

**CITY COUNCIL MEETING**  
**August 12, 2010 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 August 12<sup>th</sup>, 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 Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Robert Briley gave the invocation.

Mayor Archibald introduced Andre Monterrosa son of Rita Monterrosa a Paralegal with the City Attorney's Office. Andre attends Wylie Intermediate and is a 3rd grader. Andre led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**EMPLOYEE SERVICE AWARD**

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

*Joseph Helm    Animal Control Officer II        25 Years*

**SCHOLARSHIP AWARDS**

Mayor Archibald and Donna Littlefield presented the following Scholarship Awards:

*Amanda Catherine George, daughter of Jolene George, Public Health Nurse.*

*Karsten Andrew Goodman, son of Rodney Goodman, Fire Lieutenant in Tactical Operations*

*Lauren Elizabeth McClure, daughter of Travis McClure, Land Agent*

*Sarah Elizabeth Moore, daughter of Danny Moore, Firefighter in Tactical Operations*

*Jackson Bryan Teal, son of Ron Teal, Firefighter in Tactical Operations*

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the Regular Meeting on July 22<sup>nd</sup> and the two budget workshop meetings July 26<sup>th</sup> & 27<sup>th</sup> there being no deletions, no additions, and no corrections, Councilman Briley made a motion to approve the minutes as presented. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

## CONSENT AGENDA

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

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

NAYS: None

### Resolutions & Oral Resolutions:

- 6.1** Resolution – Council approved the designation of Names for Access Ways on private property for addressing purposes.

Resolution [#20-2010](#) and captioned as follows:

A RESOLUTION DESIGNATING NAMES FOR TWO ACCESS WAYS ON PRIVATE PROPERTY FOR 911 AND OTHER ADDRESSING PURPOSES.

Name	Description
Bledsoe Road	North from Antilley Rd, 400 feet west of Twin Oaks Drive
Charles Lane	West from Bledsoe Rd, 600 feet north of Antilley Road

- 6.2** Oral Resolution – Council accepted the anticipated FY10 FAA Airport Improvement Program Grant 40. Council authorized the City Manager to accept a possible offer from the FAA for AIP Grant 40 in an amount up to \$1,300,000. This grant will fund construction of the Airfield Lighting Control System and New Beacon, both resulting from the new control tower construction, and design of taxiway reconstruction projects. The actual amount of the grant will be the total of the bid process of these projects.
- 6.3** Oral Resolution – Ratifying Amendment 3 to the Meet and Confer Agreement between the City of Abilene and the Abilene Police Officers' Association. This agreement provides for extending the term of the agreement for 1 year to September 30, 2011, taking into consideration the City's current economic and budgetary challenges. Council ratified the agreement.
- 6.4** Oral Resolution – Dissolving the Mixed Use Review Board. With the adopting of the Land Development Code, the Mixed Use Review Board has been eliminated. Additionally a new Mixed Use (MX) District has been created. The MX District is designed to permit establishment of integrated nonresidential and residential activities where appropriate and desirable, under conditions that assure an acceptable level of harmony among land uses. City Council will now review zoning change requests to the MX district just as any other request.
- 6.5** Oral Resolution – Abilene-Taylor County Events Venue District Revised FY 2010 and Approved FY 2011 Budget. The Council acknowledges receipt of the Venue District Budgets.

### Award of Bid:

- 6.6** Bid Award – **BuyBoard #284-08** Purchase of Electronic Control Devices (ECD's) (Tasers). Total cost \$56,308.55 – money will come from the Narcotics Seized Funds (for 60 of the Tasers) and Investigative Services (for 6 of the Tasers). The Council approved the purchase of the devices.

## REGULAR AGENDA

**7.1** Jon James Director of Planning Development Services briefed the City Council on the Appealed item: Ordinance **Z-2010-09** on a request from Sojourner Drilling Corporation to rezone property from GR (General Retail) to PD (Planned Development) zoning, located at 3366 Ambler Ave.

Currently the property is zoned GR and has been developed with a strip center commercial structure. The adjacent property to the north is developed with an apartment complex, as well as the property to the north across Sherry Lane. There are single family neighborhoods bordering the subject property on the south, east, and west. There are commercial developments to the south and west of the property. Notification was sent and 10 responses were received - 5 in favor and 5 against.

Staff recommendation: denial, due to the incompatibility of natural gas and oil drilling at this location in a predominantly residential neighborhood along an Enhancement Corridor. Staff recommends continuation of the existing General Retail zoning as it is more compatible with this area.

Planning and Zoning Commission recommendation: denial (5-0). There was discussion on the negative impacts that such an intensive use as drilling for natural gas and oil would have on the surrounding residential neighborhoods. The Commission also felt that the current GR zoning is the right zoning for the subject property and the proposed use is not suitable for the property.

Council and Staff discussion included: 1) council has approved drilling north of this location in the past; 2) other wells that Sojourner have drilled in the area have received no complaints from the residents in the area; and 3) the well can be drilled in about 4 to 5 days with a minimum noise level.

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

- Alan Burns - Sojourner Drilling Corporation. Asking for support of the zone change.
- Marvin Norwood – Operator of the Bingo located on Ambler. In favor of the zone change.

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

Councilman Price made the motion to approve Ordinance **Z-2010-09** on a request from Sojourner Drilling Corporation to rezone property from GR (General Retail) to PD (Planned Development) zoning, located at 3366 Ambler Ave. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

Ordinance [#18-2010](#) and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART B, "LAND DEVELOPMENT CODE" OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-131 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

**Location: 3366 Ambler Ave.**

**7.2** Jon James Director of Planning and Development Services briefed the Council on a proposal to amend Section 3.1.1.1 ETJ Subdivision Provisions and Section 4.2.1.3 Off-Street Parking-minimum requirements and standards of the Land Development Code (LDC).

**Amendment to the Land Development Code (Section 3.1.1.1) (Changes in red)**

f) In lieu of meeting the City's water provision standards and roadway improvements, a proposed subdivision ~~where all lots front on an existing public or private street and are served by a public water supply where existing lines are currently in place~~ may instead provide a separate dry line for future use or may enter into a deferral agreement with the City to provide upgraded lines and roadway improvements in the future. A proposed subdivision that qualifies as a minor plat shall be exempt from meeting the City's water provision standards and roadway improvement requirements. This exemption shall not exempt any right-of-way dedication requirements.

Council and Staff discussion included: 1) it will be an exemption and will not need approval from the Planning & Zoning Commission or the City Council; 2) burden on future property owners in later years; 3) the area effected is in the ETJ; and 4) occurs on lots of 4 or less - minor plats.

A discrepancy was found in the LDC relating to parking requirements in multiple-family development where a clubhouse is provided on the site. Section 4.2.1.3 Off-Street Parking – Minimum Requirements & Standards is being amended.

**Amendment to the Land Development Code (Section 4.2.1.3)**

(2) In any multiple-family, duplex, or townhome dwelling unit or condominium development for which leasing offices are provided on the site:

a. Visitor parking shall be provided according to the "Office, Professional and General Business" parking requirements within the Land Use Matrix, based on the square footage of the leasing office. ~~specifically at a ratio of one (1) parking space per three hundred (300) square feet of floor area.~~

b. Where clubhouses are provided on the site, off-street parking shall be provided according to the "Retail Business, General" parking requirements within the Land Use Matrix, based on the square footage of the clubhouse facility. ~~specifically at a ratio of one (1) parking space per three hundred (300) square feet of floor area.~~

Planning & Zoning Commission Recommendation: Approval of amendments to Sections 3.1.1.1 and 4.2.1.3 by a vote of (5-0).

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

- David Todd Engineer with Enprotec/Hibbs & Todd – in support of the changes in the Land Development Code.

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

Council and Staff discussion included: 1) concerns over cost to citizens in the future and the City of Abilene taxpayers.

Councilman Higgins made the motion to **TABLE** the Section of Ordinance amending **Section 3.1.1.1** - ETJ Subdivision Provision and approved the Section of Ordinance amending **Section 4.2.1.3** Off-Street Parking-

minimum requirements and standards of the Land Development Code (LDC). Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance [#19-2010](#) and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," 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

### **Section 4.2.1.3 Off-Street Parking Minimum requirements & standards of the Land Development Code**

**7.3** Jon James Director of Planning and Development Services briefed the Council on **PA-2010-02**, a petition for relief from a dedication or construction requirement for Memorial Drive south of The Villages of Abilene development.

Enprotec/Hibbs & Todd has submitted a letter to the City Engineer requesting a waiver of the requirement to construct Memorial Drive as a condition of platting property located south of The Villages of Abilene development.

The subdivision process is the time at which cities are authorized to require roadway construction when adjacent to the proposed development. In some cases, however, these costs may be disproportionate to the impacts of a proposed development. It is in these situations that a waiver or deferral of roadway construction requirements is warranted per a Proportionality Appeal. Per Section 1.3.2 {Proportionality Appeal: Petition for Relief from Dedication or Construction Requirement} of the City's Land Development Code, the applicant is petitioning the Council to find that the requirement to construct Memorial Drive is a disproportionate burden on the property taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems. The applicant is asking that the obligation for construction be eliminated, but instead that they be allowed to only build the portion needed to provide northern access to the proposed development.

Development Review Committee Recommendation: denied this request based on the following factors: the Master Thoroughfare Plan identifies a future collector street in this area; the right-of-way for Memorial Drive currently exists; the only access to the proposed development is from Memorial Drive; and the request does not prove that the cost of building Memorial Drive is disproportionate to the cost of the development.

Staff Recommendation: denied based on the findings of the Development Review Committee.

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

- David Todd – on behalf of the Villages of Abilene – in support of the Proportionality Appeal.

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

Council and Staff discussion included: 1) construction obligations of the developer; 2) the location of the planned development; 3) the property south of the planned development that narrows toward Antilley Road; 4) Memorial Drive will be needed when the access road becomes one way next to US Hwy 83/84; 5) city already owns the right-of-way for Memorial Drive; 6) Memorial Drive currently only runs in front of the other development north of the current proposed development; 7) will add cost to the proposed lots; 8) heard from the Developer Don Whitehead who felt that he should only have to build out the portion of Memorial Drive at the entrance of the proposed development; and 9) need more information on the disproportionate burden to the developer.

Councilman Higgins made the motion to **TABLE ITEM PA-2010-02** – A Petition from Enprotec/Hibbs & Todd for relief from a Dedication or Construction Requirement for Memorial Drive south of The Villages of Abilene development. Councilwoman Miller seconded the motion, motion carried.

AYES: Councilmen Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald  
NAYS: Councilman Price

**7.4** Megan Santee Interim Director of Public Works briefed the council on the Application/Permit to drill and/or operate an oil and/or gas well by Bob Hughes Oil Co., for the Hantman #1 Permit #696026. Applicant has met all requirements.

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 **Permit #696026** an application/permit to drill and/or operate an oil and/or gas well by Bob Hughes Oil Co., for the Hantman #1. Councilman Williams seconded the motion, motion carried.

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

**7.5** Jon James Director of Planning and Development Services briefed the council on the 2010-2014 Consolidated Plan and FY 2010/2011 One-Year Action Plan for CDBG and HOME Programs.

As an entitlement city receiving funds from the U.S. Department of Housing and Urban Development (HUD), the City of Abilene is required to submit a Consolidated Plan that strategically addresses the City's goals and objectives for housing and community development over the course of a five-year period. The City of Abilene is also required to submit a One-Year Action Plan outlining specific uses of Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funds planned for the coming fiscal year. The Office of Neighborhood Services Advisory Council was instrumental in the development of the goals and objectives of the Consolidated Plan which were adopted by Council on May 22, 2010, after allowing a public hearing for public comment.

**CDBG Revenue Sources**

• CDBG Entitlement	\$1,179,667
• Reprogrammed Funds	\$ 71,131
• Sect 108 Debt Reserve	<u>\$ 146,170</u>
• Total Revenue	\$1,396,968

**CDBG Expenditures:**

**Public Service**

- Subject to HUD 15% Public Services cap

- Access to Jobs \$40,000
- Medical/Dental \$29,000
- Senior Nutrition & Activities \$35,820

**CDBG Non-Public Service  
Housing/Homelessness Projects**

- Critical/Limited Repair \$120,000
- Housing Administration \$70,040
- Abilene Volunteer Weatherization \$4,000
- Section 108 Debt Repayment/Reserve \$871,750

**CDBG Non-Public Service  
General Administration and Planning**

Subject to HUD 20% Administration cap

- Planning and Development Services Administration \$129,270
- Indirect \$97,090

**HOME Revenue Sources**

- HOME Entitlement \$615,770
- Reprogrammed Funds \$67,740
- Program Income \$8,630
- Total Revenue \$690,140

**HOME Expenditures**

- Single-Family Rehabilitation \$476,280
- Housing Rehabilitation Admin \$27,560
- Neighborhood Initiatives Admin \$33,930
- Community Housing Development Organization (CHDO) \$92,370

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 FY 2010/11 Action Plan for the Consolidated Plan and projected use of Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) Funds. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

Resolution [#21-2010](#) and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
APPROVING THE FY 2010/2011 ACTION PLAN FOR THE CONSOLIDATED PLAN AND  
PROJECTED USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND  
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUNDS

**7.6** Mindy Patterson Director of Finance briefed the council on the proposed 2010-11 Tax Rate. The FY 2011 Budget approved by Council on July 27, 2010 set the tax rate at 69.86¢. State law requires that two public hearings must be held prior to the final public hearing and vote. Final vote will take place on September 9, 2010.

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

- Fal Falcioni – for consolidation of functions between City, County and AISD.
- Rob Byrd – suggested that the city cut programs that don't benefit everyone.
- Jim Pickens – concerned about increases from the federal level to the city level.
- Ron Konstantin – concern for those that pay taxes.
- Connie Robinett – concerned over increase in taxes with the expiration of the Bush Tax Cuts.
- Charles Zollars - would like to avoid any increase in taxes starting at the local level.

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

No action on this item. The next public hearing will take place on August 26, 2010.

### **EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 11:31a.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 2:13p.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property. Councilman Williams left before the end of the meeting.

There being no further business the meeting was adjourned at 2:13 p.m.

---

Danette Dunlap, TRMC  
City Secretary

---

Norm Archibald  
Mayor