

**CITY COUNCIL WORKSHOP MEETING**  
**September 3, 2009, 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 Special Session on September 3rd, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Shane Price, Stormy Higgins, Joe Spano, Anthony Williams, Robert O Briley, absent Councilwoman Laura Moore. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Mayor Archibald gave the invocation and led the Pledge of Allegiance to the Flags of the United States of American and the State of Texas.

David Vela Assistant City Manager, Travis McClure Land Agent and Dan Santee City Attorney jointly presented the following information with regards to the sell of City owned land and Land Banks.

**Right to Sell/Land Recapture**

- City has the right to sell property (Local Government Code, Chapter 272)
- City has identified current agricultural leases to sell
- Current lease provisions:
  - 60 days written notice to terminate lease
  - Lessor shall return unearned pro-rata portion of lease payment to Lessee
  - Lessor shall pay Lessee for actual necessary expenses incurred up to the time of reclamation by Lessor; with limitations Lessor is not liable to Lessee for loss of income, etc.

Council reviewed the following tracts of land owned by the Water Utilities Department.

**Lake Tract #1** – City has owned since the 1920's or 1930's and was purchased prior to building Lake Fort Phantom Hill. Property is not critical to the water department and could be sold.

- Size: 328.73 ac.
- Lease Payment: \$2,401/year
- Revenue: Water Fund
- Lease Expires: 6/30/2010
- Proximity to Veterans' Cemetery may entice development

**Lake Tract #4** – Located on the back side of the dam at Lake Fort Phantom Hill, there has been past interest from adjacent land owners to purchase this property.

- Size: 345 ac.
- Lease Payment: \$2,250/year
- Revenue: Water Fund
- Lease Expires: 6/30/2010

Some property in tract should be retained to allow for buffer zone outward from dam structure and for maintenance of outlet structure.

**Hamby "A" Tract** – All leased to the same tenant. The City owns the mineral rights.

- Size: 1,541 ac.
- Lease Payment: \$20,649.60/year
- Revenue: Water Fund
- Pasture and farmland
- Portion west of CR311 is irrigated and recommended for sale
- Portions east of CR308 and north of FM3522/Jones Co. Rd. also recommended for sale

### How to Proceed

- Before City sells land we must:
  - Provide notice to general public in newspaper of general circulation in county
  - Notice must include description of land and procedure for submitting sealed bid
  - Notice must be published on two separate dates
  - Sale may not be made until after 14<sup>th</sup> day after the date of second publication

### Considerations

- Revenue from sale goes to Water Utility Department
- No fiscal benefit to general fund
- Sale of property is not guaranteed
- Need direction from Council

Dan Santee City Attorney reviewed the process of Land Banks in the City of Abilene.

## Abilene Land Bank Program

### What is a Land Bank?

- Entity used to acquire and hold property for the purpose of encouraging redevelopment.
- Two classifications of property eligible for land bank
  - Property acquired under Urban Land Bank Program
  - Property bought by or donated to Land bank outside of Urban Land Bank Program

### Urban Land Bank Program

- Land bank program authorized by the Local Government Code.
- Properties **must** be used for affordable housing.
- Buyer must be a “qualified developer” or a “qualified” Community Housing Development Organization (CHDO) to participate.
- Properties are acquired at low cost through foreclosure of a tax lien.
- Taxing units agree to waive back taxes.

### What developers can participate?

- Urban Land Bank Program
  - Any developer who has developed three or more housing units within the past three years and has a development plan approved by the City.
  - Community Housing Development Organization (CHDO) certified by the City of Abilene that meets the “qualified organization” requirements of the Local Government Code.
    - Habitat for Humanity
    - Connecting Caring Communities

- Purchased or Donated
  - Any developer subject to rules developed by the City.

#### What qualifies a CHDO under the Urban Land Bank Program?

- CHDO that contains within geographical boundaries of operation a portion of property available for purchase under Urban Land Bank Program; and
- CHDO has built at least three single family homes or duplexes or one four unit multifamily dwelling within preceding two year period; and
- Within preceding three-year period CHDO has rehabilitated or developed units within a two mile radius of the property for sale.

#### What properties are available?

- Urban Land Bank Program
  - Foreclosed property in which the amount due under the judgment is more than the market value of the property.
  - Property must have delinquent taxes for a total of 5 years.
  - Property cannot be improved with a building or buildings.
- Purchased or donated
  - Any properties may be purchased by or donated to the land bank in accordance with rules developed by the City.
  - Purchases of City property by the land bank must comply with any applicable statutory provisions related to the sale of property.

#### Sale of Properties

- Urban Land Bank Program
  - Deed of sold properties must contain a reverter clause which returns the property to the land bank if the property is not developed for low income housing or within the allowed time frame.
  - Properties shall have deed restrictions requiring the development and sale of rental of property to low income households.
  - Qualified CHDO's have right of first refusal.
- Purchased or Donated
  - Sale of property must comply with any rules developed by the City of Abilene.

#### What can land be used for?

- Urban Land Bank Program
  - Affordable housing for sale or rent to low income households.
- Purchased or Donated
  - Any purpose subject to rules developed by the City.

#### What is affordable housing under Urban Land Bank Program?

- Monthly mortgage or monthly rent cannot exceed 30% of applicable median family income for that unit size.
  - For example, the maximum rent for a two bedroom apartment in Abilene is \$600.

#### What is a low income family under Urban Land Bank Program?

- Low income means gross income less than 80% of area median family income, adjusted for household size.
  - For example, in Abilene a family of four must make less than \$38,000.
- At least 25% of properties sold must be deed restricted for sale to low income households making no more than 60% of median family income adjusted for household size.
  - For example, in Abilene a family of four must make less than \$28,500
- Rental properties have stricter low income occupancy requirements.

#### How long can land be held?

- Urban Land Bank Program
  - Property must be sold within 3 years following acquisition by land bank.
  - If not sold, property will revert to taxing units who were a party to the foreclosure.
  - Once sold, the developer has two years to get building permits and close on development financing or property will revert to land bank.
- Purchased or donated
  - No limit on how long property can be held.

Considerations and discussion: 1) does the city want to work under both provisions? 2) How aggressive will we be? 3) What entity will function as a land bank? 4) what funds will be used to fund the land bank? 5) What environmental assessment will be done on prospective property? 6) other Statutory options include – Section 272.001 of the Local Government Code (g) A political subdivision may acquire or assemble land or real property interest, except by condemnation, and sell, exchange, or otherwise convey the land or interests to an entity for the development of low-income or moderate-income housing. The political subdivision shall determine the terms and conditions of the transactions so as to effectuate and maintain the public purpose. If conveyance of land under this subsection serves a public purpose, the land may be conveyed for less than its fair market value. In this subsection, "entity" means an individual, corporation, partnership, or other legal entity; 7) Section 253.010 of the Local Government Code – sale to non-profit or religious organizations; 8) in order for the City to move forward they would need an Ordinance establishing the Land Bank; 9) continue to move forward on sale of leased/owned city property; 10) put together the non-statutory land bank; and 11) place property back into use.

No action was taken by City Council.

There being no further business the meeting was adjourned at 9:50 a.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor