

**CITY COUNCIL MEETING**  
**January 25, 2007, 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 January 25, 2007, 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, Stormy Higgins, Anthony Williams, and Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, Interim City Attorney Dan Santee, City Secretary Jo Moore, and various members of the City staff.

Councilman Higgins gave the invocation.

Mayor Archibald introduced Tiffani Rodgers, a 5th grade student from Dyess Elementary School, who led the Pledge of Allegiance. Tiffani's school counselor Mary Thomas was also in attendance.

**PROCLAMATIONS**

Mayor Archibald presented the following proclamations:

- "National Mentoring Month" for the month of January
- "Abilene Amber Alert Month" for the month of January

**DISPOSITION OF MINUTES**

2.0 Mayor Archibald stated the minutes from the January 11, 2007 Regular Council Meeting will be submitted for Council consideration at the February 8, 2007 Council meeting.

No Council action was required.

**CONSENT AGENDA**

Item 3.4, First Reading of **Z-2007-02** – *Request to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at 6165 Hartford Street, was removed from the Consent Agenda and considered separately at the request of Councilwomen Celia Davis and Laura Moore.*

Councilman Williams made a motion to approve consent agenda item 3.1, first reading of items 3.2, 3.3, 3.5, 3.6 and 3.7, and items 3.8 and 3.9, as recommended by staff. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

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**Resolution:**

- 3.1 Oral Resolution approving the By-Laws of the West Central Texas Air Service Advisory Council for the Abilene Regional Airport and recognizing the name change from Regional Air Service Advisory Council to the West Central Texas Air Service Advisory Council.

**Ordinances:**

- 3.2 Ordinance amending Section 23-313.2.C(3) of the Zoning Ordinance regarding setback requirements in the RS-6 (Residential Single-family) and RS-8 (Residential Single-family) zoning districts; and set a public hearing for February 8, 2007 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.

- 3.3 **Z-2006-44** – Request to rezone property from RS-6 (Residential Single-family) to PDD (Planned Development District) zoning, property located at 2002 Jameson Street; and set a public hearing for February 8, 2007 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-116 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.4 **Removed from the Consent Agenda and considered separately: Z-2007-02** – Request to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at 6165 Hartford Street; and set a public hearing for February 8, 2007 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-118 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.5 **Z-2007-03** – Request to rezone property from AO (Agriculture Open Space) and GC (General Commercial) to GC (General Commercial), LC (Limited Commercial), and O (Office) zoning, property located on the west side of US 83-84 approximately 580 feet north of FM 707; and set a public hearing for February 8, 2007 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-2007-04** – Request to rezone 10.2 acres from AO (Agriculture Open Space) to PDD-115 (Planned Development District) zoning, property located at the north end of Trenton Drive and Liberty Boulevard; and set a public hearing for February 8, 2007 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-115 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.7 **Z-2007-05** – Request to rezone 14.4 acres from AO (Agriculture Open Space) to RM-3 (Residential Multi-family) zoning, property located at the northwest corner of East Industrial Boulevard and Oldham Lane; and set a public hearing for February 8, 2007 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:**

- 3.8 **Bid #CB-7000** – Patrol sedans (Item 6). The bid for twenty-nine (29) patrol sedans was awarded to Arrow Ford, Abilene, TX for the total amount of \$614,539.00.

- 3.9 **Bid #CB-7013** – Pickup trucks for various divisions. The bid was awarded as follows:

- Arrow Ford, Abilene, TX
  - Item 1A (2) ½ Ton Pickups – V6 Engine Total Price \$29,008.00
  
- Lawrence Hall, Abilene, TX
  - Item 1B (3) ½ Ton Pickups – V8 Engine Total Price \$46,320.00
  - Item 2 (1) ½ Ton Pickup Total Price \$16,982.00
  - Item 3 (1) ½ Ton Pickup Total Price \$15,050.00

**Item 3.4** “Request to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at 6165 Hartford Street; and set a public hearing for February 8, 2007 at 8:30 a.m.” was removed from the Consent Agenda and considered separately at the request of Councilwomen Davis and Moore.

- 3.4 The applicant Town & Country Food Stores is proposing to construct a convenience store with a separate car wash facility on property that is across Dub Wright Blvd. from the main gate to Dyess Air Force Base. The Dyess Area Study and the Thoroughfare Plan both recommend the use of PDD’s along the Arnold Blvd./Dub Wright Blvd to help ensure high quality development, particularly in terms of aesthetics in the area of the main gate.

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Councilwoman Davis stated concerns about the aesthetics of the buildings located directly across from Dyess Air Force Base and noted the importance of maintaining the consistency of the aesthetics along the entire Dyess main gate entry area. Councilwoman Davis referenced a Memorandum for City Councilmembers from Michael Schultz, Deputy, Base Civil Engineer for DAFB that requested the rezoning ordinance be amended as follows:

Under Part 7, B, SITE DEVELOPMENT, paragraph 3: Delete “(does not apply to the gasoline canopy).”

Under 3.a. Delete all and change to “The exteriors (less fenestration and roof fascia) of all structures shall be composed entirely of masonry materials. At a minimum, the front face/elevation shall be stone (or fauxstone/rock) matching Leuders stone/rock. This same stone/rock shall be used for the gas canopy columns and predominant signage base as well.”

Delete paragraph 3b in its entirety.

Councilwoman Davis further stated the benefit of considering amending the ordinance on first reading would be to have the amendments clearly outlined in the ordinance for Council’s consideration on second and final reading of the ordinance and in order to have the ordinance with the amendments available for the public’s benefit at the public hearing scheduled for February 8<sup>th</sup>.

Jon James, Director of Planning and Development Services stated his staff had spoken with the proponents and that they are in agreement with the amendments but that written agreement from the proponents would be obtained before the next Council meeting. Mr. James noted that a public hearing would be held on the ordinance at the next Council meeting and that changes to the ordinance could occur at that time. Dan Santee, Interim City Attorney, noted the process of considering the ordinance as discussed is procedurally legal.

Mr. Mike Schultz, Deputy, Base Civil Engineer stated he had spoken with Mr. Rick Milne, Senior Director of Physical Resources for Town & Country and that Mr. Milne is supportive of the proposed amendments.

Councilwoman Davis made a motion to approve first reading of **Z-2007-02**, an ordinance to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at 6165 Hartford Street; with the following amendments:

Under Part 7, B, SITE DEVELOPMENT, paragraph 3: Delete “(does not apply to the gasoline canopy).”

Under 3.a. Delete all and change to “The exteriors (less fenestration and roof fascia) of all structures shall be composed entirely of masonry materials. At a minimum, the front face/elevation shall be stone (or fauxstone/rock) matching Leuders stone/rock. This same stone/rock shall be used for the gas canopy columns and predominant signage base as well.”

Delete paragraph 3b in its entirety.

and set a public hearing for February 8, 2007 at 8:30 a.m. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

**REGULAR AGENDA**

4.1 Jon James, Director of Planning and Development Services briefed the Council on authorizing by oral resolution the continuation of Phase II of the Land Development Code professional services contract with Dunkin-Sefko & Associates, Inc. for the preparation of a Local Development Code.

Mr. James stated during the deliberation on the approval of the Land Development Code contract with Dunkin, Sefko & Associates, the City Council expressed some concerns about authorizing the full project at that time. Although the entire contract, including both Phase I and II, was approved at that time, staff is bringing back this formal authorization to proceed with Phase II in order to ensure that any outstanding concerns are addressed. The consultants have completed Phase I (Diagnostic Phase) of the contract and have submitted their "Diagnostic and Regulatory Action Report" to the City. This was discussed at a joint workshop of the City Council and the Planning and Zoning Commission on June 1, 2006. Per the approved contract, staff has directed the consultant to proceed with Phase II. However, continuation of Phase II will be dependent on the Council's authorization to continue. Council has already approved this contract based on the following:

- Phase I of the project was budgeted for \$47,000 and Phase II for \$70,000, with an additional \$30,000 for legal and engineering sub-consultants to assist primarily with Phase II. The project budget also includes \$3,000 for reimbursable expenses and up to \$15,600 for contingencies such as extra meetings or additional work desired by the City that is beyond the contract scope. Funding is from a combination of General Fund (\$91,800) and Community Development Block Grant (CDBG) Planning funds (\$73,800). To date \$64,562.50 has been expended on this contract.

Staff recommends approval for the continuation of Phase II of the Professional Services Contract between the City of Abilene and Dunkin, Sefko & Associates, Inc. for the preparation of a Land Development Code.

The Scope of Services and timelines for the Preparation of a New Land Development Code and Related Services includes the following:

- **Work Program for PHASE I**
  - Task 1. Diagnostic Investigation (October 2005 – January 2006)
    - Investigate and identify issues arising from the City's application of its current zoning, subdivision, signage and other development regulations.
    - Meetings in Abilene: A maximum of two (2) days conducting interviews and meeting with Focus (or technical) Groups.
  - Task 2. Diagnostic Review Report (February 2006)
    - Prepare a Diagnostic Review Report that summarizes the results of the diagnostic investigation and defines issues that need to be addressed.
    - Meetings in Abilene: A maximum of two (2) meetings/workshops with City staff and/or City leaders.

- Task 3. Refinement of Issues (March 2006 – mid month April 2006)
  - Refine issues and devise creative and realistic solutions through interactions with City staff.
  - Meetings in Abilene: A maximum of one (1) meeting/workshop with City staff.
  
- Task 4. Regulatory Action Plan (mid month April 2006 – mid month June 2006)
  - Prepare and present a Regulatory Action Plan as a final report to the Planning & Zoning Commission and City Council that summarizes the findings of the Diagnostic Review Report, and that makes recommendations pertaining to revisions to the City's development regulations.
  - Meetings in Abilene: A maximum of two (2) meetings/workshops with City staff and/or City leaders.
  
- **Work Program for PHASE II**
  - Task 1. First Draft Land Development Code (mid month June 2006 – August 2006)
    - Prepare a first draft of Abilene's new Land Development Code.
    - Meetings in Abilene: A maximum of three (3) meetings/workshops with City staff, public, and/or City leaders.
  
  - Task 2. Second Draft Land Development Code & Public Workshops (September 2006 – October 2006)
    - Revise the first draft of the Land Development Code to result in a complete and updated second draft of the Code. Convene public workshops to solicit comments on the second draft of the Land Development Code.
    - Meetings in Abilene: A maximum of two (2) meetings/workshops with City staff, the public, and/or City leaders.
  
  - Task 3. Third Draft Land Development Code (November 2006)
    - Revise the public review (second) draft of Land Development Code based upon input at the public workshops to result in a complete and updated third draft of the Code.
    - Meetings in Abilene: None (0)
  
  - Task 4. Public Hearings for the Land Development Code (December 2006)
    - Present Land Development Code draft at a public hearing before the Planning & Zoning Commission and at a public hearing before the City Council.
    - Meetings in Abilene: A maximum of three (3) meetings/workshops with City staff, the public, and/or City leaders.

- Task 5. Final Revisions to the Land Development Code & Adoption (January 2007 – February 2007)
    - Revise the public hearing (third) draft of Land Development Code based upon input at the public hearings to result in a complete and finalized draft of the Code.
    - Meetings in Abilene: A maximum of one (1) meeting/workshop with City staff, the public, and/or City leaders.
  
  - Task 6. First Draft Revised Zoning Map (March 2007)
    - Revise Abilene's Zoning Map to include new zoning districts established by the Land Development Code and to reflect any other changes deemed necessary during the process of drafting the Land Development Code.
    - Meetings in Abilene: None (0)
  
  - Task 7. Transitional Issues Document (April 2007)
    - Prepare and present a Transitional Issues Document as a final report to City staff and/or City leaders.
    - Meetings in Abilene: A maximum of one (1) meeting/workshop with City staff and/or City leaders.
- **Other Divisions/Components**

Other related development ordinances or regulations may exist that are not part of the City's zoning, subdivision, or signage regulations. These ordinances will be integrated into the Code, as requested by the City, in an appropriate division to function in concert with companion regulations.

Council and staff discussion included: 1) staff clarifying that the Diagnostic Review Report and the Regulatory Action Plan, as outlined under Phase I, have been folded into a single document; 2) policy issues as discussed at the Council's & P&Z's joint workshop resulted in staff feeling comfortable with directing the consultants to move forward with Phase II and staff noting additional issues that need to be addressed will be brought back to Council; 3) the City Manager having recently formed a committee that will provide input into the future development needs of the city; 4) although the City Manager's committee has not met yet, a sub-committee led by city staff has met to review the issues and process, and; 5) staff addressed how much of the \$64,562.50 expended to date on the contract is expenses as opposed to labor.

At 9:05 a.m. due to an electrical outage the Council recessed for a break. At 9:30 a.m. Mayor Archibald reconvened the Council and stated a transformer is out and that the entire downtown area is without power. The Mayor noted in the best interest of time and with no lights in the Council Chambers or the ability to record the Council meeting Council would convene into Executive Session and return to Open Session as soon as possible.

#### **EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.072, 551.074, and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney

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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 discuss contemplated business prospects and or economic development matters.

At 9:50 a.m., with the return of electrical power, the Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

Council continued with agenda item 4.1. Dan Sefko, President of Dunkin, Sefko & Associates, Inc. and primary principal in charge of the Land Development Code, addressed the Council concerning various issues including: policy issues raised during the June 2006 workshop; procedural issues that his company and city staff are working on; development policy issues (ETJ), and; Mr. Sefko noted Phase II will include input from the Council and P&Z to help resolve any outstanding policy issues.

Discussion continued and included: 1) the project being approximately seven months behind schedule; 2) what would be needed to expedite the project, consultant noting they are ready to move forward with policy issues and that they will flag issues and bring them back to Council for discussion and decisions; 3) staff noting much of the delay was at staff's request due to Council having asked staff to hold and review issues; 4) city manager addressed timing process and noted if Council approves proceeding with Phase II that staff will expedite the project in every way possible; 5) consultant noted Council's concerns at workshop were that the Council could not understand the comprehensive nature of the project unless they had the full document to review and consultant further noted his expectations are that draft documents would be ready for Council's review in approximately two months; 6) Council noted original objections to the project were based on "cost", and "time to complete" and asked how much time is being saved; 7) staff noted even with the delay the project is proceeding in a more timely manner than it would be if staff were handling it and staff also noted the benefits the consultants provide through their expertise and knowledge; 8) Council's concerns about what has been accomplished during seven month delay; 9) Council noting the Regulatory Action Plan is to address, including recommendations, how Abilene's development review procedures and regulations can be made more user-friendly, but that there is no specific section addressing that process. Consultant stated that process is in the procedural part of the first phase, which Council has not seen yet; 10) Council addressed the need to complete the project and noted the importance of assuring that the project is done correctly; 11) Council emphasized the critical need for complete input from the public, specifically from the professionals that deal with the issues and those that will be affected and impacted the most by the codes; 12) Mr. Sefko addressed the public input process and noted technical groups provide better responses when they have a draft code to review. Mr. Sefko stated his company's job is to make a transition from the "consultant's" code to the "city's" code and requested Council allow his company to assist them in identifying policy issues; 13) it was noted that it was the Comprehensive Plan that was adopted in 2004 and that this process will include several drafts that will ultimately result in a code that will be crafted to meet Abilene's needs, and; 14) Council stated the need to be sure that the committee appointed by Mr. Gilley is functioning and noted confidence in the committee accomplishing what is needed for Abilene.

Councilwoman Davis made a motion to approve, by oral resolution, the continuation of Phase II of the Land Development Code professional services contract with Dunkin-Sefko & Associates,



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Inc. for the preparation of a Local Development Code. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

4.2 Jon James, Director of Planning and Development Services briefed the Council on authorizing the City Manager, by oral resolution, to execute a professional services contract with Carter & Burgess, Inc. for the preparation of the Lake Fort Phantom Development Plan, Phase B of the Fort Phantom Hill Reservoir Study.

Mr. James stated this is the second phase of a two-phase project for planning around Lake Fort Phantom. Phase A was a water quality study that was completed in May 2005 and Phase B is a land use and development plan for the area. The proposed scope of services includes public participation, including a "Real Estate Roundtable", with local experts to help determine the market for various uses in the area. It will include comparison with other similar lakes, consideration of various scenarios, and the selection of a preferred development plan, as well as a schematic infrastructure analysis. The Fee Schedule for this project includes a project labor cost of \$188,915 and reimbursable expenses of up to \$22,400 for a total project cost of \$211,315. This project cost has been budgeted from the Water Utilities Department for Fiscal Year 2006-2007 for an amount up to \$260,000. Staff recommends approval of Phase B of the Fort Phantom Hill Reservoir Study.

Mr. Kevin Conner, Senior Project Manager, Carter & Burgess, Inc. reviewed with Council various aspects of the Scope of Services for Professional Planning Services for the Land Use Development Plan for the Fort Phantom Hill Reservoir Study Area. Mr. Conner noted the expected eight month scheduled effort is a compressed schedule from the original one year time frame and although the exact time schedule has not been established the reduced period is expected to help keep the project in front of the public mind. Mr. Conner addressed the time and preparation required for the public input sessions and that the "Real Estate Roundtable" will represent key stakeholder groups that will participate in and review the planning process and report back to their constituents. The Lake Homeowners Association Executive Board will also be included in the Roundtable and Mr. Conner noted the need for the Roundtable to be appointed soon.

Discussion included: 1) C&B confirmed that the study area includes both the east and west sides of the lake; 2) C&B explained how, under the Scope of Services Meeting Schedule, the daily rate is made up and how C&B services are addressed to be as cost effective as possible; 3) C&B explained the Site Characteristics Study that was done under Phase A but will also be part of Phase B under a different focus, more of a technical exercise with public input, than Phase A; 4) Council noted under the Schematic Infrastructure Study that septic system or a regional septic system is not mentioned. Mr. Conner stated that will be examined and will be included in the scope of services, with no additional cost to the city for the study; 5) reviewing the potential for development at the lake and communicating and coordinating those efforts with AISD; 6) infrastructure issues and the potential for sale of city owned land at the lake, and; 7) Council noted the city does not want to be in the development business and that it will be an asset to the city to move forward with the Master Plan and seek input from local realtors and developers on what is needed for the future development of the lake.

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Councilman Higgins made a motion to approve, by oral resolution, authorizing the City Manager to execute a professional services contract with Carter & Burgess, Inc. for the preparation of the Lake Fort Phantom Development Plan, Phase B of the Fort Phantom Hill Reservoir Study. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

**EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.072, 551.074, and 551.087 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 discuss contemplated business prospects and or economic development matters.

Councilman Williams left the meeting following Executive Session.

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

5.5 Mayor Archibald stated appointments/reappointments to the Housing Authority of the City of Abilene and the Planning and Zoning Commission will be placed on the Council's February 8, 2007 agenda.

No action was taken.

5.6 Mayor Archibald stated the Council has completed the annual performance evaluations for the City Manager, City Attorney, City Secretary and Municipal Judge and asked for a motion from Council to approve the evaluations and compensations for each as discussed.

Councilwoman Moore made a motion to approve the performance evaluations and compensations for the City Manager, City Attorney, City Secretary and Municipal Judge. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Williams

Mayor Archibald stated the compensation information for the Council appointees would be available in the City Secretary's office by noon tomorrow. There being no further business, the meeting was adjourned at 1:20 p.m.

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Jo Moore  
City Secretary

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Norm Archibald  
Mayor