

CITY COUNCIL MEETING
August 28, 2008, 5:30 p.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 August 28, 2008, at 5:30 p.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Stormy Higgins, Joe Spano, Robert O Briley, Anthony Williams and Councilwoman Laura Moore. Also present were City Manager Larry Gilley, Dan Santee City Attorney, City Secretary Danette Dunlap, and various members of the City staff.

Councilwoman Moore gave the invocation.

Mayor Archibald introduced Joshua Satterfield, who is a 4th grader at Reagan Elementary. Joshua led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

ANNOUNCEMENTS, PRESENTATIONS AND RECOGNITIONS

- Mayor Archibald presented the Proclamation **“Twogether in Texas”** a Healthy Marriage Program, to Rusty McLen.

PUBLIC COMMENT

- Thad Carey – retired city employee. Mr. Carey presented various issues in regards to the City’s retirement system toward the Cost of Living raises for the retirees.
- Jennifer Ward – was here for Item 7.9
- Gene Keesee – retired city employee. Mr. Keesee had concerns in regards to the City’s Retirement system and the problem the city has had in recruiting due to salary, insurance and retirement for it’s employees.
- S. C. Jones. Mr. Jones reviewed the tax values and tax rate of the city based upon his research at the Taylor County Appraisal District.
- J. C. Gibson – Mr. Gibson stated he was for the working people and discussed pay of the working people.

- Al-Yahnai Hawkins – Mr. Hawkins made reference to the City’s Comprehensive Annual Financial Report from 1997.
- Mike Easley – Mr. Easley stated issues with the taxes and he stated that the city needs to live within their means.

DISPOSITION OF MINUTES

6.0 Mayor Archibald stated Council has been given the minutes from the Regular Meeting held August 14, 2008. There being no deletions, one correction (to review the tape and correct page 9 under Councilman Chase’s comments regarding the tax rate), and no additions to the minutes Councilman Chase made a motion to approve the minutes as presented with the one correction to be made after review. Councilman Briley seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

CONSENT AGENDA

Councilman Williams made a motion to approve consent agenda items 7.1 through 7.10 as presented with the exception of pulled items 7.2, 7.4 & 7.9. Councilman Spano seconded the motion, the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald (Mayor Archibald abstained from the vote regarding item 7.3)

NAYS: None

Resolution:

7.1 Designation of Name for Access Way on private property for Addressing purposes Disability Resources Inc. campus.

The Resolution numbered **#29-2008** and captioned as follows:

A RESOLUTION DESIGNATING THE NAME OF AN INTERNAL ACCESS WAY FOR 911 AND OTHER ADDRESSING PURPOSES ON THE DISABILITY RESOURCES, INC., COMPLEX.

Oral Resolutions:

7.2 Consideration of a Street Use License Agreement with Danielle Delhomme. (*Item pulled by Mayor Archibald*)

7.3 Consideration of a Street Use License Agreement with Cirrus Associates, LLC.

- 7.4** Acknowledging receipt of Abilene-Taylor County Events Venue District Budget for revised FY 2008 and approved FY 2009. *(Item pulled by Councilman Chase)*

Ordinances:

- 7.5 Z-2008-28** First Reading on an Ordinance for a request from Paul Johnson to rezone property from O (Office) to PDD (Planned Development District) zoning, located at 501,601, 609, 617, 625,633, and 641 S. Judge Ely Blvd; and setting a public hearing on September 11, 2008.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-125 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 7.6 Z-2008-29** First Reading on an Ordinance for a request from Kenneth Musgrave to rezone property from AO (Agricultural Open Space) to RM-3 (Multi-Family Residential) zoning, located on the north side of Independence Blvd.; and setting a public hearing on September 11, 2008.

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.

- 7.7 Z-2008-30** First Reading on an Ordinance for a request from Miller Talbot and the City of Abilene to rezone property from LI (Light Industrial) to RM-3 (Multi-Family Residential) zoning, located south of N. 19th Street north of N. 14th Street, east of Cottonwood Street and west of the Railroad Right-of-Way; and setting a public hearing on September 11, 2008.

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.

- 7.8 Z-2008-31** First Reading on an Ordinance for a request from David Taylor, Horne Properties to rezone property from AO (Agricultural Open Space) and HC (Heavy Commercial) to PDD-113 (Planned Development District) zoning, located at the north side of Musgrave Blvd. across from Scottish Rd.; and setting a public hearing on September 11, 2008.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-113 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

7.9 TC-2008-07 First Reading on an Ordinance for a request from Stripes, LLC. to abandon Inwood Lane, per the CB Allen Subdivision; and setting a public hearing on September 11, 2008. *(Item pulled by Councilman Chase)*

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

Bid Award:

7.10 CB# 8065 – North 18th Street Rehabilitation – from N Mockingbird to Pine Street. Bid was awarded to Bontke Bros. Construction in the amount of \$722,850.44.

Items Pulled from Consent Agenda

7.4 Acknowledging receipt of Abilene-Taylor County Events Venue District Budget for revised FY 2008 and approved FY 2009. *(Item pulled by Councilman Chase)*

Councilman Chase asked about the council's part in the Abilene-Taylor County Events Venue District Budget. Staff explained that this Board is made up of 2-City, 2-County and 1-School Board members. The Ordinance creating the Board sets out the parameters where by the entities must acknowledge receipt of the Venue District Budget.

7.9 TC-2008-07 First Reading on an Ordinance for a request from Stripes, LLC. to abandon Inwood Lane, per the CB Allen Subdivision; and setting a public hearing on September 11, 2008. *(Item pulled by Councilman Chase)*

Councilman Chase inquired about this property beside this street that had been proposed for a convenience store awhile back. Jon James Director of Planning and Development, explained that there had been discussion about this street and it's proximity to Arnold Blvd and Hartford Street. This item is coming forward from the developer where they are developing a site plan.

7.2 Consideration of a Street Use License Agreement with Danielle Delhomme. *(Item pulled by Mayor Archibald)*

This item will be TABLED until the next meeting. This item is in regards to Atmos gas line for a private utility line. The adjacent landowner has some concerns.

Councilwoman Moore made a motion to approve consent agenda items 7.4, 7.9 and TABLE item 7.2. Councilman Chase seconded the motion, the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

REGULAR AGENDA

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

Councilman Williams made a motion to remove item **8.1** from the Table – Award of Bid CB#-8055 Motor Grader for Street Services Division. Councilman Spano seconded the motion, and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

Paul Knippel Director of Public Works then briefed the council on the bid award for a Motor Grader for the Street Services Division. Pictures were shown of the different types of motor graders, rear articulation or front articulation. The City owns and actively uses six motor graders, all of which operate with rear articulation.

During the purchasing process of equipment and vehicles, staff prepares specifications that consist of minimum technical requirements that meet functional and maintenance recommendations of those who operate and maintain the equipment. In this case, two bids were disqualified because the equipment did not meet one or more specification items. The grader proposed by ASCO exceeded dimensional requirements, and the grader proposed by New Holland did not offer rear articulation as specified. New Holland was the lowest overall bidder, but was disqualified on this basis.

Council and Staff discussion included: 1) City employees are trained on the rear articulation motor graders and 2) the current graders used by the city are all rear articulation motor graders.

Councilman Chase made the motion to approve the Bid Award CB#-8055 – Motor Grader for Street Services Division to Yellowhouse Machinery in the amount of \$167,250.00. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

8.2 Paul Knippel Director of Public Works briefed the council on the Application/Permit to drill and/or Operate Oil and/or Gas wells – P.B. Blue Dot Properties permit numbers #651226, #651313, and #651314.

Three applications have been received from P.B. Blue Dot Properties for permits to drill and operate three (3) wells south of the Abilene Regional Airport terminal. The three proposed wells are located on private property adjoining the Abilene Regional Airport property on the south side. All three wells have received a "Temporary Determination of No Hazard to Air Navigation" from FAA on July 30, 2008. The "temporary" designation refers to the temporary nature of the drilling rigs. The drill sites are not within a flood prone area.

Council and Staff discussion included: 1) how this might impact the new Airport Zoning Ordinance. Staff advised there would be no impact.

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

Councilman Briley made the motion to approve the application/permit to drill and/or Operate Oil and/or Gas wells – P.B. Blue Dot Properties permit numbers #651226, #651313, and #651314. Councilman Williams seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

8.3 Jon James Director of Planning and Development, briefed the Council on the Ordinance amending Chapter 29.5 – Swimming Pools and Spas; adopting Title 25, Chapter 265, Subchapter L of the Texas Administrative Code "Standards for Public Pools and Spas" with local amendments.

The purpose of this ordinance is to adopt Title 25, Chapter 265, Subchapter L of the Texas Administrative Code "Standards for Public Pools and Spas". The current City ordinance does not address several Health and Safety issues especially for Public and Restricted Access Pools. In addition to the TAC, the ordinance will continue to reference the National Spa and Pool Institute "Standard for Residential Swimming Pools."

Adopting the State code updates the City's ordinance to meet state requirements as well as upcoming federally mandated changes.

While the licensing requirements do not change in the proposed ordinance, the Mechanical, Plumbing, Electrical, & Swimming Pool Board extensively reviewed licensing requirements for pool contractors. After the review, the Board decided against recommending any changes.

Administration:

- Pamphlet Part I, 2.2.1 Exams (current Section 29.5-14) – delete current (a) requiring the MPE Board or Building Inspection staff to administer and proctor pool contractor licensing exams.

Exams have been administered by Thompson Prometric for approximately 10 years now. This change deletes outdated requirements.

- Change current (b) to (a) and delete the last sentence referencing a 3 hour testing time.
To prevent potential conflicts with any changes in testing by the third party testing agency.
- Change current (c) to (b) and delete wording in the first sentence which required answering 70 percent of the test questions for passing.
To prevent potential conflicts with any changes in testing by the third party testing agency.
- No other amendments are proposed for the administrative section of the ordinance

Design & Construction of Residential Swimming Pools:

- The amendments for Part II “Design and Construction of Residential Swimming Pools” are the current code requirements relocated to a code pamphlet. Therefore, there will be no changes regarding residential pool construction related to this ordinance.
- Although the pamphlet lists amendments to this area, these amendments are not new. These requirements have been a part of the ordinance for several years.
- No new amendments are proposed for construction of residential swimming pools or spas.

Design & Construction of Public & Restricted Swimming Pools and Spas:

- There are several new requirements aimed at minimizing the risk of human entrapment at suction outlets of pools and spas.
- Newly constructed and existing pools and spas must be provided with suction outlet covers or grates certified as being in compliance with ASME/ANSI A112.19.8M.
- Newly constructed pools and spas must have at least two hydraulically balanced suction outlets with ASME/ANSI A112.19.8M compliant covers or grates.
- Existing pools and spas with a single main drain or suction outlet must be upgraded by:
 - Installing two hydraulically balanced suction outlets ASME/ANSI A112.19.8M compliant covers or grates, or
 - Installing a cover or grate on the single suction outlet which complies with ASME/ANSI A112.19.8M **and** installing a Safety Vacuum Release System
- Other amendments to the ordinance reference local permitting and appeal requirements and replace certain code references for consistency with all other construction code references.

Maintenance and Operation of Public & Restricted Access Pools and Spas:

- Depth marker numbers on deck and sidewalls must have permanent colors for numbers and background of markers instead of stenciled numbers.
- All pools and spas shall have a working, functioning telephone that is capable of immediately summoning emergency service and that is readily accessible within 200 feet from the pool or spa water. A telephone that is answered by an on-site office does not meet the requirements.
- The warning words “NO DIVING” and the international no diving symbol shall be clearly marked on the pool deck with contrasting colors and letters at least 4 inches high. The symbol, letters, and background colors shall be permanent.
- A wall of a building constructed on or after January 1, 1994, may not be used as part of a pool yard enclosure unless each ground floor window in the wall is permanently closed and unable to be opened.

Council and Staff discussion included: 1) the requirements for discharging of the pool water and how it conforms with the requirements of the City of Abilene Code of Ordinances, Chapter 32, Article VII, Municipal Drainage Utility – Stormwater Protection.

Mayor Archibald opened the Public Hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Briley made the motion to approve amending Chapter 29.5 – Swimming Pools and Spas; adopting Title 25, Chapter 265, Subchapter L of the Texas Administrative Code “Standards for Public Pools and Spas” with local amendments. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

The Ordinance is numbered #43-2008 and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE
REPLACING CHAPTER 29.5, “SWIMMING POOLS AND SPAS”, IN ITS ENTIRETY
AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A
PENALTY; AND CALLING FOR A PUBLIC HEARING.

8.4 Jon James Director of Planning and Development Services briefed the council on the ordinance approving the execution of a Developer Participation Contract with Connecting Caring Communities to provide Infill Development Funds for the North Park Development Project.

The Local Government Code allows a municipality to enter an agreement with a developer of land to construct public improvements related to the development. The improvements cannot include the construction of buildings, and the municipality may not participate at a level that would exceed thirty percent of the total project cost. The participation by the City would be limited to providing funds for infrastructure improvements, including street improvements, sidewalks, water/sewer, and site preparation. The North Park Development Project will include the construction of a North Park Friendship House, 12 additional homes including 4 homes for low and moderate income households, and a neighborhood greenspace and park. This project is located at the site of the former Ben Milam Elementary School at the corners of Hickory, Lowden, and Cedar Streets in north Abilene. Although the original request, as noted in the request letter dated May 12, was for \$80,000, CCC has revised their request to \$120,000, as detailed on Schedule A of the proposed agreement.

Funding for this project will be from the “Infill Development Funds” authorized through the Capital Improvements Program in 2006. This request is for \$120,000, which is the remaining funding.

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

- Brad Carter Executive Director of Connecting Caring Communities – Mr. Carter described the site plans and the undertaking that Connecting Caring Communities has taken to accomplish their mission and goals. The North Park Development project will enhance the older north Abilene neighborhood.
- Samuel Garcia Board Member of Connecting Caring Communities – Mr. Garcia expressed that the support of \$120,000 will be an investment. The project helps others. Connecting Caring Communities has a track record of being able to make a difference.

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

Councilwoman Moore made the motion to approve the Ordinance approving the execution of a Developer Participation Contract with Connecting Caring Communities to provide Infill Development Funds for the North Park Development Project. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

The Ordinance is numbered **#44-2008** and captioned as follows:

AN ORDINANCE APPROVING THE EXECUTION OF A DEVELOPER PARTICIPATION CONTRACT BETWEEN THE CITY OF ABILENE AND CONNECTING CARING COMMUNITIES FOR THE PURPOSE OF MAKING CERTAIN PUBLIC IMPROVEMENTS AS AUTHORIZED BY LAW.

8.5 Mindy Patterson, Interim Director of Finance briefed the council on the proposed 2008-2009 Tax Rate. The FY 2009 Budget approved by Council on July 23, 2008 set the tax rate at .6854 cents. State law requires that two (2) public hearings must be held prior to the final public hearing and vote. The final public hearing and vote will be held on September 11, 2008.

Staff recommends that the City Council hold the public hearing in accordance with State law. No action is required by Council.

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

Mayor Archibald stated that there is no action to be taken today. The City will hold the final public hearing on the tax rate on September 11, 2008 at 8:30 a.m.

8.6 Ronnie Kidd, Managing Director for Administration briefed the City Council on the renewal agreement between the City of Abilene and United Way of Abilene.

In May 2002, the City of Abilene entered into an agreement with the United Way of Abilene, combining the "Call for Help" program with United Way's information and referral initiatives for the community. The term of the contract was six (6) years and included United Way's assuming daily supervision of City Call for Help staff members and integrating their daily functions into the United Way's information and referral programming objectives.

At the May 8, 2008 City Council meeting, Council approved an extension of the agreement through September 30, 2008 to coincide with the City's fiscal year end and provide for an opportunity to consider future funding of the 2-1-1 Texas A Call for Help collaborative partnership through the budget process.

Two (2) City of Abilene employees remain assigned to the 2-1-1 Texas A Call for Help Community Resource Center operations. Compensation and benefits for these two employees will total approximately \$94,370 in fiscal year 2009. An additional \$60,600 is included in the request to provide professional/contractual services.

Staff recommends execution of an agreement, to be drafted pending further direction from Council, between the City of Abilene and United Way of Abilene, to continue the collaborative partnership with the United Way for 2-1-1 Texas A Call for Help Community Resource Center.

Dixie Bassett President/CEO of United Way of Abilene, thanked everyone. Ms. Bassett gave the history of how the United Way, Abilene Call for Help and the 2-1-1 Texas came into being.

Mary Cooksey Community Resource Director explained that the 2-1-1 Texas A Call for Help has started using the Software Tapestry. This software is web-based software that is service, delivery tracking/centralized resource. In Feb. 2004 2-1-1 Texas began voice-over Internet. 2-1-1 Texas is a successful public/private partnership that is providing a service to our citizens.

John Russell Chairman of the Executive Committee of the United Way of Abilene described this partnership as one that is between Dyess Air Force Base, the City of Abilene, schools, HSU, ACU & McMurry and Hendrick Medical Center. Opportunity has come about with the leverage of resources to bring State funding to the 2-1-1 Texas.

Council and Staff discussion included: 1) Quality of Life; 2) significant impact in our community; 3) good investment; 4) City has two full time employees employed for the Call for Help 2-1-1 Texas; 5) formation of a committee of three council members to work together in regards to the Abilene Call for Help. Committee of council would be Laura Moore, Joe Spano and Robert Briley. Councilman Briley was contacted by the following citizens in regards to this item: Dixie Bassett President of United Way, Dr. John Russell President of McMurry University, Dr. Cliff Stewart First Central Presbyterian Church, Dr. Phil Christopher First Baptist Church, Jim Clark Christian Service Center, Mike Schweikhard Mgr. Public Affairs – Atmos, Dale Bartee United Way Board Member, Charlene Ricketts, Representative Bob Hunter - ACU, Brenda Trojcek - Director Big Country RSVP, Dave Boyle, AAIBO (Abilene Association of Independent Business Owners), Dr. Vince & Mrs. Maureen Priestner, Kari Leong, Principal Jane Long Elementary, Roz Evans Dept. of Aging and Disability Services, Sue Rust Southern Hills Church of Christ, Pat Evans Executive V.P Taylor-Jones-Haskell County Medical Society, David Cory National Association of Social Workers, Chesley Martin President Elect Junior League of Abilene

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Mayor Archibald made the motion to grant the request for the renewal of the agreement between the City of Abilene and the United Way of Abilene for 1 year. Councilman Briley seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

8.7 Workshop for Update of the City's self-insured health benefits plan. – *Pulled prior to meeting to be held at a separate meeting 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.

10.0 Councilman Briley made a motion to approve Mayor Archibald's appointment of Marelyn Shedd to the Development Corporation of Abilene, Inc. and Councilman Higgins seconded the motion, and the motion carried.

Development Corporation of Abilene, Inc. Board
Marelyn Shedd Term expires 11/2010

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

There being no further business the meeting was adjourned at 10:11 p.m.

Danette Dunlap
City Secretary

Norm Archibald
Mayor