

CITY COUNCIL SPECIAL MEETING
August 28, 2006, 3:00 p.m.

The City Council of Abilene, Texas met in a Special Meeting in the Council Chambers at Abilene City Hall to consider a Resolution calling for a November 7, 2006 Election to consider a Disabled or Senior (sixty-five (65) years of age or older) Tax Freeze, and an Ordinance considered on second and final reading to call for a November 7, 2006 Election to amend the Charter of the City of Abilene. Mayor Norm 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 called the meeting to order and Councilwoman Davis led the Pledge of Allegiance.

Mayor Archibald stated the reason for today's meeting is to consider a Resolution calling for a November 7, 2006 Election to consider a Disabled or Senior (sixty-five (65) years of age or older) Tax Freeze, and an Ordinance considered on second and final reading to call for a November 7, 2006 Election to amend the Charter of the City of Abilene. The Mayor noted at the August 24th Council meeting questions and concerns arose involving the proposed Tax Freeze Election and in order to allow staff time to accumulate additional data to address the questions the item was tabled for consideration at this meeting.

4. Remove from Table:

Resolution calling for a November 7, 2006 Election to consider a Disabled or Senior (sixty-five (65) years of age or older) Tax Freeze, Providing for the Election Precincts and Locations of Polling Places, Early Voting; Providing for a Proclamation Notice and Publication of Notice of the Election.

Councilman Higgins made a motion to remove from the table a Resolution calling for a November 7, 2006 Election to consider a Disabled or Senior (sixty-five (65) years of age or older) Tax Freeze, Providing for the Election Precincts and Locations of Polling Places, Early Voting; Providing for a Proclamation Notice and Publication of Notice of the Election. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

City Manager Larry Gilley stated, as requested by Council, staff has gathered additional data to better address the impact of the potential tax freeze. Mr. Gilley recognized David Wright, Finance Director, who briefed the Council on the additional data.

Mr. Wright recognized Taylor County Chief Appraiser Richard Petree who was also present to answer Council questions. Mr. Wright reviewed the chart on the "Historical Data On The Adoption Of Tax Freeze For Over-65 And The Disabled". The chart reflected the historical data of the number of seniors and disabled tax payers who would have been affected if the tax freeze had been in effect for the past five years, the values for those years and the revenues that would have been lost each year if a tax freeze had been in place. The total projected tax loss if

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taxes had been frozen in FY02 would have been \$897,049 and the annual average loss of tax revenues over the past five years would have been \$179,410.

Mr. Wright then reviewed of the chart on the “Projected Data On The Adoption Of Tax Freeze For Over 65 And The Disabled”. The chart reflected the projected impact of the tax freeze through FY 2012. The projections were based on an estimated 4.55% annual increase in values, which is the actual average annual increase for the previous five years. Using those values and staffs projected tax rates through 2012, the average annual loss of tax revenues is \$267,410. Mr. Wright also reviewed the “Over 65 and Disabled Properties Summary” information. Additional information provided to Council included: 1) a spreadsheet reflecting the loss of revenues based on the \$15,000 exemption currently in place for seniors and disabled and included the tax value of that exemption for Fiscal Years 2002 through 2007 and the tax rate equivalent associated with that exemption, and; 2) a spreadsheet reflecting a calculation of the effect of increasing the exemption for seniors and the disabled over a five year period. The net effect would be essentially the same loss of revenue to the City, but would benefit property owners with lower values more than those with higher values (i.e. a homeowner whose property value is \$50,000 would see a tax decrease of 35.7% over five years, while a homeowner whose property value is \$200,000 would see a tax increase of 25.0%). Staff also confirmed that if the Senior Tax Freeze were to be approved by voters on November 7, 2006, the freeze will be based on taxes levied during the 2006 Tax Year and the \$15,000 senior and disabled exemption currently in effect would be included. That exemption cannot be removed for the current tax year, so if the tax freeze is approved in 2006, taxes for seniors and disabled will be frozen based on all factors which determine the amount of taxes those individuals pay. To avoid including the \$15,000 exemption from the base year calculation the election would have to be ordered for May 2007. That would allow the Council to remove the \$15,000 exemption for 2007, which would become the base tax year if the proposition were approved in 2007.

Council and staff discussion included: 1) the projected additional information provided to Council being based on averages or assumptions, with some projections either not being made or not being able to be made (i.e. the tax ceilings that would come off of property in the case of deaths of over-65 and disabled, the number and estimated values and affect of the tax rate beginning in 2011 when the Baby Boomers (1946-1964) reach the age of 65); 2) projections indicating a loss to the city of an average of \$267,000 a year over the next five years in tax revenues if a tax freeze were approved based on an estimated 4.55% annual increase in values; 3) encouraging young people to stay in Abilene and concerns about the impact the tax freeze would have on young families; 4) the legislative intent or purpose of the freeze being viewed as freezing taxes for all seniors and disabled ; 5) reducing the burden for those with the most needs or following legislative intent is a Council policy decision; 6) the effect of the alternative consideration of increasing the exemption for seniors and disabled over a five year period with staff noting the Senior’s position supports the tax freeze with preference for a November election; 7) educating and allowing voters to decide the question as they have with many issues (i.e. bonds, fluoride, charter amendments); 8) tax exemptions for senior households is based on one (oldest) senior in the household; 9) struggles and needs exist among all people (i.e. young people with college debts , young families, seniors, disabled, etc.); 10) although tax freeze needed for those living on fixed incomes many seniors also deserve consideration due to their contributions to the community through their volunteer services; 11) Mr. Petree noted at any point the over 65 and the

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disabled can defer their taxes with no penalties; 12) Council stated full disclosure with all the facts being made known to the community is important and questioned the unknowns and the permanence of the issue; 13) Council noted confidence in voters decision and stated the unknowns that existed in previous elections; 14) supplemental information being provided to voters for education purposes and/or ballot wording language to clarify issue; 15) Council reiterated concerns of the unknown factors and noted possibility of holding election in the spring of 2007 in order to allow time to better determine impact of freeze; 16) Council stated once the voters decision is made it is Council's responsibility to find solutions to implement that decision; 17) seniors could petition to call an election and other groups that may want or need a reduction on their property taxes could also address their needs to Council; 18) possible consideration being given to include ballot wording to clarify and provide full disclosure on impact of tax freeze, and; 19) the possibility of adding language to the ballot concerning the implication of the \$15,000 additional Senior exemption.

City Attorney Hicks stated if Council so chooses the ballot wording could be amended and the following language could be added to the ballot: "even if the tax freeze (or the word "limitation" could be used instead of "freeze") raises the tax rate for other tax payers or reduces services in the City of Abilene".

The full ballot wording would then read "For or Against: The City of Abilene establishing a limitation on the amount of ad valorem taxes imposed on the residential homestead of a person who is disabled or is sixty-five (65) years of age or older and receives a residential homestead exemption, as authorized by Article VIII, Section 1-b(h) of the Texas Constitution, formerly known as Proposition 13, now codified in Texas Tax Code Section 11.261, even if the tax freeze (or the word "limitation" could be used instead of "freeze") raises the tax rate for other tax payers or reduces services in the City of Abilene".

Councilman Williams made a motion to approve a Resolution calling for a November 7, 2006 Election to consider a Disabled or Senior (sixty-five (65) years of age or older) Tax Freeze with ballot wording as presented and amended by staff. The full ballot wording as read by staff is as follows: "For or Against: The City of Abilene establishing a limitation on the amount of ad valorem taxes imposed on the residential homestead of a person who is disabled or is sixty-five (65) years of age or older and receives a residential homestead exemption, as authorized by Article VIII, Section 1-b(h) of the Texas Constitution, formerly known as Proposition 13, now codified in Texas Tax Code Section 11.261, even if the tax freeze (or the word "limitation" could be used instead of "freeze") raises the tax rate for other tax payers or reduces services in the City of Abilene". Councilwoman Davis seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered **30-2006** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
ORDERING A SPECIAL ELECTION TO BE HELD IN SAID CITY ON NOVEMBER

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7, 2006, FOR VOTER CONSIDERATION OF THE CONSTITUTIONAL AMENDMENT AUTHORIZING A TAX FREEZE LIMITING THE AMOUNT OF AD VALOREM TAXES IMPOSED ON THE RESIDENTIAL HOMESTEAD OF A PERSON WHO IS DISABLED OR 65 YEARS OF AGE OR OLDER IN THE CITY OF ABILENE TEXAS; AND PROVIDING FOR A PROCLAMATION NOTICE AND PUBLICATION OF NOTICE OF SAID ELECTION.

5. Consider on second and final reading:

City Attorney Sharon Hicks briefed the Council on the second reading of an Ordinance calling for a November 7, 2006 Election to amend the Charter of the City of Abilene; Providing for the Election Precincts and Locations of Polling Places, Early Voting; Providing for a Proclamation Notice and Publication of Notice of the Election.

Ms. Hicks stated there are five sections in the Charter that need to be amended in order to comply with state law, and because the City is already conducting two other special elections in November it is an appropriate time to hold an election to also amend those sections. Chapter 9 of the Texas Local Government Code allows the City to call a Charter amendment election and state law requires that a charter amendment election be called by an ordinance. The following are the proposed amendments:

1. Amend Section 9, Vacancies of the Charter of the City of Abilene to read as follows:

All vacancies of the council must be filled by election, pursuant to Article XI, Section 11, of the Texas Constitution. Candidates elected to fill such unexpired terms shall have the same qualifications as those officers whose unexpired terms they fill. If required to be filled hereunder, each such vacancy shall be filled by an election called *and held* for such purpose, within *120* days from the inception of such vacancy.

The ballot will read:

Shall Section 9 of the City Charter of the City of Abilene be amended to read that all vacancies on the council shall be filled by election to comply with state law? YES or NO

2. Amend Section 24, Annual Elections of the Charter of the City of Abilene to read as follows:

The regular election of council to places on the council occupied by council whose terms are expiring and the regular election of the mayor, if his term is expiring, shall be held *on such date as prescribed by the election laws of the State of Texas.* In such election each qualified voter shall vote for not more than one candidate for each council place to be filled, and for not more than one candidate for mayor. Said elections shall be ordered by the Council, and in case of its failure to order same, the mayor shall make such order. In case of the inability of the council and mayor to act, the elections may be called by the city secretary, and in case of his inability to act, by the county judge of Taylor County, Texas, and in case of his inability to act, by the governor of the State of Texas. The city secretary shall give notice of such election by causing said notice to be published at least thirty (30) days prior to the day of such election.

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The ballot will read:

Shall Section 24 of the City Charter of the City of Abilene be amended to read that all elections shall be held on the date as prescribed by the election laws of the State of Texas to comply with state law? YES or NO

3. Amend Section 27. Canvassing elections and declaring results of the Charter of the City of Abilene to read as follows:

Returns of every municipal election shall be delivered forthwith by the election judges to the city secretary. The council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election on such date as prescribed by the election laws of the State of Texas. The returns of every municipal election shall be recorded in the minutes of the council by election precinct totals. The qualified person receiving a majority of the votes cast for any office shall thereupon be declared elected by said council. The decision of the council, as to qualifications of candidates, shall be conclusive and final for all purposes.

The ballot will read:

Shall Section 27 of the City Charter of the City of Abilene be amended to read that election returns shall be canvassed on the date as prescribed by the election laws of the State of Texas to comply with state law? YES or NO

4. Amend Section 28. Runoff elections of the Charter of the City of Abilene to read as follows:

If no candidate receives a majority of all the votes cast for an office, the council shall immediately upon declaring the official results of the election, order a run-off election for each office to which no one was elected. Such run-off election shall be held on such date as prescribed by the election laws of the State of Texas, and in such run-off election the two (2) candidates who received, in the preceding election, the highest number of votes for each office to which no one was elected, shall be voted on again by the qualified voters, and the candidate who receives the majority of the votes cast for each such office in the run-off election shall be elected to such office.

The ballot will read:

Shall Section 28 of the City Charter of the City of Abilene be amended to read that runoff elections shall be held on the date as prescribed by the election laws of the State of Texas to comply with state law? YES or NO

5. Amend Section 122. Public meetings of the Charter of the City of Abilene to read as follows:

All meetings of the council and boards or commissions appointed by the council shall be held in accordance with the laws of the State of Texas, commonly referred to as the Texas Open Meetings Act.

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Minutes of all such open meetings shall be kept and such minutes shall constitute public records.

The ballot will read:

Shall Section 122 of the City Charter of the City of Abilene be amended to read that all meetings of the council and boards and commissions appointed by the council shall be held in accordance with the laws of the State of Texas, commonly referred to as the Texas Open Meetings Act to comply with state law? YES or NO

Councilman Higgins made a motion to approve an ordinance considered on second and final reading to call for a November 7, 2006 Election to amend the Charter of the City of Abilene; Providing for the Election Precincts and Locations of Polling Places, Early Voting; Providing for a Proclamation Notice and Publication of Notice of the Election, as presented by staff. Councilwoman Moore 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 **42-2006** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, CALLING A SPECIAL ELECTION TO BE HELD IN SAID CITY ON NOVEMBER 7, 2006, TO ALLOW THE VOTERS TO CONSIDER AMENDING SECTIONS OF THE CHARTER OF THE CITY OF ABILENE TO COMPLY WITH STATE LAW; AND PROVIDING FOR A PROCLAMATION NOTICE AND PUBLICATION OF NOTICE OF SAID ELECTION.

6. Executive Session was not held.

There being no further business the meeting adjourned at 4:35 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor