

CITY COUNCIL MEETING
December 3rd, 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 Regular Session on December 3rd, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Anthony Williams, Robert O. Briley, Stormy Higgins and 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.

Councilman Briley gave the invocation.

Mayor Archibald introduced Hunter Hererra he attends Wylie Jr. High and is an 8th grader and son of Assistant City Secretary Tiffni Hererra. Hunter led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

EMPLOYEE SERVICE AWARDS

Mayor Archibald and City Manager Larry Gilley presented the following Service Awards:

<i>Kenneth Allen</i>	<i>Maint. Crew Chief</i>	<i>20 Years</i>
<i>Charles Fry</i>	<i>Treatment Plant Operator III</i>	<i>20 Years</i>
<i>Amanda Cokonougher</i>	<i>Public Safety Dispatch Super.</i>	<i>25 Years</i>

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the Regular Meeting on November 19th there being no deletions, no additions, and no corrections, Councilman Briley made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, the motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

CONSENT AGENDA

Councilman Spano made the motion to approve consent items 6.1 through 6.6 as presented. Councilwoman Moore seconded the motion, the motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

Resolutions & Oral Resolutions:

6.1 Financing by the Stamford Higher Education Facilities Corporation for Abilene Christian University. Abilene Christian University has opted to have the Stamford Higher Education Facilities Corporation issue the obligation instead of the Abilene Higher Education Facilities Corporation since the City's bond and certificates of obligation sale will exceed the \$10 million bank qualified cap.

Resolution #38-2009 and captioned as follows:

RESOLUTION RELATING TO A PUBLIC HEARING AND APPROVING FINANCING BY THE STAMFORD HIGHER EDUCATION FACILITIES CORPORATION FOR THE BENEFIT OF ABILENE CHRISTIAN UNIVERSITY AND RELATED MATTERS.

6.2 Oral Resolution – Records Management Policy.

The Policy Manual has been prepared to assist each department in preparing departmental records as part of the City of Abilene Records Management Program as outlined and governed by the State of Texas Local Government Act.

6.3 Oral Resolution – Authorized the City Manager to execute Task Order 19 of the URS Corp. engineering contract. The fee for Task Order 19 is funded 95% by AIP Grant 37. The 5% local share for this task order, which totals \$4,123.27, be funded by the 2006 bond issue.

6.4 Resolution – authorized the City of Abilene to accept improvements named the Fire Safety House. City Council authorized the City Manager to execute any documents necessary to transfer the ownership of the Fire Safety House from the Friends to the City.

Resolution #39-2009 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY OF ABILENE TO ACCEPT IMPROVEMENTS NAMED THE FIRE SAFETY HOUSE LOCATED ON THE GROUNDS OF THE MELVIN MARTIN CENTER FOR CHILDREN'S SAFETY.

6.5 Resolution – supporting the Safe Routes to Schools program. The City Council supports grant requests for 2009 and authorized the City Manager or Designee to include a 25% local match of Funds and/or in-kind services for Grant requests.

Resolution #40-2009 and captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE, TEXAS, SUPPORTING THE SAFE ROUTES TO SCHOOLS (SRTS) PROGRAM AND GRANT REQUESTS FOR 2009. AUTHORIZING THE CITY MANAGER OR DESIGNEE TO INCLUDE A 25% LOCAL MATCH OF FUNDS AND/OR IN-KIND SERVICES FOR GRANT REQUESTS.

6.6 Oral Resolution – City Council authorized funds for the emergency replacement of the Buck Creek Screw Pump at the Screw Pump Lift Station. The screw pumps move a large percentage of the City's sewage. One of the two pumps can handle typical peak daily dry weather flows. Both pumps are needed during wet weather conditions. Failure of the screw pumps would require extensive emergency actions to avoid illegal discharges. Recent maintenance activities by the staff revealed extensive cracking of welds and structural metal in the weight bearing zone of the pump barrel. Council approved the expenditure of up to \$250,000 for replacement of the Buck Creek screw pump and authorized the City Manager or his designee to execute all necessary documents related to the contract.

REGULAR AGENDA

7.1 Danette Dunlap, City Secretary briefed the council on the Ordinance Replacing Chapter 2, “Administration” Article IV “Records and Information Management Program” of the Abilene Code of Ordinances in its entirety.

The City established procedures by Ordinance in 1986 for the retention and disposition of records. In 1990 the City Council as required by the Texas Local Government Records Act designated as the Records Management Officer of the City as the City Secretary.

The current ordinance is out of date and no longer relevant to the manner in which records are being kept. This new ordinance prescribes policies and procedures consistent with the Local Government Records Act.

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

Councilman Williams made the motion to approve the Ordinance Replacing Chapter 2 “Administration” Article IV “Records and Information Management Program. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

Ordinance **#36-2009** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE REPLACING CHAPTER 2, “ADMINISTRATION” ARTICLE IV “RECORDS AND INFORMATION MANAGEMENT PROGRAM” OF THE ABILENE CODE OF ORDINANCES IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND CALLING FOR A PUBLIC HEARING.

7.2 Jon James, Director of Planning and Development Services briefed the council on Ordinance for **Case No. Z-2009-16**, a request from the Landmarks Commission to rezone property from RM-3 (Multi Family residential) to RM-3H (Multi Family residential with Historic Overlay) zoning, located at 702 Meander St.

Currently the property is under condemnation by the City of Abilene. It was purchased August 3, 2009 by Scott and Nellie Tillman who are working to restore the house and property with the intention to make it their permanent residence. A building permit request by the Tillman’s triggered the review for protection by the Landmarks Commission and allowed the commission to intercede on behalf of preservation. On August 25, 2009 the Landmarks Commissions elected to be the applicant for Historic Overlay Zoning for the property located at 702 Meander based upon the information presented.

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

Councilman Price made the motion to approve Ordinance for **Case No. Z-2009-16**, a request from the Landmarks Commission to rezone property from RM-3 (Multi Family residential) to RM-3H (Multi Family residential with Historic Overlay) zoning, located at 702 Meander St. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Moore and Mayor Archibald

NAYS: none

Ordinance #37-2009 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.

Location: 702 Meander St.

7.3 Jon James, Director of Planning and Development Services briefed the council on Ordinance for **Case No. Z-2009-17**, a request from Aaron Waldrop to rezone property from AO (Agricultural Open Space) to RS-6 (Single Family Residential) zoning, located adjacent to the west side of Indian Wells Subdivision and south of Dakota Springs Section 1.

Currently the property is zoned AO and is undeveloped. There is an existing single family subdivision to the northeast of the subject property and the request would be extending the single family development to the south.

Mayor Archibald opened the public hearing and the council heard from:

- Tal Fillingim – agent for Mr. Waldrop. Mr. Fillingim spoke for the approval of the zone change.

Mayor Archibald closed the public hearing.

Councilman Briley made the motion to approve the Ordinance for **Case No. Z-2009-17**, a request from Aaron Waldrop to rezone property from AO (Agricultural Open Space) to RS-6 (Single family Residential) zoning, located adjacent to the west side of Indian Wells Subdivision and south of Dakota Springs Section 1. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Moore and Mayor Archibald

NAYS: none

Ordinance #38-2009 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.

Location: adjacent to the west side of Indian Wells Subdivision and south of Dakota Springs Section 1.

7.4 Jon James, Director of Planning and Development Services briefed the council on the Ordinance for **Case No. Z-2009-18**, a request from Charles Barbee to rezone property from RS-6 (Single Family Residential) to MH (Mobile Home) zoning, located at 6009 Pueblo Dr. and 933 Baker St.

The property is currently zoned RS-6 and has a single family residence on the property. There is an existing mobile home subdivision to the northwest of the subject property. There is a mix of single family and multifamily developments in the immediate area of the property.

Planning and Zoning Commission recommended approval of a 200'X200' tract of land on 933 Baker Street to be zoned MH by a vote of four in favor and none opposed. Staff agrees with P & Z.

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

Councilman Price made the motion to approve the Ordinance on the Planning and Zoning Commission recommendation for Case No. **Z-2009-18**, a request from Charles Barbee to rezone property from RS-6 (Single Family Residential) to MH (Mobile Home) zoning, located at 6009 Pueblo Dr and 933 Baker St. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Moore and Mayor Archibald

NAYS: none

Ordinance **#39-2009** 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.

Located: at 6009 Pueblo Dr. and 933 Baker St. being a 200'X200' tract

7.5 Jon James, Director of Planning and Development Services briefed the council on Ordinance for **Case No. TC-2009-03**, a request from the City of Abilene to abandon Rose St. beginning at the north right-of-way line of S. 3rd Street and extending approximately 328 ft to the north.

Improvements to this right-of-way have never been completed. The right-of-way was dedicated for public use as part of the Original Town Abilene Plat. The right-of-way width varies from 70 ft to 38 ft. There are existing platted lots that have their only access off of Rose St.

The city intends to close this alley to provide better security to the surrounding property owners. Since there are existing platted lots that have their only frontage along Rose St., a replat must be done to ensure that there are no lots left without street frontage if the right-of-way is abandoned.

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

- Robert Allen – with the Metropolitan Planning Organization, supported the abandonment of Rose Street.

Mayor Archibald closed the public hearing.

Councilwoman Moore made the motion to approve the Ordinance for **Case No. TC-2009-03**, a request from the City of Abilene to abandon Rose Street beginning at the north right-of-way line of S. 3rd Street and extending approximately 328 ft to the north. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Moore and Mayor Archibald

NAYS: none

Ordinance #40-2009 and captioned as follows:

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.

Location: Rose Street beginning at the north right-of-way line of S 3rd Street and extending approximately 328 ft to the north.

7.6 Jon James, Director of Planning and Development Services briefed the council on the amendments to the Thoroughfare Plan in an area generally described as being east of Potosi Road, north of Buckskin Road, and south of Old Elmdale Road at Hwy 36.

The proposed amendment would shift the alignment of the future expressway to the south of their property, to allow the proponent to develop the property as they had intended. The proposed alignment would also shift the right-of-way of the expressway onto properties to the east and south that currently have no such obligation. The location of the future expressway on the Thoroughfare Plan is general location for where the right-of-way should be located. The shift of the expressway to the south would not affect the overall plan.

Recommendation coming forward from the Planning and Zoning Commission is to shift the future alignment of the proposed Expressway to the south property line of the proponents property, leaving the entire right-of-way width on the proponents property, therefore not affecting any of the property owners to the south who were originally unaffected by future alignment of the proposed Expressway by a vote of 4 in favor and none opposed.

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

- Bob Lindley – Engineer and representing the owners Cary Clark and Richard LeMay spoke for shifting the alignment of the future expressway to the south of their property.
- Robert Allen – Metropolitan Planning Organization, spoke in regards to the future extension of FM 707.

Mayor Archibald closed the public hearing.

Councilwoman Moore made the motion to approve the Resolution amending the Thoroughfare Plan based on the recommendation from the Planning and Zoning Commission – leaving the entire right-of-way width on the proponent’s property, therefore not affecting any of the property owners to the south. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Moore and Mayor Archibald

NAYS: none

Resolution #41-2009 and captioned as follows:

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

7.7 Jon James, Director of Planning and Development Services briefed the council on the Ordinance annexing property in accordance with the City's Annexation Plan adopted December 7, 2006 and amended July 10, 2008; and setting a public hearing on December 17, 2009.

Over the past 3 years, staff has studied the area, prepared an inventory of existing types and levels of service, posted notice and held 2 public hearings, and prepared and posted a Service Plan with the help of an appointed citizen committee.

Annexation Service Plan

- ❖ An inventory of services and facilities to be provided in an Annexation Area:

Services provide immediately upon annexation:

- *Police protection;*
- *Fire protection;*
- *Maintenance of (public) parks, playgrounds, and swimming pools;*
- *Maintenance of any other publicly owned facility, building, or service;*
- *Maintenance of drainage facilities;*
- *Maintenance of (public) roads and streets, including street lighting and traffic control devices.*

Other Services:

- **Solid waste collection** – offered immediately; can keep private service up to 2 years
- **Water facilities** – continues with Potosi WSC; City may serve future development
- **Wastewater facilities** – semi-rural development served by on-site septic systems; new urban/suburban development served by City sewer
- **Road Construction** – Rebuilding Hardison Lane between Maple and Oldham within 5 years (this is above what is minimally required by state law)

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

Those citizens speaking against the annexation where:

- Vada Reed
- James Richard
- Spencer Butcher - Maple Street
- Ken Barbian – Hardison Lane
- Jimmy Headstream – Sweetwater
- Ron Konstantin
- Tom Clark
- Tammy Reese – Harrisburg Road

Mayor Archibald closed the public hearing.

Council and staff discussion included: 1) the economics of annexation.

Mayor Archibald made the motion to approve the First Reading on the Ordinance annexing the property in accordance with the City's Annexation Plan adopted December 7, 2006 and amended July 10, 2008. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Moore and Mayor Archibald

NAYS: none

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, PROVIDING FOR THE EXTENSION OF THE BOUNDARY LIMITS OF THE CITY OF ABILENE, TEXAS, AND THE ANNEXATION OF CERTAIN TERRITORY LYING ADJACENT AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF ABILENE.

7.8 Leslie Andrews, Program Administrator briefed the council on the Standards of Care. The Standards of Care require three inspection/review levels be performed each year to insure compliance. The first level is performed by the Recreation Coordinator to confirm adherence to the Standards themselves. The second is a visual inspection of the facilities to be conducted by the program Administrator with the assistance of a certified leisure professional not associated with the City of Abilene. That visual inspection was conducted on October 21, 2009. The Certified Parks and Recreation Professional who assisted was Scott Swigert, Parks and Recreation Manager of Midland, Texas. The third level is an annual site inspection by the Fire Marshall and Environmental Health. All of these inspections and reviews were satisfactorily completed and the program is in compliance. Mr. Swigert offered a number of suggested improvements staff is planning to implement in the coming year. These include: 1) adding locations for cell phone and email addresses on several forms; 2) adding that communicable diseases will be reported to the Taylor County Health Department; 3) placing uniform signs near the entrances listing the Recreation Center Rules; 4) posting guidelines for discipline and release of participants.

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

Councilwoman Moore made the motion to approve the Ordinance on the Standards of Care. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Moore and Mayor Archibald

NAYS: none

Ordinance #41-2009 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PROGRAMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; AND CALLING A PUBLIC HEARING.

7.9 Tommy O'Brien, Director of Water Utilities introduced Tenaska's request for reclaimed water.

Council heard from Helen Manroe - Tenaska Manager, Business Development. Ms. Manroe gave a brief overview about Tenaska. This will be a cutting edge power plant designed to help support two critical national initiatives – controlling greenhouse gases and energy security. The plant is designed to capture 85-90% of the plant's carbon dioxide for use in enhanced oil recovery.

Ms. Manroe briefly reviewed the Economic Impact study for the Abilene area. Finding included: 1) a benefit to Abilene over the five-year construction period between \$146 and \$175 million; 2) Benefit to Abilene during the plant's 50-year operating life of between \$1.375 million and \$3 million per year; 3) these findings established a floor for the benefits Abilene can expect from the project.

Mayor Archibald then announced the council will hear input through a public hearing and asked that the citizens of Abilene go first then others can follow.

Council heard from the following citizens that voiced their concerns against Tenaska:

- Morris Stevens
- Sarah Strom Kieschnick
- Roger Dennis
- Herman Lloyd
- Ron Konstantin
- Jeff Haseltine
- Charles Coody – Diamondback Golf Course
- Joy Hundley
- Spencer Dumont – Texas Parks and Wildlife – concern over Lake Kirby
- Raymond Cochran – Elm Valley
- Richard Broadwell – Trent
- Joe Starkey – 3 miles away
- Elaine Starkey – 3 miles away
- Patricia Broadwell – Roscoe
- Jan Bedford – Abilene
- Jimmy Headstream - Sweetwater
- Kathy Boley – Sweetwater
- Ryan Rittenhouse – Austin TX

Council heard from the following citizens that voiced their support for the sale of Effluent to Tenaska:

- David Bell – West Central Texas Municipal Water District
- Roger Huber – Ft. Phantom Hill Association – against providing any drinking water, but they would be in support of selling effluent under certain circumstances
- Debbie McClure – Abilene Regional Medical Center
- Cleve Whitener – Lauren Engineer
- Lou Paulson
- Greg Wortham – Mayor of Sweetwater
- Ken Becker – Sweetwater Economic Development
- Rex Bland – Hawley
- Tim Fambrough – Nolan County Judge
- Tom Henderson – Fisher County

This item was for information input only, no decisions were made.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 12:33 p.m. 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 at 1:28 p.m. and reported no votes or action was taken in Executive Session in regards to Section 551.071 Consultation with the City Attorney, Section 551.072 Real Property. Councilman Williams left during Executive Session.

10. Resolution – Reappointment of Municipal Court Judge Keith Barton.

Councilman Price made the motion approve the Resolution reappointing Keith Barton the Municipal Court Judge. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Briley, Higgins, Councilwoman Moore and Mayor Archibald
NAYS: None

Resolution #42-2009 and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
REAPPOINTMENT KEITH A. BARTON MUNICIPAL COURT JUDGE FOR A TERM OF TWO
YEARS.

- 11 Oral Resolution approving the appointment/reappointments to the following boards and commissions.
No appointments made to the Development Corporation of Abilene.

There being no further business the meeting was adjourned at 1:28 p.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor