

CITY COUNCIL MEETING
September 25, 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 September 25, 2008, at 5:30 p.m. in the Council Chambers at 555 Walnut Street. Mayor Pro-tem Sam Chase was present and presiding with Councilmen Stormy Higgins, Joe Spano, Robert O Briley, Anthony Williams and Councilwoman Laura Moore. Absent Mayor Archibald. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Spano gave the invocation.

Mayor Pro-tem Chase introduced Brayden James, who is a 4th grader at Thomas Elementary. Brayden led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas. Brayden's parents and principal were in attendance.

ANNOUNCEMENTS, PRESENTATIONS AND RECOGNITIONS

- Mayor Pro-tem Chase announced the "Family Day Proclamation" the Proclamation reads...

Whereas, the use of illegal and prescription drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children; and

Whereas, 13 years of surveys conducted by the National Center on Addiction and Substance Abuse (CASA) at Columbia University have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink and use illegal drugs; and

Whereas, the correlation between frequent family dinners and reduced risk for teen substance abuse is well documented; and

Whereas, parents who are engaged in their children's lives – through such activities as frequent family dinners – are less likely to have children who abuse substance abuse is well documented; and,

Whereas, family dinners have long constituted a substantial pillar of family life in America...proclaim the fourth Monday of every September as Family Day A Day to Eat Dinner with your Children.

PUBLIC COMMENT

Mayor Pro-tem Chase opened up the public comment time and the council heard from the following individuals:

- Steve Kirby – Mr. Kirby expressed his opinion that he felt that the city needed to be divided into single-member districts. Currently the city council is voted at-large with 3 members from the south side and 3 members from the north side with the Mayor at-large.
- Al-Yahnai Hawkins – Mr. Hawkins expressed his opinion on his prior case with the city and a request for an oversight committee.

DISPOSITION OF MINUTES

6.0 Mayor Pro-tem Chase stated Council has been given the minutes from the Workshop Meeting on the September 4th and the Regular Meeting held on September 11th, 2008. There being no deletions, no corrections and no additions to the minutes Councilman Williams made a motion to approve the minutes as presented. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, and Councilwoman Moore.
NAYS: None

CONSENT AGENDA

Mayor Pro-tem Chase advised that prior to the meeting consent agenda item 7.1 has been pulled. Councilman Spano pulled item 7.8 for further discussion.

Councilwoman Moore made a motion to approve consent agenda items 7.2 through 7.7 as presented. Councilman Higgins seconded the motion, the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, and Councilwoman Moore.
NAYS: None

Oral Resolutions:

7.1 Oral Resolution – Approving a new lease agreement with the Texas Candy Company, LLC for the Baggage Express building located at 1201 N. First St. (*Pulled prior to meeting no action taken*)

7.2 Oral Resolution - Approving the Development Corporation of Abilene's annual contracts renewal with the City of Abilene for Business Services and the Airport Business Development Management Program.

7.3 Oral Resolution – Approving a new lease with AvFuel.

7.4 Oral Resolution – Approving a new terminal concession agreement with GW's Burgers and More.

Resolution:

7.5 Resolution – Designation of Name for Access Way on Private Property for Addressing Purposes.

A Resolution **#32-2008** and captioned as follows:

A RESOLUTION DESIGNATING THE NAME MILLIORN RANCH ROAD AS AN ACCESS WAY ON PRIVATE PROPERTY FOR 911 AND OTHER ADDRESSING PURPOSES.

Ordinances:

7.6 Z-2008-32 First Reading on a request from Stripes, LLC, Agent: Mike Choate to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at the northeast corner of Loop 322 and E. Industrial Blvd; and setting a public hearing for October 9, 2008.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E “ZONING,” OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-126 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Bid Award:

7.7 Bid Award – CB#-8070 Ambler Avenue Resurfacing- from Mimosa Street to Burger Street. City Council approved award of bid to Contract Paving Co., Tye, Texas in the amount of \$118,181.30.

7.8 Request to Advertise – Consideration of request from Nosivad Oil, Inc., to advertise City land for an oil and gas lease. *(Item pulled by Councilman Spano)*

Items Pulled from Consent Agenda

7.8 Request to Advertise – Consideration of request from Nosivad Oil, Inc., to advertise City land for an oil and gas lease. *(Item pulled by Councilman Spano)*

Councilman Spano had concerns and questions in regards to the location of the property at the lake and how this will affect the water shed and the future development around the lake. Other discussion included: 1) how staff would craft the language for the advertisement; 2) water shed; 3) land use development code; 4) future development at the lake; and 5) location of the wells.

Councilman Higgins made the motion to TABLE this item until the land use code could be reviewed for the area Councilwoman Moore seconded the motion and the motion carried.

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

NAYS: None

REGULAR AGENDA

8.1 Odis Dolton Assistant Director of Finance, briefed the Council on the Ordinance approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex”) regarding the company’s rate review mechanism filing in all Cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; approving Atmos’ Proof of Revenues; Adopting a savings clause; determining that this Ordinance is passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and calling a public hearing.

The Atmos Cities Steering Committee (“ACSC”) and Atmos Mid-Tex created the Rate Review Mechanism (“RRM”) as an alternative to the GRIP surcharge process. The RRM process allows for a more comprehensive rate review and annual adjustment that will function as a substitute for future GRIP filings during a three-year trial period.

Through negotiations, ACSC was able to reduce the Company's requested \$33.5 million RRM increase to \$20 million increase in Atmos Mid-Tex revenues. The purpose of the Ordinance is to approve rate tariffs that reflect the negotiated rate change pursuant to the RRM process. The Ordinance also approves the Company's proof of revenues, a required part of the RRM filing. Approval of the Ordinance will result in rates that implement a \$20 million increase in Atmos' revenues effective October 1, 2008.

Council discussion included: 1) best rate in Abilene – better than other cities.

Mayor Pro-tem Chase opened the public hearing and their being no one present and desiring to be heard the public hearing was closed.

Councilman Spano made the motion to approve the Ordinance – A Negotiated Resolution Between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex") regarding the Company's Rate Review Mechanism Filing in all Cities Exercising Original Jurisdiction. Councilman Williams seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Briley, Higgins, and Councilwoman Moore.
NAYS: None

The Ordinance is numbered **#52-2008** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, (CITY) APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND CALLING A PUBLIC HEARING.

8.2 Jon James Director of Planning and Development Services briefed the council on the resolution amending the Thoroughfare Plan in an area generally between US Hwy 277 and Southwest Drive.

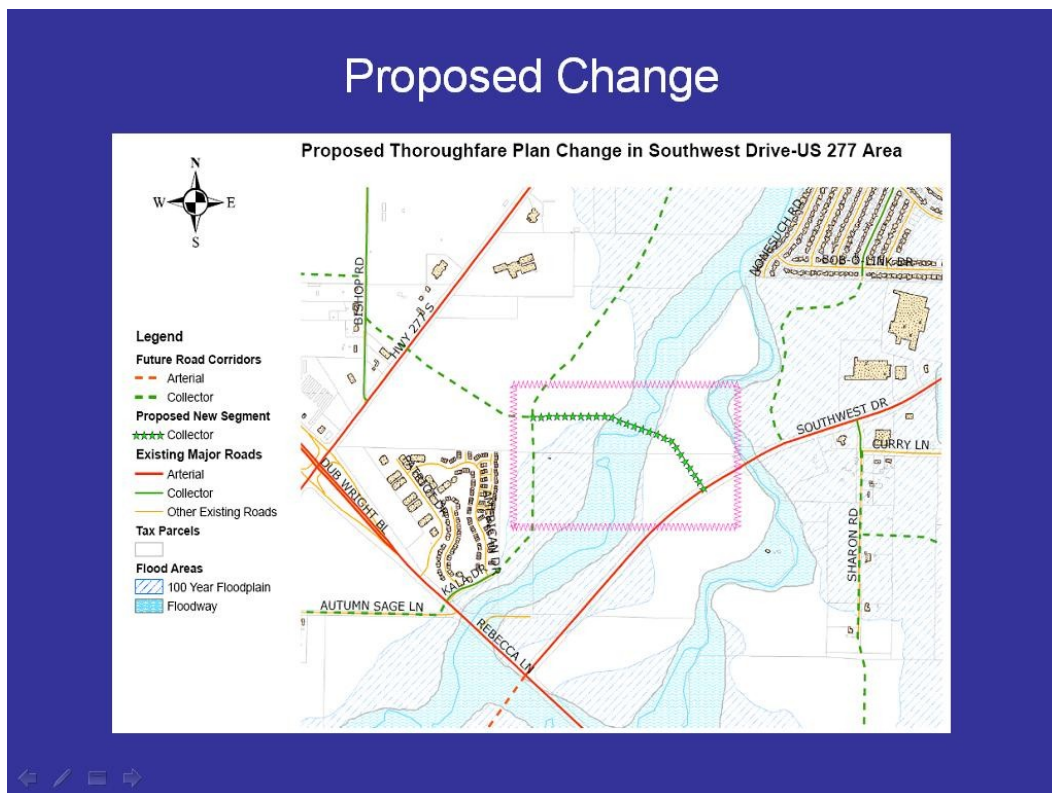
The south side US HWY 277, near Bassetti Elementary School, has recently seen new development activity. The current Thoroughfare Plan shows a collector street (Butterfield Parkway) passing through this area terminating at a "T" intersection with another future collector street. In early 2008, the developers of the Butterfield Meadows site approached City Staff suggesting we consider extending the "Butterfield Parkway" collector eastward to Southwest Drive. City Staff routinely forwards such suggestions when we find them to have potential merit.

This specific action to revise the Thoroughfare Plan would extend a collector street that is already on the Thoroughfare Plan by adding a new section to it. This would provide a direct

connection between two arterial streets. The new road would cross a shallow tributary of Elm Creek. The change in elevation at this point appears to be less than 10 feet reducing the engineering challenge.

The proposed change will provide improved traffic flow to and from newly zoned commercial properties along US HWY 277 and to the existing retail centers along Southwest Drive. More convenient and direct access to and from these sites will be available to both the immediate and general residential lots in the area. This will reduce trip lengths, congestion, and will enhance safety. The new connection may eventually help justify a traffic signal at the intersection with US 277.

The P&Z recommended approval (5-0) of this amendment on September 2, 2008. City Staff concurs with the P&Z.



Mayor Pro-tem Chase opened the public hearing the council heard from the following:

- Tal Fillingim agent for Butterfield Meadows site, Mr. Fillingim advised the council that they had met with city staff and there is only two property owners involved in this area. Planning and Zoning has approved and ask that council approve the change.

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

Council and staff discussion included: 1) notification of land owners; 2) transportation aspect is this a good decision; and 3) all affective parties have had time to be heard in this issue.

Councilwoman Moore made the motion to approve the Resolution to amend the Thoroughfare Plan in an area generally between US HWY 277 and Southwest Drive Councilman Williams seconded the motion and the motion carried. Councilman Spano left during the discussion.

AYES: Councilman Chase, Williams, Briley, Higgins, and Councilwoman Moore.

NAYS: None

The Resolution is numbered #33-2008 and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE TO AMEND THE CITY'S THOROUGHFARE PLAN MAP.

EXECUTIVE SESSION

Mayor Pro-tem Chase 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.

There being no further business the meeting was adjourned at 7:24 p.m.

Danette Dunlap
City Secretary

Sam Chase
Mayor Pro-tem