

CITY COUNCIL MEETING

April 10, 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 April 10, 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, Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Joe Spano gave the invocation.

Mayor Archibald introduced Kylee Washington a 5th grader from Johnston Elementary School; Kylee led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

Mayor Archibald assisted by City Manager Larry Gilley, presented the Employee Service Award to the following City Employee:

20 Years	Joyce Sellers	Property Clerk, Police Records Division
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PROCLAMATIONS

Mayor Archibald presented the following proclamations:

Occupational Health Month – proclamation was presented to Kari Williams, Inpatient Rehab Clinical Coordinator at Hendrick Medical Center

Abilene Big Give Day

Mayor Archibald announced the Mayor's Round Up 5K Run/Walk on April 12, 2008 at 8:30 a.m. The run starts and ends at City Hall.

DISPOSITION OF MINUTES

2.0 Mayor Archibald stated Council has been given the minutes from the March 27, 2008 Regular Council Meeting, There being no deletions, two corrections on page 8 under the projects discussed by council from Pine Street Corridor and Buffalo Gap Drive to * **Pine St. Streetscape and Buffalo Soldiers Dr. Streetscape**, and no other additions to the minutes Councilman Chase made a motion to approve the minutes as presented. Councilman Spano 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 Davis made a motion to approve consent agenda items 3.1 through 3.3 recommended by staff with the notation on the Bid Award that the 76 HP Ag Tractor was pulled prior to the meeting. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

Resolution:

- 3.1** Oral Resolution approving the Development Corporation of Abilene's FY08 contract renewal with the City of Abilene for the Airport Business Development Management Program.

Ordinance:

- 3.2 TC-2008-05** Request to abandon Venture Drive from Arnold Blvd. to Polaris Dr. and setting a public hearing on April 24, 2008.

Bid Award:

- 3.3 CB#8030** – AG Tractors. Bid was awarded to Abilene New Holland in the amount of \$88,440.00 for the 2 – 90HP AG Tractors. The bid on the 76 HP AG Tractor was pulled prior to the meeting and will be rebid at a later date.

REGULAR AGENDA

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

Councilman Spano made a motion to remove item 4.1 from the Table – Second Reading of Ordinance Amending Chapter 21, "Oil and Gas" and revising and locating Sections 3406.3-3406.3.8 of the Abilene Fire Code. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Paul Knippel, Director of Public Works briefed the council on amending Chapter 21, "Oil and Gas" and revising and locating Sections 3406.3 – 3406.3.8 of the Abilene Fire Code. Upon direction from Council and after further research the following changes were made to the proposed ordinance:

1. The notification distance for property owners was reduced from 1000 feet to 500 feet. (Sec. 21-19)
2. The prohibition section was changed to require a variance for any well drilled closer than 200 feet from a building. (Sec.21-26)
3. Allowing wells to be drilled within 200 feet of a residence if the operator obtains notarized written consent from the owner of the residence. (Sec. 21-27(d)).
4. After discussions with the Railroad Commission the automated audible alarm system requirement was deleted. Such alarms are necessary in areas with Hydrogen Sulfide gas concerns. There is minimal concern of wells with this gas in Abilene.
5. Provision requiring drill stem testing to occur during daylight hours was deleted.
6. Modified salt water wells provision to expressly allow salt water that is produced onsite to be injected back into the same zone or formation from which it was produced. (Sec. 21-65)
7. Due to changes in the distance requirements, it was also necessary to delete provisions related to the distances storage tanks would be allowed from buildings. The new provision requires setbacks to be pursuant to the standards of the Railroad Commission and the National Fire Protection Association. (Sec. 21-68)
8. Zoning provision modified to include compliance with any applicable subdivision regulations. (Sec. 21-74)
9. Sections were renumbered as necessary.

Staff and council discussion included: 1) Salt Water, staff has visited with several geologists and the Railroad Commission concerning salt water being injected back into the formation. The Railroad Commission has strict controls over the injection of salt water back into the formation; 2) depth of injection of salt water is deeper than the ground water table in the Abilene area; and 3) the difference in salt content in Ft. Phantom, Lake Ivie and Lake Hubbard.

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

- Glen Shedd, Independent Land Agent. Mr. Shedd stated that changes that have been made are very good. He had a question about Sec. 21-68 (b). Sec. 21-68 (b) All storage tanks shall be built on a concrete slab built in accordance with the City's Standard Specifications for Construction, as amended, and inspected by the City Engineering Department. He explained that this is not done anywhere else and could

be very expensive. Storage tanks are set on a caliche base or crushed rock base with earthen dikes surrounding them.

Council and Staff discussion included: 1) Staff had reviewed Midland and Ft. Worth Ordinances. Midland's has a very high landscaping provision. Staff had taken the provisions of those ordinances that they felt would enhance the City of Abilene Ordinance; 2) the concrete slab would add a layer of higher protection for the city; and 3) the difference between the concrete slab, caliche base and the crushed rock base.

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

Councilman Spano made the motion to approve an Ordinance Amending Chapter 21, "Oil and Gas" and revising and locating Sections 3406.3-3406.3.8 of the Abilene Fire Code. Councilman Chase amended the motion to Strike the concrete slabs under Sec. 21-68 (b). Councilwoman Davis seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **#15-2008** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 21, "OIL AND GAS" AND SECTIONS 3406.3 – 3406.3.8 OF THE ABILENE FIRE CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND CALLING FOR A PUBLIC HEARING.

4.2 Jon James, Director of Planning and Development Services, briefed the Council on **Z-2008-07**, a request from Jack Chamberlain; to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) zoning, located at 5948 and 5958 HWY 277 South.

The properties are zoned AO (Agricultural Open Space). The surrounding uses are all compatible with the current zoning. There is currently no HC (Heavy Commercial) zoning in the area, and it is not compatible with the surrounding uses. There are single-family homes on the properties to the west, with an elementary school on HWY 277 to the north. The Future Land Use section of the Comprehensive Plan designates this general area for commercial uses. The requested HC (Heavy Commercial) zoning allows certain uses that are too intense for the surrounding area. GC (General Commercial) zoning would be compatible with the surrounding properties and the Comprehensive Plan for this area. Staff and Planning & Zoning Commission both recommend approval of GC (General Commercial) instead of HC (Heavy Commercial).

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard the public hearing was closed.

Councilman Williams made a motion to approve **Z-2008-07**, an ordinance considered on second and final reading to rezone property from AO (Agricultural Open Space) to GC (General Commercial), property located at 5948 and 5958 HWY 277. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **#16-2008** 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.

4.3 Jon James, Director of Planning and Development Services briefed the Council on an ordinance for Zoning Ordinance Amendment, a proposal 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.

The Planning Department is proposing an amendment to the Zoning Ordinance regarding the use of Social Service Organization Facility being permitted in the RM (Multi-Family Residential) zoning districts. Social service organization facilities are designed to provide specific social services and typically include facilities operated by service groups such as Salvation Army and the Heart Association.

Currently, the use is permitted conditionally in the RM zoning district. The specific condition is that such a use in an RS or RM district would require the property to be located in a Mixed Use Overlay Zone. The location of the subject property is not within a Mixed Use Overlay Zone and therefore would not be permitted. In addition, rezoning to Mixed Use Overlay would not be feasible in this case. The least intensive zoning district that permits such a facility is the GC (General Commercial) district.

As an alternative solution to a change of zoning, staff is proposing to amend the Zoning Ordinance to allow a Social Service Organization Facility with approval of a Special Exception by the Board of Adjustment. The Board of Adjustment would be able to review each request individually.

Staff and Planning and Zoning Commission both recommend approval. Planning and Zoning Commission recommends the creation of a committee to discuss this issue further and to develop recommendations that can be used to further define these facilities and where they should be located.

Council and Staff discussion included: 1) Group homes are different and are regulated by the State; 2) Conditional Use Permit – Permit process goes to P&Z Commission and appeals to City Council; 3) Special Use Permit – Permit process goes to Board of Adjustment and Appeals to District Court; 4) The passage of this change in the Ordinance is global for the entire City zoning process; and 5) the current Ordinance doesn't define the Social Service Organizations.

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

- Nancy Capra, Board Chairwoman of Our House. Ms. Capra discussed the following with the Council: 1) The facility size of Our House will be approximately 4500 sq ft.; 2) The facility is for unaccompanied youth – kids in dire circumstances where they have become displaced; 3) they are applying for HUD grant monies to build the facility; 4) they have been working with the Neighborhood Association and Realtors and Builders to determine a location that would fit their need; and 5) the location they are looking to build the facility on is located on Vine Street across from Lincoln Middle School.
- Bruce Bixby, Planning & Zoning Commissioner. Mr. Bixby discussed the following with the Council: 1) the need for this type of shelter for children; 2) placing too much on the Board of Adjustments; 3) many things need to be reviewed and addressed concerning these types of facilities; 4) Homeless shelters are a big issue; and 5) the formation of a committee to review and suggest guidelines.
- Betty Files, resident. Ms. Files stated she was not knocking this project and that she was in support of the project itself. She cautioned setting a precedent by allowing exceptions and don't take away the recourse of the citizens with concern.
- Lydia Long, Planning & Zoning Commissioner. Ms. Long discussed the following with the Council: 1) under the current ordinance these facilities were not addressed; 2) this type of facility is a home away from home; and 3) the neighborhood supports this type of facility and the location.

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

Council and Staff discussion included: 1) the use of a PDD for this facility; 2) Special Exceptions; 3) if the Ordinance is changed as presented then the Organization will be able to apply for the Special Exception and/or a request for a PDD; 4) a moratorium on any other request of this nature; and 5) the establishment of a committee as suggested by P&Z, to review and make recommendations within 3 months.

Mayor Archibald made a motion to approve Zoning Ordinance Amendment, 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.

Council recommends to staff that a committee be formed and research this in the next 3 months. Place a moratorium on any other request of this nature. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: Councilman Higgins

The Ordinance is numbered **#17-2008** and captioned as follows:

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.

4.4 Jon James, Director of Planning and Development Services briefed the council on annexation of property located south of the existing Beltway Park Baptist Church located at 4009 Beltway South and east of the Bella Vista Estates subdivision.

This is the first public hearing to receive public input on a proposed annexation of land located as described above and shown on the attached map. This item originated as a request from Ray Templeton, Associate Pastor at Beltway Park Baptist Church, to have approximately 5 acres of land annexed south of their existing facility. The proposed area will be adjacent to the proposed extension of Sierra Sunset.

The proposed area is currently undeveloped with no utilities (water and sewer) and no public facilities to be maintained (streets, drainage facilities, etc.). Police and Fire services will be available. The proposed annexation would present no adverse service impacts to any of the services or facilities offered by the Community Services Department.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard the public hearing was closed.

No action needed on this item.

4.5 Jon James, Director of Planning and Development Services briefed the council on a Resolution approving the 2008-2012 Capital Improvements Program and authorizing projects for the 2008 Certificate of Obligation Sale.

The 2008-2012 Capital Improvements Program (CIP) is a five-year plan that identifies needed capital projects and coordinates the financing and timing of these projects. The first year of the CIP (2008) represents the City Manager's recommendation for the annual Certificate of Obligation (C.O.) sale, or Capital Budget. Projects scheduled for subsequent years are for planning purposes only.

Certificates of Obligation in the amount of approximately \$2,000,000 can be funded within the current certificate debt tax rate policy of 10.7 cents. An additional \$425,000 in enterprise funds are also included this year for the funding of Project #4060-02-05 (Container Mt. Shop pg. 06-07). The current proposal includes \$2,367,500 in projects. Approximately \$57,500 has been recommended for contingencies and debt issuance costs. There is no increase in the debt tax rate as recommended.

A public hearing was conducted by the Planning & Zoning Commission (P&Z) on February 25, 2008. At that meeting, the most significant item of discussion and debate related to a choice between reconstruction of Industrial Blvd in 2010 and 2012 or the re-establishment of a Sidewalk Construction program. After two unsuccessful motions (final vote 3-3 and 1-5), the Commission approved (5-1) a recommendation to the City Manager. The motion to approve included a statement indicating their desire to “flag” these two projects for further consideration by the City Manager and City Council.

Staff and Planning and Zoning Commission both recommend approval.

Council and Staff discussion included: 1) the Industrial Blvd project; 2) sidewalks and how they are being added to each street project and reviewed against the City’s sidewalk Ordinance; 3) if citizens want sidewalks in areas – issue would have to come to the public for a vote. Sidewalk could go to a Bond election; 4) item 02-01 concrete intersections. This is a drainage issue, and by placing concrete in areas it can extend the life of intersections and prevent pavement deterioration; 5) paved alley 03-03. City wide maintenance on alleys that have deteriorated; 6) 07-08 Maxell Golf course. For the irrigation system, and replacing the controllers for the 1st of a 3 phase process. Locate and install shut off valves through out the course and to protect the City’s investment; 7) the sale of compost from the recycle center. Currently the process has started by the renting of a screen to screen the compost; and 8) the Dyess recreation project.

Street Improvements

- Concrete Intersections @ various locations \$250,000.00
- Payment Rehabilitation @ various locations \$150,000.00
- Rebecca Lane Reconstruction –B.Gap Rd. – US 277 \$480,000.00

Traffic/Transportation Improvements

- ADA Curb Ramps – Various locations \$ 50,000.00
- Paved Alley Reconstruction – City Wide \$100,000.00

Public Safety Improvements

- Police Academy Building \$339,200.00
- Construction of New Live Fire Training Facility \$151,900.00

Municipal Facilities Improvements

- Building Roof Repair – Various Zoo Buildings \$ 79,000.00
- Fleet Maintenance Facility Renovations \$ 23,000.00

- LEC Doors \$ 49,400.00
- Container Maint. Shop, Storage & Paint Booth \$425,000.00

Park Improvements

- Playground Modernization \$ 50,000.00
- Sears Park Development \$ 90,000.00
- Maxwell Golf Irrigation – Parks \$130,000.00

Other

- Contingency and issuance Costs \$ 57,500.00

Total CIP 2008 Funded Projects \$2,425,000.00

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

- Bruce Bixby, Planning & Zoning Commissioner. Mr. Bixby felt that the Industrial Blvd Street Repair was a high priority and was worth keeping on the CIP list.

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

Councilman Higgins made a motion to approve Resolution approving the 2008-2012 Capital Improvements Program and authorizing projects for the 2008 Certificate of Obligation Sale. Councilman Chase amended the motion to include taking the 2010 money for the Sidewalk Program to make it for Industrial Blvd Rehabilitation and leave the 2012 for Sidewalks as is. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered **#12-2008** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF ABILENE APPROVING AND ADOPTING THE 2008-2012 CAPITAL IMPROVEMENTS PROGRAM.

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.

- 5.5 Councilwoman Davis made a motion to approve Mayor Archibald's appointments and Councilman Higgins seconded the motion, and the motion carried.

Mayor's Council on Physical Fitness

Tonya Brice

Abilene-Taylor County Public Health Advisory Board

Tom Perini

Office of Neighborhood Services Advisory Council

Kris Kowatch

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

NAYS: None

Councilman Williams had left the meeting.

There being no further business the meeting was adjourned at 11:54 a.m.

Danette Dunlap
City Secretary

Norm Archibald
Mayor