – Request to rezone property from RM-2 (Residential Multi-family) to MH (Mobile Home) zoning, property located at 733 & 741 Redbird Lane; and set a public hearing for July 13, 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.

- 3.8 **Z-2006-26** – Request to rezone property from O (Office) and HC (Heavy Commercial) to PDD (Planned Development District) zoning, property located at 301 Goliad Drive; and set a public hearing for July 13, 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, CONCERNING PDD -110 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Ordinance/Resolution:

- 3.9 1) First Reading of Ordinance Denying the Atmos Gas Reliability Infrastructure Program (GRIP) rate increase, and;
2) Resolution Denying Atmos' Statement of Intent to increase the Gas Utility Rates in this Municipality

AN ORDINANCE OF THE CITY COUNCIL 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 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 OF ACSC IN ANY APPEAL OF THE CITY'S ACTION TO THE RAILROAD COMMISSION; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; 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.

The Resolution is numbered **23-2006** and captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE DENYING ATMOS ENERGY CORP., MID-TEX DIVISION'S STATEMENT OF INTENT TO INCREASE THE GAS UTILITY RATES IN THIS MUNICIPALITY; SUPPORTING THE REDUCTION OF EXISTING NATURAL GAS DISTRIBUTION RATES CURRENTLY CHARGED BY ATMOS MID-TEX WITHIN THE CITY; ORDERING ATMOS MID-TEX TO REIMBURSE THE CITY FOR ITS REASONABLE COSTS INCURRED IN RATEMAKING PROCEEDINGS OR APPEALS OF SAID PROCEEDINGS; AUTHORIZING THE ATMOS CITIES STEERING COMMITTEE TO ACT ON BEHALF OF CITY AND INTERVENE IN ANY PROCEEDINGS BEFORE ADMINISTRATIVE OR JUDICIAL BODIES; REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL; AND FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS ADOPTED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

Bid Awards:

- 3.10 Acquisition of an Airport Operations Training System. This is a sole-source purchase through the American Association of Airport Executives (AAAE), which will be funded 90% by AIP grant 3-48-0002-26. The local 10% match of \$9,440 is funded with Certificates of Obligation.
- 3.11 **Bid #CB-6053** – Hangar #1 roof replacement. The bid was awarded to Harris Acoustics, Inc., Abilene, TX in the amount of \$141,000.00.

REGULAR AGENDA

- 4.1 Councilman Higgins made a motion to remove from the table **Z-2006-06**, an ordinance to rezone 84.29 acres from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located on the west side of Oldham Lane between South 27th Street and Loop 322. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

4.1 Jon James, Director of Planning and Development Services briefed the Council on, **Z-2006-06**, an ordinance considered on second and final reading to rezone 84.29 acres from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located on the west side of Oldham Lane between South 27th Street and Loop 322.

Mr. James stated at the April 27, 2006 Council meeting this item was tabled and Council directed staff to “broker” an agreement between the applicant and the concerned neighbors. Staff facilitated a number of meetings between the two groups with numerous discussions and compromises by both sides resulting in the proposed ordinance that is being considered at today’s meeting. Staff has the understanding that both the neighborhood representatives and the applicant are satisfied with the proposed ordinance’s provisions. The proposed ordinance designates areas for various types of development, dividing the PDD (Planned Development District) into five (5) tracts. Residential densities were reduced and some limitations on residential development were established and the new Tract 2 previously called for LC (Limited Commercial) development, but is now largely O (Office) development with a residential appearance requirement. Appearance standards were changed and in some cases made more restrictive, particularly regarding building facades. Commercial uses permitted in the new Tract 1 were refined and the area where self-storage buildings would be permitted was reduced. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) the discussions involving the developer, residents, and adjoining property owners that took place concerning the proposed concept plan; 2) if the PDD is approved and the developer then wants to make changes the normal process of making application, being considered by the Planning and Zoning Commission, and final approval of the Council would be followed; 3) the possibility of using the proposed PDD (Planned Development District) zoning as a model for other developments on Loop 322; 4) Council expressing their appreciation to staff and the individuals involved in the discussions for their working together toward a solution, and; 5) Council noting the positive aspect of tabling an item to provide individuals an opportunity to work together on solutions to issues.

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

- David Todd, agent – Mr. Todd stated several meetings with the neighborhood resulted in a compromise and that he is in favor of how the proposed ordinance is now written.
- Mike Waters, representative for the committee from three different neighborhoods – Mr. Waters noted the positive results of the Council encouraging citizens and groups to work together to resolve issues. Mr. Waters expressed his appreciation to City staff for their assistance and further stated he feels the proposed Ordinance is a good plan and recommends approval.

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

Councilman Chase made a motion to approve **Z-2006-06**, an ordinance considered on second and final reading to rezone 84.29 acres from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located on the west side of Oldham Lane between South 27th Street and Loop 322. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **24-2006** 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-104 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.2 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on first and final reading imposing a Temporary Suspension on the Issuance of Permits for Certain Off-Premise Signs and Declaring the Passage an Emergency Necessary to Immediately Preserve the Public Welfare due to the Potential Negative Consequences on Community Aesthetics.

Mr. James stated the City has recently seen a significant increase in the number of permits issued for off-premise signs (billboards). To date in Fiscal Year 2005-06, the City has received 21 permit applications for billboard construction, as compared to only 19 permit applications in the previous 5 years. In addition, staff has begun to receive numerous complaints from citizens as these new signs are constructed, particularly with signs being erected in locations that have not seen many billboards in the past. The City's Comprehensive Plan recommends additional restrictions on the location, size, and height of signs, and makes special reference to billboards. Over the next few months City staff will be finalizing recommendations for a Community Appearance Ordinance that will include a revision to the City's Sign Ordinance. While the impact on billboards has not been decided, there is a possibility that the revised ordinances will place additional restrictions on billboards. Given the time it will take for the Planning and Zoning Commission and City Council to review, discuss, and make decisions regarding the staff's recommendations, staff is concerned that we will see a flood of billboard permits during this process in an effort by sign companies to get permits prior to more restrictive regulations going into effect. It is not uncommon for cities to implement a temporary suspension on the issuance of billboard permits while reviewing and revising their regulation in order to avoid this situation. In addition, Section 18 of the City Charter authorizes the City Council to adopt an ordinance on a single reading on the affirmative vote of five (5) Council members. Staff believes that this is necessary to avoid the potential of receiving many permit applications during the interim between first and second reading, which could defeat the purpose of the temporary suspension. Staff recommends approval of the proposed ordinance on one reading.

Council and staff discussion included: 1) other cities having implemented this type of ordinance while in the process of changing regulations; 2) Council noting this proposal is in keeping with the Comprehensive Plan and Land Code and is in the City's best interest; 3) individuals who have started the process of placing a billboard have 45 days to complete the process under the current ordinance; 4) Council noting the importance of the aesthetically pleasing impression that the City needs to make; 5) the current, and possible future, height, location, and spacing requirements for billboards, and; 6) the timeline for the temporary suspension being six (6) months.

Mayor Archibald stated the proposed ordinance is for a temporary suspension on an emergency basis, which does not call for a public hearing. The Mayor further stated the passage of the proposed ordinance would require five (5) affirmative votes by Council.

Mayor Archibald polled the audience for those in attendance who wished to address the Council and offered the opportunity for those individuals to voice their opinions.

The following individuals addressed the Council:

- Marsha Holmes, owner of Holmes Outdoor Advertising – Ms. Holmes stated billboards are the most effective way of advertising and noted benefits of billboard advertising. Ms. Holmes further noted the possible negative impact the proposed ordinance will have – stating the six (6) month suspension is not critical but the tightening of regulations may preclude businesses.

Discussion included: 1) true revenue being realized from the sale of billboards and the large number of billboards currently available to be sold; 2) the percentage of company's installing billboards that are local businesses; 3) the potential impact to businesses and the City's economy if no billboards are allowed to be erected for six (6) months; 4) Council stating a public hearing on this issue will be held at a future Council meeting, and; 5) Council recognizing the study and input that will be needed by Council and the Planning and Zoning Commission on the sign issues in order to reach a fair balance.

- Vicki Anderson – Ms. Anderson expressed her appreciation to Council for taking time to consider moratoriums on sign issues and for the careful decisions that are needed and being made.

Councilwoman Davis made a motion to approve the ordinance considered on first and final reading, effective June 22, 2006 at 9:30 a.m., imposing a Temporary Suspension on the Issuance of Permits for Certain Off-Premise Signs and Declaring the Passage an Emergency Necessary to Immediately Preserve the Public Welfare due to the Potential Negative Consequences on Community Aesthetics. Councilman Spano seconded the motion, and the motion carried.

City Council Meeting

June 22, 2006

Page 8

AYES: Councilmen Chase, Spano, Williams, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **25-2006** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS IMPOSING A TEMPORARY SUSPENSION ON THE ACCEPTANCE OF APPLICATIONS AND THE ISSUANCE OF PERMITS FOR CERTAIN OFF-PREMISE SIGNS AND DECLARING THE PASSAGE AN EMERGENCY NECESSARY TO IMMEDIATELY PRESERVE THE PUBLIC WELFARE.

Mayor Archibald stated item 5.5, *Water Capital Improvements Program (CIP) Workshop*, will be considered before Executive Session. The Mayor further stated this item is a presentation only and no Council action would be taken.

WATER CAPITAL IMPROVEMENTS PROGRAM (CIP) WORKSHOP

5.5 Tommy O'Brien, Director of Water Utilities presented the 2006-2010 Water Department Capital Improvements Program (CIP) and the impact on Water Department rates.

Mr. O'Brien stated the Water Department Capital Improvements Program (CIP), and impact of Water/Sewer rates notebook distributed to Council is preliminary information being provided to assist Council as they discuss issues and prepare to make decisions during the budget preparation process.

Mr. O'Brien stated the information in the notebook includes:

- 2006 Capital Budget and 2006-2010 Capital Improvements Program
- Funding Considerations for Water Capital Improvement Program (CIP)
- Financial Condition with Current Rates
- Water and Sewer Rate Adjustments
- Ranking Proposed Rates with 10 Comparable Cities
- Impact of Proposed Rate Adjustments on Abilene Customers

Council and staff discussion included: 1) Council's timeframe to review and prepare questions concerning the information received at today's meeting; 2) Council directing questions to the City Manager in terms of rates and projects to complete as they relate to the future Fund Balance; 3) staff noting the C.O. sale for water projects would take place in the Spring of 2007, and the purpose of today's workshop is to introduce the information to Council in order to provide sufficient time to study the information before the budget is filed in early July 2006; 4) the possibility of having Council's questions to the City Manager by July 1, 2006 to allow time to research answers before the budget workshops begin on July 25th; 5) the Water Department's reserve funds and the possibility of rate increases to cover increasing expenses, construction projects needed in the next five years, and to bring reserve funds up to target; 6) the possibility of discussing plans for a new reservoir, and; 7) City policy states three months worth of operating

City Council Meeting

June 22, 2006

Page 9

revenue (\$7 million for Water Department) is needed and staff noted the Water Department currently has \$5 million.

No Council action required.

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.

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

5.4 Councilman Higgins made a motion to approve Mayor Archibald's appointments to various boards and commissions as listed below. Councilman Spano seconded the motion and the motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

Landmarks Commission

3 year terms

Appoint:

- Bill Minter, term expires November 2007

Metropolitan Planning Organization

Appoint:

- Sam Chase

Local Redevelopment Authority

Appoint:

- Anthony Williams, Chair
- Sam Chase
- John Dugan
- Dixie Bassett

Planning & Zoning Commission

3 year terms

Appoint:

- Larry Jones, term expires November 2008

No action was taken on appointments to the Abilene Health Facilities Development Corporation and the Abilene-Taylor County Child Advocacy Center Advisory Board.

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

Jo Moore
City Secretary

Norm Archibald
Mayor