

**CITY COUNCIL MEETING
September 13, 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 September 13, 2007, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Stormy Higgins, Joe Spano, Anthony Williams, Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, City Attorney Dan Santee, Interim City Secretary Danette Dunlap, and various members of the City staff.

Councilman Higgins gave the invocation.

Mayor Archibald introduced Jarrison, Jensen and Jake Kelsey who led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas. They are 2nd graders at Jane Long Elementary. Jarrison, Jensen and Jake's parents, grandmother and Principal were in attendance.

EMPLOYEE SERVICE AWARDS

Mayor Archibald, assisted by Interim City Secretary Danette Dunlap, presented Employee Service Awards to the following individuals for their years of service:

20 Years	James Cade	Supervisor I, Street Services
20 Years	Craig Foreman	Fire Lieutenant
25 Years	Kenneth Merchant	Assistant Chief of Police
25 Years	Les Bruce	Police Officer, Police CID
25 Years	Rodney Holder	Police Officer, Police Traffic
25 Years	Ralph Garcia	Police Officer, Police Patrol
25 Years	Michael Janusz	Police Officer, Police Patrol
25 Years	Roy Kirby	Police Officer, Police Patrol
25 Years	Michael McGrew	Police Officer, Police Patrol

Mayor Archibald introduced Police Chief Melvin Martin. Chief Martin has been recognized by the Abilene Kiwanis Club as the recipient of the First Responder of the Year Award and the Award has been named the Melvin Martin First Responder of the Year Award. Chief Martin received \$10,000 that will be donated to a nonprofit organization of the winner's choice. Chief Martin choose Safety City as the recipient of the money.

In the future, the award will go to another "first responder" -- such as an emergency medical technician, firefighter or police officer -- from Taylor, Jones, Shackelford or Callahan counties, and the money will be donated to a nonprofit organization of the winner's choice.

Chief Martin expressed his condolences for the loss of three Officers with the City of Odessa. Mayor Archibald called for a moment of silence in remembrance of those fallen Officers.

DISPOSITION OF MINUTES

2.0 Mayor Archibald stated Council has been given the minutes from the August 23, 2007 Regular Council Meeting, There being no deletions, corrections or additions to the minutes Councilman Chase made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Councilwoman Moore made a motion to approve consent agenda items 3.1 through 3.5, as recommended by staff. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

- 3.1 Oral Resolution acknowledging receipt of Abilene-Taylor County Events Venue District budget for revised FY 2007 and approved FY 2008.
- 3.2 Resolution providing for the approval of an application for the grant funds from the State of Texas for a Selective Traffic Enforcement Program (S.T.E.P.- WAVE SPEED).

The Resolution is numbered #31-2007 and is captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE, TEXAS PROVIDING FOR THE APPROVAL OF AN APPLICATION FOR THE GRANT FUNDS FROM THE STATE OF TEXAS FOR A SELECTIVE TRAFFIC ENFORCEMENT PROGRAM, "S.T.E.P."

- 3.3 Oral Resolution authorizing the purchase of 8,500 doses of vaccine from Sanofi Pasteur in the amount of \$94,027.00.
- 3.4 Oral Resolution approving an Interlocal Agreement between the City of Abilene and Jones County providing for subdivision regulation within the extraterritorial jurisdiction of the City of Abilene.

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Bid Award:

3.5 **Bid #CB-7061** - Award of annual bids to various vendors for bulk chemicals used for treatment at Water Treatment Plants and Wastewater Treatment Plant. The bid was awarded as follows:

Item:	Company	Unit Price
Liquid Caustic Soda 50% Solution	DPC Industries, Inc.	\$221.25/Ton
Liquid Chlorine	DPC Industries, Inc.	\$519.00/Ton
Sodium Bisulfite 40% Solution	Dimmitt Sulfur Products	\$134.60/Ton
Fluorosilic Acid 23% Solution	Napco Chemical Co., Inc.	\$395.00/Ton
Sulfuric Acid 93% Solution	FSTI Inc.	\$153.21/Ton

REGULAR AGENDA

4.1 Jon James, Director of Planning and Development Services briefed the Council on the Zone Case #**Z-2007-17** a request to rezone property from AO (Agricultural Open Space) to LI (Light Industrial), property located at 4034 Newman Rd.

The parcel is currently used as agricultural/open space and is intended to be used as a pharmaceutical warehousing/distribution center or other light industrial uses in the future. The surrounding area does not have much development. The applicant plans to have pharmaceutical warehousing/distribution facilities located on the outer portions of the property, as well as continuing the current agricultural/open space use in the central portion of the parcel that would retain zoning equivalent to AO zoning within the PDD. This AO land already has a single family residence located on the property. The applicant originally requested LI zoning for the outer portions and to maintain AO on the central portion.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Business-Industrial Gateway into the City along I-20, which is intended to have a higher standard of aesthetics for development. Therefore, Staff recommends approval of the attached Planned Development District (PDD) and the Planning and Zoning Commission also recommends approval.

PDD is modeled on nearby Southeastern Motor Freight PDD:

- Sign limitations
- Architectural standards for building facades facing I-20
- Driveway separation requirements
- No outdoor storage, except vehicles
- Loading areas and large vehicle parking/storage to side or rear of building

Mayor Archibald opened a public hearing on the item and the council heard from landowner Mark Mc Kenna.

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- Mark Mc Kenna property owner stated that he had no problem with the PDD with the exception of it allowed for only one off site billboard sign. Mr. Mc Kenna is requesting to be allowed to have two off site billboard signs. One on Tract 1 and one on Tract 2. The size of the property will allow the correct spacing as per the City Ordinance on Signs to have two off site billboard signs. Mr. Mc Kenna stated that the ability to have two off site billboard signs will allow him to off set the cost of building two spec warehouses.

Council and staff discussion included: 1) This PDD was based on the PDD for the Southeastern Motor Freight which didn't allow an off site billboard; 2) Planning and Zoning recommended one off site billboard sign in this PDD; 3) TXDOT regulations do not allow for billboard signs on property hasn't been zoned for Commercial and Industrial use. The City can be stricter than the State requirements and the State allows both to regulate; 4) The current billboard sign Ordinance allows for 1500 foot spacing between signs along the Interstate; 5) There are not any other billboard signs in the area between Elmdale Drive west to Loop 322. The first billboard sign is located near what used to be U.S. Brass; 6) A question arose in reference to the Sign Ordinance spacing why would the city not follow the Ordinance in this instance? The standard the staff and Zoning Commission is using was set through the PDD for Southeastern Motor Freight and this would be a policy question for the City Council; 7) Tract 3 located between Tract 1 and Tract 2 will remain zoned Agricultural Open Space (AO), Mr. Mc Kenna lives on this tract of property located in Tract 3; 8) Mr. Mc Kenna's property would allow the distance spacing between signs per the City Ordinance on Tract 1 and 2; 9) The Zoning Commission is wanting some direction from council with reference to Corridor overlays for the Interstate and other places in town; and 10) If a billboard sign is allowed on Tract 2 does Southeastern Motor Freight have a problem with this? Jon James advised that Southeastern Motor Freight was in the notification of the zone change and staff didn't receive any response from them.

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

Councilman Higgins made a motion to approve the Ordinance amending Chapter 23, Subpart E "Zoning", concerning PDD-119 and to amend Part 7, Section D 2© to leave portable signs in, but to strike the reference to off site advertising signs. Councilwoman Davis seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **#41-2007** 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-119 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 the Case **No. PA-2007-01**, a petition from Danielle Delhomme for relief from a dedication or construction requirement for property located at 1901 East Highway 80.

On July 12, 2007 the Council considered an ordinance to abandon Fair Drive between East Hwy 80 and Sandy Street, as requested by Ms. Delhomme in order to eliminate the obligation to construct Fair Drive. Both the Plat Review Committee and the Planning and Zoning Commission recommended against this thoroughfare closure. The Council tabled this item and directed staff to attempt to work out an agreement that would accommodate Ms. Delhomme's concerns, while protecting the City's interest in retaining the right-of-way for future construction of Fair Drive when future development warrants. This petition is a result of these discussions.

Per Section 23-260.1(B) {Proportionality Appeal} of the City's Subdivision Ordinance, Ms. Delhomme is petitioning the Council to find that the requirement to construct Fair Drive is a disproportionate burden on the property, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems. Ms. Delhomme is asking that the obligation to construct Fair Drive be eliminated. This is supported through a proportionality study prepared by her engineer.

The City Engineer is recommending approval of this request based on the projected traffic impact of the applicant's proposed development. Staff also recommends that the Council consider placing the following conditions on the approval:

- 1) The subject tract be precluded from future access onto Fair Drive, and
- 2) The elimination or reduction in proportional responsibility for road construction be based on the specific development plan indicated in the applicants request. This would preserve the City's ability to require construction of the property owner's share of the road if the development plan is altered to a more intensive use of the property in the future.

If the City doesn't place any conditions on this approval then this property will be absolved from any obligation to construct a road in the future regardless of what future development may occur. Their request is specific to this development plan they have submitted we would ask that you limit the granting of the approval of their request to that development as they have presented it.

Council and staff discussion included: 1) Would the conditions cover the future sale of the property; 2) Would the requirement to construct the road take place if the landowner decided to build more buildings, and if there was a change of classification; 3) If the developer didn't want or need access to Fair Drive they would have the opportunity to file another proportionality appeal; 4) Would there be the ability to craft language that would allow them to have some expansion without having to go through the appeal process; and 5) The prime concern of the city's is if for some reason a convenience store was placed on this property, the property owner would be required to pay for their share of the construction of Fair Drive.

Mayor Archibald opened a public hearing on the item and the Council heard from:

- Daryle Towell – speaking on behalf of Ms. Danielle Delhomme. Mr. Towell recapped for the council how this item has come before the council. Their original request was for the

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abandonment of Fair Drive, and with the Council's suggestion from a prior City Council meeting the council asked that they work with City staff so that they might be able to come to an agreement. Mr. Towell believes that good progress has been made but the original issue was Ms. Delhomme bought a piece of property based upon some representations that the street could be closed and that's changed. Mr. Towell addressed the following reasons they feel that the council should approve the recommendation of the grant of waiver without conditions; 1) That the City Code sets out the proportionality appeal process and the applicant has an Engineer report that is submitted to the City's Engineer for review and recommendations. The City Engineer made no conditions to the waiver. City staff has simply added those conditions and they are not apart of the process that is allowed by City Code; 2) Mr. Towell feels that the conditions that are being placed on the property owner create undo trigger points on the developer and that these conditions hang over her as she would go forward with the development; 3) Mr. Towell relates that he feels that this also places a burden on staff and upon developers looking to develop because they will have to search out conditions on property that may have been placed there through conditions placed through proportionality appeals. Mr. Towell believes the city would have a patch work of trigger points all over the city.

Council and staff discussion included: 1) The argument that assumes that all proportionality appeals will be affected the say way but not all proportionality appeals involve closing a street, some are for sidewalks, some landscaping and some for billboards. Council had directed staff to make an agreement with Ms. Delhomme but would also protect the city's interest; 2) There is a win, win situation where as Ms. Delhomme is allowed to develop her property and the city is protected; 3) The land is already platted, this is a replat to bring in 22 feet on the western side of the property, if she were to abandon this replat and she turned around and sold the property to a convenience store there would be no obligation to construct the street. Only in the event of a replat would the construction of the street be triggered; 4) Restriction #2 is the condition that is causing the problem with the developer; 5) Restriction #1 is ok; 6) Ms. Delhomme doesn't mind not having access to Fair Drive, and when and if it ever is constructed she doesn't want to have to participate because she is not going to use it; 7) The language could be crafted by the City's attorney with direction from council that is a win, win. Ms. Delhomme would get the 22 feet and she would not have access to Fair Drive ever. Yet if she wants access to Fair Drive she would have to pay for it; 8) The proportionality appeal is at the suggestion of City Staff as a alternative to the original request of abandoning Fair Drive; 9) If the developer ever needs the ability to use Fair Drive the developer would proportionally pay for it; 10) Condition #2 adds to that, is that if the intensity of the development changes that obligation might still come in even if they don't want access to Fair Drive; 11) Staff gave the scenario that if a convenience store came in, traffic conditions could require them to have access to Fair Drive whether they wanted it or not; 12) Mr. Towell explained they were trying to find certainty in the triggers that might cause Ms. Delhomme to have to contribute to the construction of Fair Drive; and 13) Access to Fair Drive being the only trigger for the construction of Fair Drive.

Councilwoman Moore made the suggestion that Mr. Towell step out and discuss this with Jon James and see if they could come to some conclusion. Mayor Archibald called to disband the Public Hearing to place this item on hold so that the proponent could confer with city staff and this portion of the meeting will resume at another point in the meeting. Council took a 5 minute break.

Council took up Item 4.4 on the agenda.

4.4 Mayor Archibald explained that the next agenda item is for a Workshop to discuss a plan to establish a north side branch library facility. Mayor Archibald called on Mike Hall Director of Community Services to address the council.

This proposal comes from the Friends of the Library Committee, to establish a North side branch. Ricki Brown the Library Administrator will be providing the information but also in attendance is Nancy Brock who is the President of the Friends of the Library also present. She will be available for any questions you have from the Committee. Ricki Brown briefed the council on the proposed North West Library project.

Citizen's Task Force 1997

- Establish an interim storefront branch in southwest Abilene
- Evaluate the potential need for additional branches
- Implement additional neighborhood branches

Strategic Plan 2004

- Renovation of the Main Library location
- Establish a branch facility on the north side
- Establish a permanent south side facility

Friends of the Library - 2007

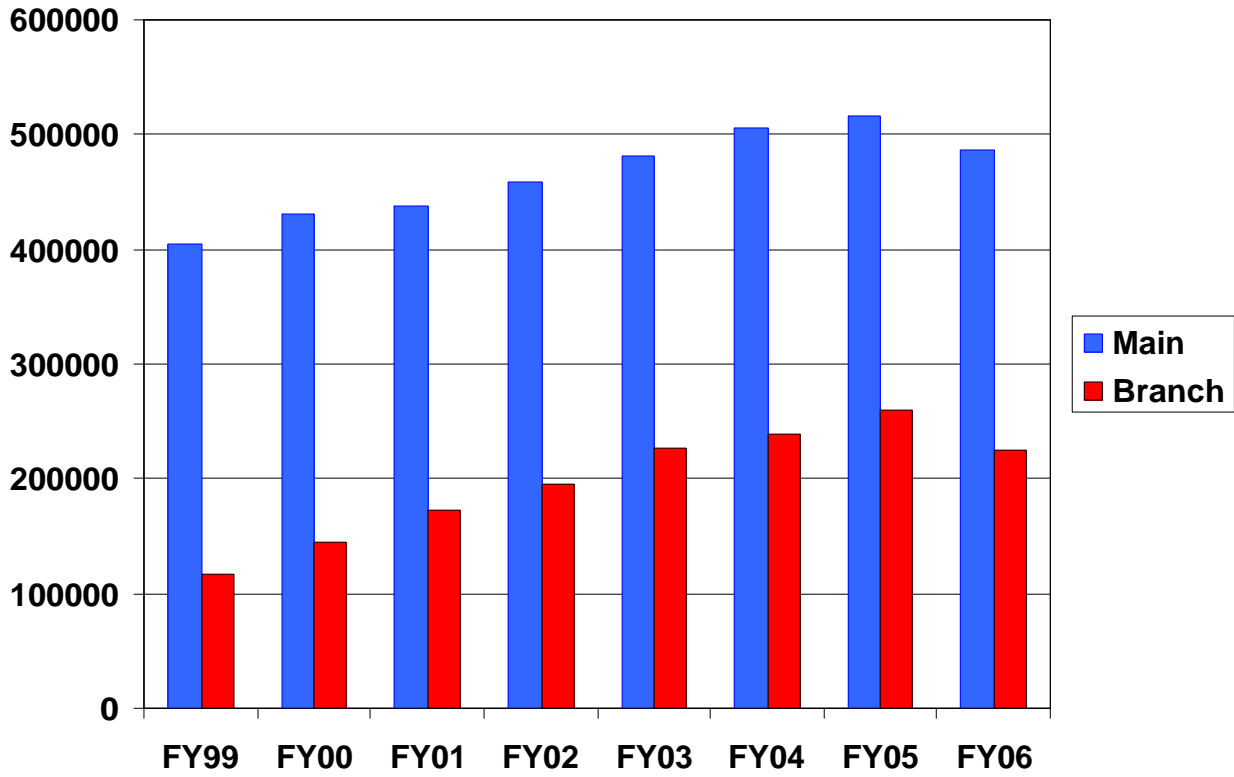
- Friends of the Library would fund building rental for 2 years (\$89,000 to \$115,000)
- Friends of the Library would solicit funding from private sources for furnishings & opening day collections. (\$594,020)

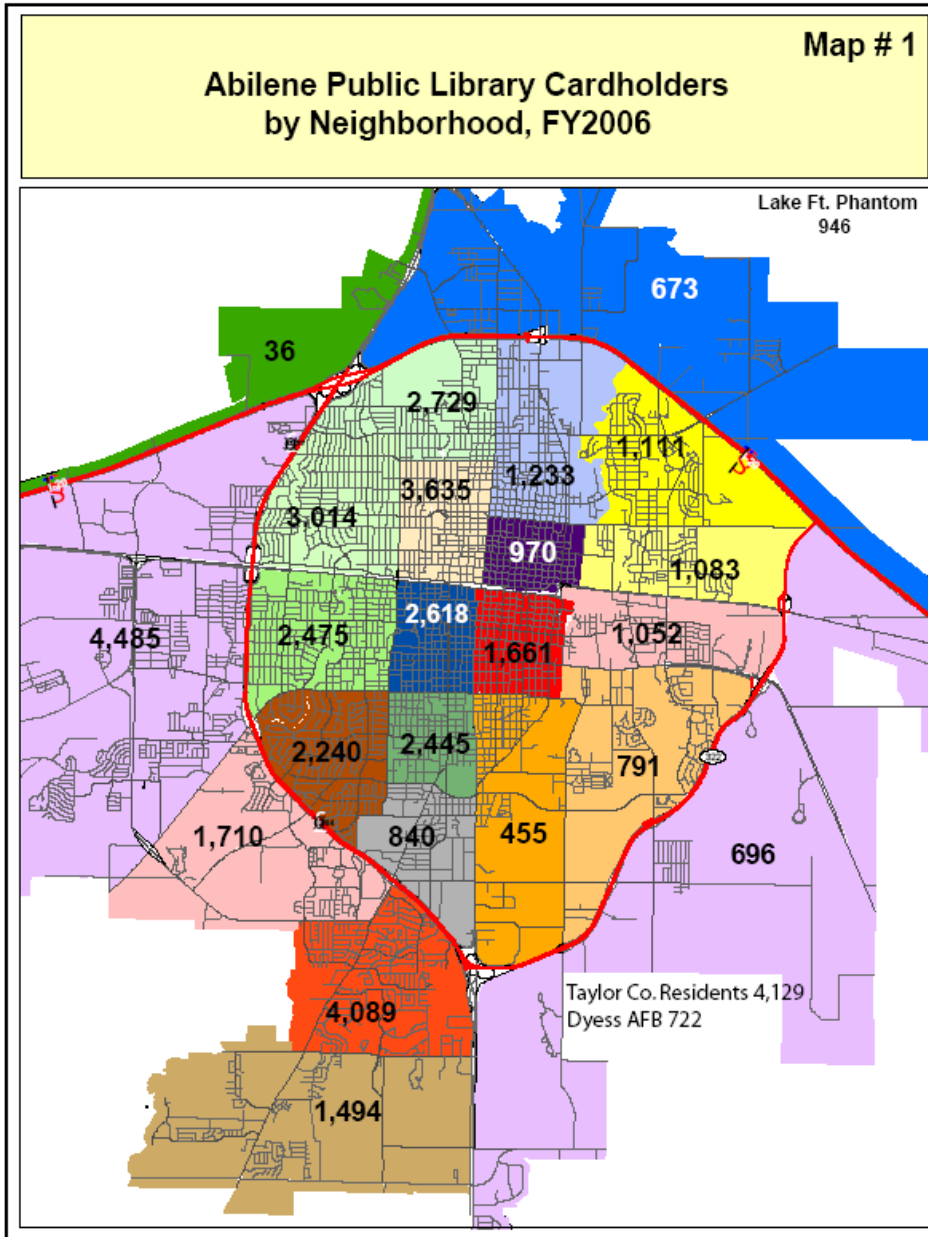
City of Abilene

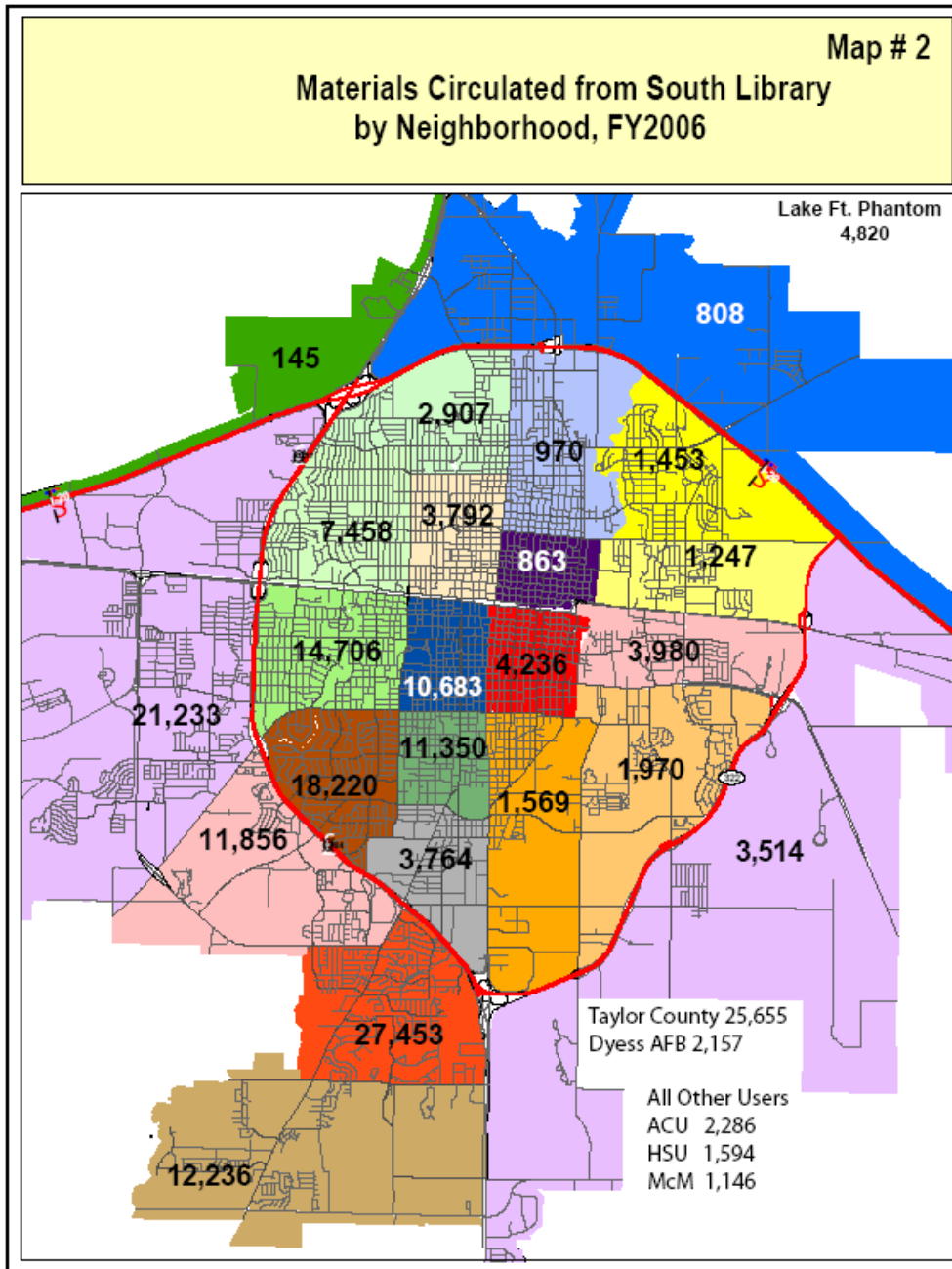
- City of Abilene would provide operation expenses
- FY08 (June – Sept.) - \$90,146
- FY09 - \$270,439
- FY10 - \$342,809 + 4 months rent
- FY11 – Assume all expenses

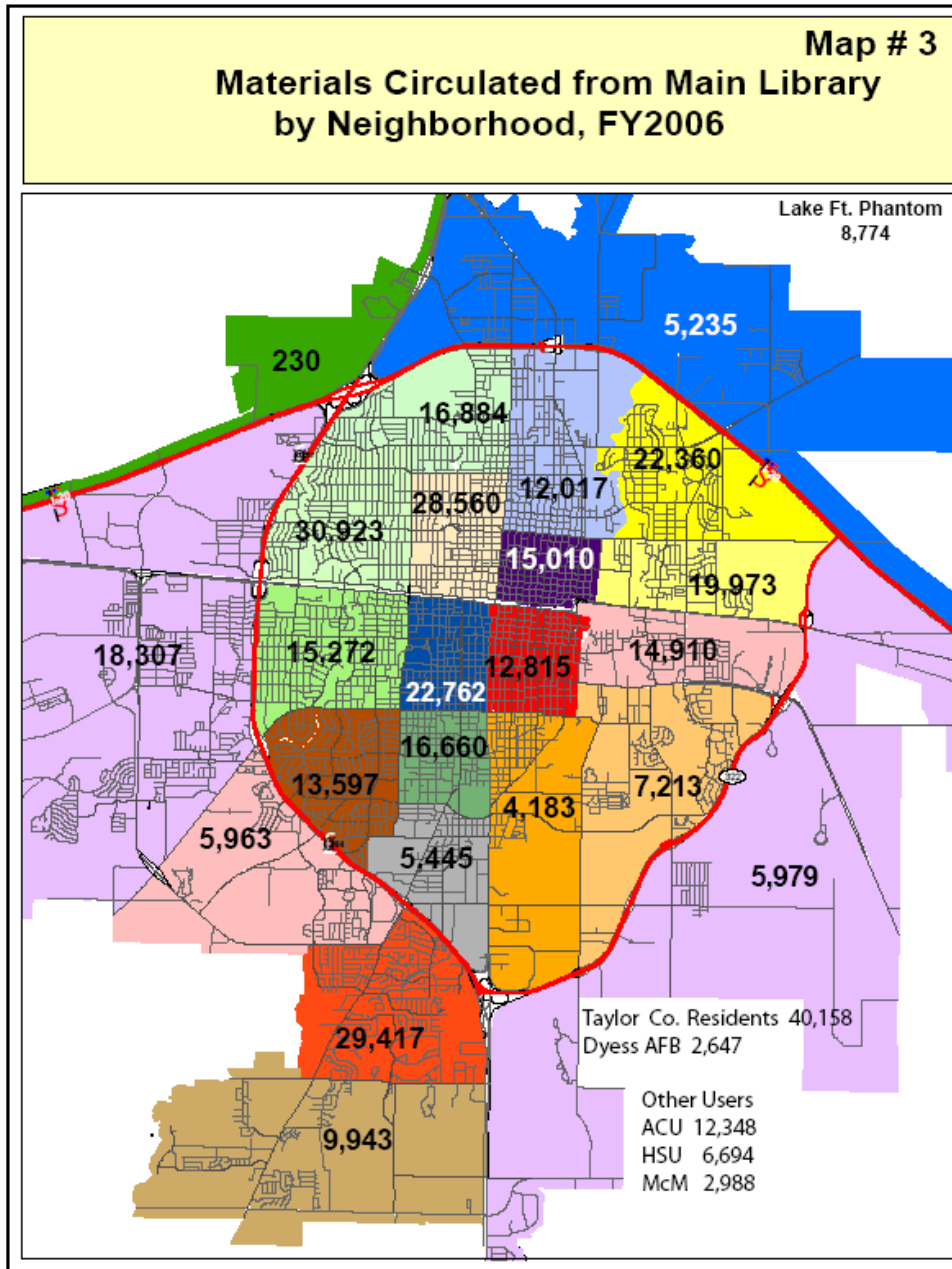
The site would be located in the North West side of town, it would be on a major thoroughfare, it would have easy access to CityLink, good parking area and meet the city codes. This project will work well with the City's goal to revitalize areas of town.

When the South side branch was proposed there was concern that the branch library would hurt the Main Library, but in actuality it has had the opposite affect there has been continual growth of activities at both locations as seen by the following graphs.









Time has shown that cities that invest in Libraries invest in the future and with your help we plan to do just that. With the right resources in place the Abilene Public Library will continue to serve a vital roll providing inspiration for many and access for all.

Council and staff discussion included: 1) A clarification of the numbers on the maps that were presented. The numbers that are listed for Taylor County and the Colleges are not in any of the shaded areas they are listed separately; 2) September is National Get Your Library Card Month; 3) Potential for bi-lingual story time for children. The branch would reflect the needs and interest of the residence in the area; 4) After school tutorials, the library offers public access to computers, it is estimated that 30% of the community doesn't have computers at home or internet access. The library is a homework center for a lot of students and the library subscribes to a program called tutor.com. This program is available for grades 4 through freshman in college, you can log on between the hours of 4 till 11 in the evening. It is available in English or Spanish. You choose the grade level, then choose your subject, then you are connected one on one with a tutor from across the nation. These people are experts in their field they don't do the home work for the individual, they will walk the person through it; 5) There would be opportunities for the older citizens to learn how to access the internet, with training on E-mail etc and it would be based on the demands of that community; 6) Some comparison between the need of a branch on this side of the City vs the availability for those that live on that side that would have closer access to the libraries at the two Colleges. One of the great assets of Abilene is that we have the Abilene Library Consortium. The Public Library and the three Universities are partnered together and share a common intergraded library system. The Library recognizes the student id's or the facility id's they can borrow from the Public Library and in turn they will recognize our library cards and citizens can borrow from them. The academic libraries main focus is on the curriculum of the universities. Where the public library is there to support the entire community regardless of age, education level, for a business starting out etc.; 7) Looking for numbers that could be tied to success for the North branch, something that would be looked at would be door count and materials that are checked out; 8) The South side branch was used as the model for the North West Branch; 9) Should we modify the collection down from the South side branch because of the population pool, the South side having more to pull from, from the growth on that side of town. Mrs. Brown would suggest having a larger area, they have found that more space is needed when having story times etc.; 10) Concern and question of having some bench marks, goals and targets that would occur based on numbers and have the ability to fully utilize a location. The concern of placing around \$350,000 dollars into the General Fund Budget even knowing that the Friends of the Library are contributing the first couple of years; 11) The City would treat this expansion like any other program that we have operating in that we would want to set goals like we started at the south side branch. If for some particular reason we were not meeting the same level of usage we would have the ability to reduce staff and reduce some operational costs without shutting it down. We have that flexibility just like any other program the city has; 12) Set expectations so that the city can track and see if the library is meeting those expectations; 13) The decline of materials borrowed shone on the chart reflect the drive through that occurred at the south side branch (the branch had to be closed for a little while) and the other decline is in the usage of VHS tapes. The Library has since taken out the VHS tapes and no longer offers them; 14) There is support from the leaders of the North West side, they are in attendance today; 15) The added need of more public access computers; 16) What or maybe could the Friends might commit for 3 years instead of 2 years. Set goals and targets that the council can buy into.

No council action was required for this item.

Item 4.2

The Council now took back up item 4.2 and the Mayor asked the City Attorney Dan Santee to brief the council. A brief meeting was held with Darrell Towell and Ms. Danielle Dalhomme and what was agreed upon was a condition that would actually trigger the requirement for the owner to construct Fair Drive and would bring that obligation back into play. This triggering point would replace the two conditions that staff had originally recommended. Should Ms. Dalhomme or a future land owner submit a site plan for development of that site and the development would generate in excess 240 trips in the peak hour as determined by the most recent Institute of Transportation Engineer trip generation manual, then at that point as part of that site plan approval process they would be required to construct or guarantee construction of Fair Drive at that time or of course still have the opportunity to appeal that decision through proportionality appeal. This number was based upon the same requirements from a convenience store with pumps. We use this as a worse case scenario expressed by staff of what could come in there that would require at least in our mind require Fair drive to be constructed because of secondary access. This would be the only recommendation it would delete the two conditions that were proposed.

Mayor Archibald reconvened the Public Hearing on Item 4.2 when it was placed on hold for discussion by staff and the proponent. Mayor Archibald called on Mr. Towell to come back forward to address the council based on discussion are you able to say that the only condition of the relief from the construction requirement for this property that you are ok with this. Mr. Towell agreed with the agreement or condition and felt it provided the level of certainty they were looking for.

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

Councilman Williams made a motion to approve the amended oral Resolution considering Case No. PA-2007-01, a petition from Danielle Delhomme for relief from a dedication or construction requirement for property located at 1901 East Highway 80 with amended conditions of a Submission of a Site Plan for a development that would generate in excess of 240 trips in the peak hour as determined by the most recent edition of the Institute of Transportation Engineers Trip Generation Manual. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

4.3 Mayor Archibald announced that this item had been Tabled and will take a motion to take the item off of the Table.

Councilwoman Davis made a motion to remove item 4.3 from the Table – TC-2007-04 a request to abandon Fair Drive between East Highway 80 and Sandy Street, and the west 660 feet of Sandy Street. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

Jon James, Director of Planning and Development Services explained that this a request to abandon Fair Drive between East Highway 80 and Sandy Street, and the west 660 feet of Sandy Street.

Council tabled this item at the July 12, 2007 meeting in order to attempt to work out a mutually agreeable solution that would accommodate Ms. Delhomme's concerns, while protecting the City's interest in retaining the right-of-way for future construction of Fair Drive when future development warrants.

Staff and the Plat Review Committee recommend denial of the original request, but approval of abandoning the portion of Sandy Street west of Fair Drive.

Planning & Zoning Commission recommended approval of abandoning only the portion of Sandy Street west of Fair Drive.

Mayor Archibald opened a public hearing on the item.

- Mr. Towell spoke on behalf of Ms. Delhomme. Ms Delhomme is no longer interested in abandoning Fair Drive.

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

Councilwoman Davis made a motion to approve **TC-2007-04**, an ordinance considered on second and final reading to abandon the portion of Sandy Street west of the western right-of-way boundary of Fair Drive. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **42-2007** 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.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.074, 551.072 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.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session. Councilman Williams left during the Executive Session.

5.5 Councilman Higgins made a motion to approve Mayor Archibald's appointment of Ken Poynor to the Friends of Safety City Board. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Williams

5.6 No action was taken on an appointment to the Housing Authority Board of the City of Abilene.

5.7 No action was taken on the annual performance evaluations of the City Manager, City Attorney, Municipal Judge and the position of City Secretary.

There being no further business the meeting was adjourned at 1:05 p.m.

Danette Dunlap
Interim City Secretary

Norm Archibald
Mayor