

**CITY COUNCIL MEETING**  
**March 27, 2008, 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 March 27, 2008, 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, and Councilwoman Celia Davis. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff. Councilwoman Moore was absent.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Kenya Mayhera a 5<sup>th</sup> grader from Jackson Elementary School; Kenya led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**ANNOUNCEMENTS**

Mayor Archibald announced the Chamber of Commerce awards given at the Business Expo yesterday were given to Margie Peck who received the Businessperson of the Year Award and the Star award went to the Lawrence Hall Dealership.

Congressman Randy Neugebauer was in town to show his commitment to support the Guard and Reserve. The City of Abilene along with other business signed a Resolution of "Employer Support of the Guard and Reserve 5 Star Statement of Support". The Abilene Police Department has had 4 officers that have been in either the Guard or the Reserves.

Mayor Archibald announced that today at the Buffalo Gap Fire Station, the Abilene Police Department, Abilene Fire Department and City Officials will honor Colten Foster who called 911 and saved his mother's life. He is an Abilene Hero.

**PROCLAMATIONS**

Mayor Archibald presented the following Proclamations:

National Athletic Training Month – was presented to Elizabeth Heyer, Assistant Athletic Trainer/Student Recruiter at ACU.

Autism Awareness Month – was presented to Melissa Richardson and Sarah Fambrough.

**DISPOSITION OF MINUTES**

**2.0** Mayor Archibald stated Council has been given the minutes from the February 28 Special Called Meeting, March 6 Workshop Meeting and March 13 Regular Council Meeting. There being one addition to the Workshop Minutes dated March 6. Add under the council and staff discussion of the red light cameras, 9) concern about the increase in rear end collisions reported by the City of Lubbock, before removing their cameras. There being no deletions or corrections to the minutes Councilman Chase made a motion to approve the minutes as corrected. Councilman Higgins seconded the motion, the motion carried.

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

NAYS: None

### **CONSENT AGENDA**

Councilwoman Davis made a motion to approve consent agenda items 3.1 through 3.11 as recommended by staff. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

### **Resolutions:**

- 3.1** Approving financing by the HFDC of Central Texas, Inc. for the benefit of Sears Caprock Retirement Corporation.

The Resolution is numbered **#9-2008** and captioned as follows:

RESOLUTION APPROVING THE FINANCING BY THE HFDC OF CENTRAL TEXAS, INC. OF HEALTH FACILITIES LOCATED WITHIN THE CITY OF ABILENE, TEXAS FOR SEARS CAPROCK RETIREMENT CORPORATIONS.

- 3.2** Oral Resolution authorizing the City Manager to sign a lease for a Branch Library Lease.

- 3.3** Resolution approving an amendment to the Joint Election Agreement with Abilene Independent School District, Wylie Independent School District, Lytle Lake Water and Improvement District and the City of Impact.

The Resolution is numbered **#10-2008** and captioned as follows:

A RESOLUTION APPROVING AN AMENDMENT TO THE JOINT ELECTION AGREEMENT WITH ABILENE INDEPENDENT SCHOOL DISTRICT WYLIE INDEPENDENT SCHOOL DISTRICT, LYTLE LAKE WATER AND IMPROVEMENT DISTRICT AND THE CITY OF IMPACT.

- 3.4 Oral Resolution approving the Public Disclosure of Conflict of Interest Required by HUD Regulations.
- 3.5 Resolution designating the Planning and Zoning Commission of the City of Abilene as the Airport Zoning Commission.

The Resolution is numbered **#11-2008** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE DESIGNATING THE PLANNING AND ZONING COMMISSION OF THE CITY OF ABILENE AS THE AIRPORT ZONING COMMISSION.

**Ordinances:**

- 3.6 **Z-2008-07** Request to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) zoning, located at 5948 & 5958 Hwy 277 South and setting a public hearing for April 10, 2008.
- 3.7 **TC-2008-04** Request to abandon approximately 1,300 ft of CR 312 beginning at the northern right-of-way of Collett Rd. extending to the north to the city limits of the City of Abilene and setting a public hearing for April 10, 2008.
- 3.8 **Zoning Ordinance Amendment** – Request to amend Section 23-306.4 of the Zoning Ordinance regarding Social Service Organization Facilities being permitted as a Special Exception subject to approval by the Board of Adjustment; and setting a public hearing for April 10, 2008.

**Bid Awards:**

- 3.9 **CB# 8031** - Urban & Rural Mowing – Bid Awarded to Texas Tree & Landscaping, China Spring, Texas.
- 3.10 **CB# 8023** – Vehicles for Various Divisions – Items 1, 4, 5 and 6 was awarded to Lawrence Hall; Items 3, 7, 8, 9 and 10 was awarded to Arrow Ford, and Item 2 to Planet Ford. Total amount of awarded bids \$1,134,264.00.
- 3.11 Purchase approval for Three Wheel Loaders- City Council approved the purchase of three wheel loader unites from Warren Cat in the amount not to exceed \$432,321.00.

**REGULAR AGENDA**

- 4.1 Paul Knippel, Director of Public Works briefed the council on the Ordinance amending Chapter 21, “Oil and Gas” and revising and locating Sections 3406.3 – 3406.3.8 of the Abilene Fire Code.

Specifics of the ordinance include:

- Prohibiting an oil and gas well to be drilled within 500 feet of any building or buildings without a variance approved by Council at the time of permit approval. In no instance may a well be drilled within 200 feet of a residence. All wells shall be in compliance with current Railroad Commission Rules regarding well spacing and in compliance with Local Government Code. The LGC 253.005(c) that states “A well may not be drilled in the thickly settled part of the municipality or within 200 feet of a private residence.” This provision deals exclusively with wells on property owned or leased by the City. The Railroad Commission Rules deal exclusively with distances between oil fields and oil leases and have no provision which regulates drilling next to structures.
- Requiring public notice of hearing on permit to all property owners within 1000 feet of the proposed well location. In the case a variance is requested, the notice provided to the property owners must include a statement indicating that a variance is requested that would allow a well to be drilled within 500 feet of an existing building or buildings.
- Providing that drilling must commence within 180 days of approval of the permit. Adding a provision that the permit may be extended by 180 days by the Director of Public works upon a showing of good cause.
- Specifically requires compliance with FEMA floodplain or floodway requirements, the City of Abilene Zoning Ordinance, the City of Abilene Specifications for Construction, and the Best Management Practices required under the Stormwater Ordinance.
- Incorporating fire code provisions relating to oil and gas wells.

#### Sections Discussed:

##### Sec. 21-26 Prohibitions.

Under no conditions shall an oil and gas well drill bore be allowed within five hundred (500) feet of any existing building or buildings without a variance from City Council.

##### Sec. 21-27 Variance

- (a) A request for variance shall be indicated on the permit application and accompanied by documentation of any granted exceptions to the Railroad Commission’s statewide spacing rules that apply to the proposed well.
- (b) When there is a request for variance submitted, the notice to the property owners must explicitly state a variance is being requested for the permit that would allow oil and gas well drill bore to be within five hundred (500) feet of an existing building or buildings.
- (c) The City Council must approve any application for variance by at least four (4) affirmative votes.
- (d) In no instance may a well be drilled within two hundred (200) feet of a residence.

Council and Staff discussion included: 1) The Railroad Commission Rules deal exclusively with distances between oil fields and oil leases and have no provision which regulates drilling next to structures. The City Ordinance would address those issues with drilling next to buildings and residences; 2) Waiver process was added to the ordinance. The Ordinance still requires a Public Hearing and approval by Council. A waiver of a variance could be requested inside the 500 hundred

foot zone; 3) a discussion of the 200 foot distance from a residence and how staff came up with the number. Local Government Code 253.005(c) provision deals exclusively with wells on property owned or leased by the City. The required distance was 200 feet and staff brought that same requirement forward to all property owners. This was also consistent with other cities requirements; and 4) if the proposed well is inside the 500 foot distance to a residence or building then it would be incumbent upon the driller to get written permission from the land owner.

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

- Jerry Stansell employed by Cholla Petroleum Co., - Mr. Stansell discussed the following: 1) The Cholla Petroleum Co., was the Company that had applied and received permission to drill on the Hardin Simmons property; 2) the wells that they drilled at HSU were dry holes and there were two complaints received; 3) He didn't believe that if the proposed ordinance had been in place when they had submitted the application to drill that they would have been able to drill; and 4) discussed the notification area (Legal advised that the notification requirement would be the city's responsibility in the new ordinance).
- Glen Shedd, Independent Land Agent – Mr. Shedd discussed the following: 1) the Railroad Commission spacing requirements; 2) Section 21-67 Salt Water Wells, with the discussion of the difference between Salt Water Wells and Injection Wells. Salt Water Wells allow for the water to come from other locations. Injection wells are for putting the salt water back into the formation in which it came out of. Injection wells enhance the formation; 3) Section 21-48 Drill Stem Testing, Mr. Shedd stated that the testing needs to be done when the formation is encountered and he didn't believe that the driller should have to wait until daylight hours. (This section is in the current City Ordinance); and 4) Section 21-41 Audible Alarm System – Mr. Shedd stated he didn't know what this was and he felt that it needed to be addressed. (Legal advised that this requirement came out of the Midland Ordinance).
- Lowell Maxey, Mr. Maxey discussed the following: 1) injection wells; 2) the area of the old Drive-in Theater north of town and the oil wells on that site; and 3) would those Oil Company's that are already in the process fall under the old regulations or would they fall under the new regulations.

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

Council and Staff discussion included: 1) the adoption of state rules and regulations; 2) the current ordinance is outdated in language and needs to be updated; 3) reviewed other cities ordinances and Midland was the most current in their update, a lot of the changes came from review of Midland's Ordinance; 4) discussion of the 200 foot distance, the requirement is required by the Local Government Code in reference to City owned property. Believed that it was equally suitable to protect the residences by using the 200 foot distance; 5) Travis McClure Land Agent for the City discussed the reasoning behind the 500 ft to 1000ft notification area. The City realized that the residents would, in this distance, be able to hear the rig running and see the lights of the rig. The City feels that the residences need to be notified that they are going to have a rig in the area; 6) the drill testing only occurring during the day light hours;

7) saltwater injection back into the same site; 8) the audible alarm, for the safety of the public; and 9) the history of how the changes came about in the new ordinance. Where the State regulated, then the City let the State regulate. The distance of the 500 ft and 200 ft was the middle of the other cities ordinances.

Council would like to see:

- 1) Prohibiting an oil and gas well to be drilled within 200 feet of any building or buildings without a variance approved by Council at the time of permit approval
- 2) Require public notice of hearing on permit to all property owners within 500 feet of the proposed well location.
- 3) Delete the day time testing of the drill stem
- 4) Allow injecting of the salt water back into the formation
- 5) An understanding of Sec. 21-41 in reference to Audible Alarms

Mayor Archibald made the motion to TABLE Ordinance Amending Chapter 21, "Oil and Gas" and revising and locating Sections 3406-3406.3.8 of the Abilene Fire Code and have this ordinance placed on the April 10 City Council meeting. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

4.2 Jon James, Director of Planning and Development Services, made the presentation for the 2008-2012 Capital Improvement Program to the Council.

- The CIP is a 5-Year Plan that identifies needed capital projects and coordinates the financing and timing of these projects.
- The CIP is a method of planning for the effective and efficient provision of public facilities, infrastructure improvements, and the acquisition of property and equipment.

## **Definition**

Generally, capital improvement projects are:

- Long term in nature (minimum life expectancy of 15 years)
- Cost in excess of \$25,000
- Include professional services, new and/or renovated facilities, major equipment purchases, and/or property acquisition

## **CIP Financing**

- Fiscally constrained for the entire 5-Year Plan.

- The first year of the CIP (2008) represents the City Manager's recommendation for the annual Certificate of Obligation (C.O.) sale.
- Projects scheduled for subsequent years are approved for *planning purposes* only and do not receive expenditure authority until they are part of the Capital Budget.

### CIP Process

January 7	Public hearing for citizen input
Jan 7-11	Departments prepare Project Sheets and Priority Lists
Jan	Departments meet to prioritize projects
Feb 4	Preliminary report to Planning and Zoning Commission
Feb. 25	Proposal of CIP to Planning and Zoning Commission for comments and formal recommendation
Feb. 25- Mar 12	City Manager develops final recommendation
March 27	Presentation of 5-year CIP and 2007 Capital Budget to City Council
April 10	Public hearing and final action by City Council
April	Certificate of Obligation and Bond Sale

### CIP Projects – 2008 Budget

Municipal Facilities	\$ 576,400
Transportation & Drainage	\$1,030,000
Park	\$ 270,000
Public Safety	\$ 491,100
Other	<u>\$ 57,500</u>
<b>TOTAL</b>	<b><u>\$2,425,000</u></b>

### Capital Improvement Program 2008 “Capital Year”

#### Fast Facts

- 14 Projects
- \$2.4 Million in Projects
- 5 “New” Projects (28.6% of available funds)

#### Major Projects Proposed

- Rebecca Lane Reconstructions (1 of 2)
- Container MNX Facility Upgrade
- Police Academy Building
- Live Fire Training Facility
- Maxwell Golf Irrigation (1 of 2)

#### Additional Projects

- Intersection improvements (Recurring)
- ADA Ramp Program (Recurring)
- Pavement Rehab Program (Recurring)
- Alley Rehabilitations (Recurring)

- Roof replacement - Zoo buildings (Final Phase)
- Fleet MNX Facility Floor Repair
- LEC Door Replacement
- Playground modernization (1 of 5)
- Sears Park Improvements (1 of 3)

Council and staff discussion included: 1) detention ponds, pieces of the phases are being worked on; 2) Sidewalks and street improvements – the city uses the same rules from the sidewalk ordinance to apply to the city street improvements; 3) discussion of improvements for the Pine Street corridor as a high priority; 4) signal lights – the city has approximate 165 signalized intersections, many are in the State Right-of-way and maintained by the City. The age of the traffic signals and parts; 5) Parks Master plan – some of the suggestions from the plan have been taken into consideration in the CIP process. The big dollar projects were not included, these will be reviewed for a proposed bond election package in 2009; 6) Cedar Creek trail – some pieces may be feasible now because the city has a lot of the needed right-of-way; 7) Military park at the west side of Ft. Phantom has been put off until 2012; 8) some of these park projects will be submitted in two grant processes with the state; and 9) wet lands project – this was a fisheries project that they had started with a funding opportunity, but their funding went away, it might come back at a later date if the funding comes back.

Some projects that council would like to see are:

- North 3<sup>rd</sup> street from N. Willis to Grape Street
- Pine Street Corridor
- Buffalo Gap Drive
- Miscellaneous drainage projects
- Recycling & expansion of drop off locations and the possibility of curbside recycling
- Infill redevelopment

No Council action required on this item.

## 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.

**Item 3.1 - Approving financing by the HFDC of Central Texas, Inc. for the benefit of Sears Caprock Retirement Corporation.** This Item was to be reconsidered.



Councilman Chase made a motion to reconsider **Item 3.1**. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Councilman Williams made the motion to approve the financing by the HFDC of Central Texas, Inc. for the benefit of Sears Caprock Retirement Corporation. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams Councilwoman Davis.

NAYS: None

ABSTAIN: Mayor Archibald

**5.5** Councilman Higgins made a motion to approve Mayor Archibald's appointment of Larry Holmes to the Housing Authority of the City of Abilene. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

There being no further business the meeting was adjourned at 12:02 p.m.

---

Danette Dunlap  
City Secretary

---

Norm Archibald  
Mayor