

CITY COUNCIL MEETING
February 10, 2011 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 February 10th, 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 Kellie Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, Assistant City Secretary Tiffni Herrera and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Alyssa Hamilton. Alyssa attends Lee Elementary and is a 5th grader. Alyssa led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

EMPLOYEE SERVICE AWARDS

Mayor Archibald along with City Manager Larry Gilley recognized the following employees for their 20 years of service:

Michael E Burden, Fire Captain II, Fire Tactical Operations
Tommy L Langham, Medical Technologist I, General Health Services
Larry B Pendleton, Electronics Technician III, Communication Services
David M Phillips, Fire Fighter, Fire Tactical Operations
Jeffrey B Renfro, Fire Lieutenant, Fire Prevention
William J Richardson, Lead Supervisor, Fleet Maintenance
Guy E Workman Sr., Fire Fighter, Fire Tactical Operations

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the January 27th Regular Meeting with one correction made to the numbering of the consent agenda items, Councilman Price made a motion to approve the minutes as presented. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

CONSENT AGENDA

Councilman Briley made the motion to approve consent items 6.1, 6.2, 6.3, 6.4, 6.8 and 6.9 as recommended by staff. Items 6.5, 6.6, and 6.7 were pulled from the agenda prior to the meeting. One correction to the wording was noted to item 6.1, the Joint Election Agreement between the City of Abilene, City of Impact and Wylie ISD. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

Oral Resolutions:

- 6.1** Oral Resolution: Authorized the City Manager to sign an agreement between the City of Abilene, Wylie Independent School District (WISD), and the City of Impact to hold a Joint Election in certain Voting Precincts on May 14, 2011.
- 6.2** Oral Resolution: Authorized the Mayor to enter into an Election Services Contract with Taylor County Election Administrator to hold the City Election on May 14, 2011. The estimated cost to the City is \$30,731.80.
- 6.3** Oral Resolution: Amended the Notice of City Election by combining the following polling locations:
Added Precinct 101 to 205 & 107A – Johnston Elementary School 3602 North 12th
Added Precinct 103 to 102 – Church of Christ S.11th & Willis – 3333 South 11th
Added Precinct 204 to 203 & 401 – Sears Park Recreation Ctr – 2250 Ambler Ave
Added Precinct 305 to 306, 307,108 – Zion Luther Church -2801 Antilley Rd
Added Precinct 403 to 402 – Hillcrest Church of Christ – 650 East Ambler

Resolution:

- 6.4** Resolution: Ordering the City of Abilene General Election to be held on May 14, 2011.

Resolution [#1-2011](#) and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
ORDERING A GENERAL ELECTION TO BE HELD JOINTLY WITH WYLIE ISD AND
THE CITY OF IMPACT ON MAY 14, 2011

Pulled Items:

- 6.5** Oral Resolution: Authorizing Amendment 1 to Take Order 21 with URS to design a Perimeter Road as part of the rehabilitation of Taxiway C project.
- 6.6** Oral Resolution: Authorizing Change Order 3 to the construction contract with Duininck, Inc at Abilene Regional Airport.
- 6.7** Oral Resolution: Authorizing a new ground lease with OmniFlight at Abilene Regional Airport.

Resolution:

- 6.8** Resolution: In support of the submission of an Application to the Housing Tax Credit Program through the Texas Department of Community Affairs (TDHCA) by Anson Park III, LP for the project known as “Anson Park III”. Projects are required to provide documentation showing community support of the project. Anson Park III, LP has worked with the Sears Neighborhood Association, in which it will be located, and has received their support.

Resolution [#2-2011](#) and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, IN SUPPORT OF THE SUBMISSION OF AN APPLICATION TO THE HOUSING TAX CREDIT (HTC) PROGRAM THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) BY ANSON PARK III, LP FOR THE PROJECT KNOWN AS “ANSON PARK III”

Oral Resolution:

- 6.9** Oral Resolution: Authorized expenditure for fabrication and installation of upper bearing assembly at Buck Creek Screw Pump Station. Council awarded expenditure to Siemens Water Technologies Corporation in the amount of \$85,000 and authorized City Manager to execute all necessary documents related to the contract.

REGULAR AGENDA

- 7.1** Jon James, Director of Planning and Development Services briefed the council on an amendment to the Land Development Code Sections 1.4.4.1 (Special Exceptions) and 2.4.4 (Accessory Uses and Structures) regarding Accessory Dwelling Units. Mr. James presented three options, and stated that staff recommends Option #2, and Planning and Zoning Commission preferred Option #3.

Background

- This ordinance provision for accessory dwellings was put into the Land Development Code to legalize and allow for true “accessory dwellings” such as those commonly found in historic neighborhoods, such as within the Amarillo-Highland neighborhood.
- This revision was intended to clarify a number of those provisions based on recent questions and development activity.
- This provision was never intended to allow a second full size home on a single family lot, but to allow for a small-scale apartment-type dwelling on a lot that would be:
 - Limited in size
 - Similar to primary house in appearance
 - Not change the character of the neighborhood, particularly the appearance from the street.
 - Would not allow duplex in a SF neighborhood.

Summary of Options

| | Size of Accessory Dwelling allowed | What Board of Adjustment can waive through a Special Exception (SE) |
|---------------------|---|---|
| Option 1 (original) | Up to 50% of primary structure | Nothing |
| Option 2 (staff) | Up to 50% of primary structure (Board can waive w/ Special Exception for lots 2 acres+) | <ul style="list-style-type: none">• Size limit (lots 2 ac+)• Sell separately• 1 bathroom limit• Bldg materials |
| Option 3 (P&Z) | Lots < 2 acres: 50% of primary, up to 1,200 sf Lots 2 acres+: 50% of primary or 2.5% of lot, whichever is greater (Board can waive w/ Special Exception for any | <ul style="list-style-type: none">• Same as Option 2, plus:• Front facing door |

| | |
|-----------|--|
| size lot) | |
|-----------|--|

Proposed Ordinance Regulations – Option 1

Division 4 – Accessory Uses & Structures

Section 2.4.4.1 Description and Regulations by District Type

- (b) Residential Districts.
- (4) Accessory Dwelling Units.
 - a. **An accessory dwelling unit shall not be larger than fifty percent (50%) of the primary structure.**
 - b. No accessory dwelling unit shall be sold separately from the primary structure.
 - c. An accessory building or dwelling unit may have a maximum of one (1) bathroom.
 - d. An accessory dwelling unit shall be constructed in a manner in keeping with the general architecture and building material of the main or primary dwelling.
 - e. ~~An accessory dwelling unit must be located to the rear of the primary dwelling.~~ **No accessory dwelling unit shall have a front facing door unless located to the rear of the primary dwelling.**
 - f. An accessory dwelling unit shall be constructed only with the issuance of a building permit and with the same minimum building standards as the primary dwelling.
 - g. Any required additional parking for the accessory dwelling unit shall be provided with the required parking for the primary dwelling.
 - h. **If detached**, any wall of the secondary dwelling must be placed no closer than six feet (6') from the primary dwelling and/or any other structure existing or under construction on the same lot.

Proposed Ordinance Regulations – Option 2

Division 4 – Board of Adjustment (BOA) Procedures

Section 1.4.4.1 Special Exceptions

- (d) Special Exceptions Outlined.
- (13) **To allow an accessory dwelling larger than what would otherwise be allowed for properties being 2 acres or larger.**

Division 4 – Accessory Uses & Structures

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- (4) Accessory Dwelling Units.
 - a. **An accessory dwelling unit shall not be larger than fifty percent (50%) of the primary structure.**
 - b. No accessory dwelling unit shall be sold separately from the primary structure.
 - c. An accessory building or dwelling unit may have a maximum of one (1) bathroom.
 - d. An accessory dwelling unit shall be constructed in a manner in keeping with the general architecture and building material of the main or primary dwelling.
 - e. ~~An accessory dwelling unit must be located to the rear of the primary dwelling.~~ **No accessory dwelling unit shall have a front facing door unless located to the rear of the primary dwelling.**
 - f. An accessory dwelling unit shall be constructed only with the issuance of a building permit and with the same minimum building standards as the primary dwelling.
 - g. Any required additional parking for the accessory dwelling unit shall be provided with the required parking for the primary dwelling.
 - h. **If detached**, any wall of the secondary dwelling must be placed no closer than six feet (6') from the primary dwelling and/or any other structure existing or under construction on the same lot.
 - i. **For properties 2 acres or larger, a Special Exception may be approved by the Board of Adjustment for accessory dwellings larger than permitted by this Land Development Code. As part of the Special Exception, only items 'a' through 'd' above may be modified in addition to the size of the accessory dwelling.**

Proposed P&Z Recommendation – Option 3

Division 4 – Board of Adjustment (BOA) Procedures

Section 1.4.4.1 Special Exceptions

- (d) Special Exceptions Outlined.
- (13) **To allow an accessory dwelling larger than what would otherwise be allowed.**

Division 4 – Accessory Uses & Structures

Section 2.4.4.1 Description and Regulations by District Type

- (a) All Districts.
- (1) c. Accessory dwellings shall be exempt from this requirement on parcels or tracts of land that are two (2) acres or greater in size.

Division 4 – Accessory Uses & Structures

Section 2.4.4.1 Description and Regulations by District Type

- (b) Residential Districts.
- (4) Accessory Dwelling Units.
 - a. **Except for properties 2 acres or larger, an accessory dwelling unit shall not be larger than fifty percent (50%) of the primary structure. For properties 2 acres or larger, an accessory dwelling unit shall not be larger than fifty percent (50%) of the primary structure or 2.5% of the total lot size, whichever is larger.**
 - b. No accessory dwelling unit shall be sold separately from the primary structure.
 - c. An accessory building or dwelling unit may have a maximum of one (1) bathroom.
 - d. An accessory dwelling unit shall be constructed in a manner in keeping with the general architecture and building material of the main or primary dwelling.
 - e. ~~An accessory dwelling unit must be located to the rear of the primary dwelling.~~ **No accessory dwelling unit shall have a front facing door unless located to the rear of the primary dwelling.**
 - f. An accessory dwelling unit shall be constructed only with the issuance of a building permit and with the same minimum building standards as the primary dwelling.
 - g. Any required additional parking for the accessory dwelling unit shall be provided with the required parking for the primary dwelling.
 - h. **If detached**, any wall of the secondary dwelling must be placed no closer than six feet (6') from the primary dwelling and/or any other structure existing or under construction on the same lot.
 - i. **For properties 2 acres or larger, accessory dwellings shall be exempt from items 'c', 'd', & 'e'.**
 - j. **A Special Exception may be approved by the Board of Adjustment for accessory dwellings larger than permitted by this Land Development Code. As part of the Special Exception, only items 'a', 'c', 'd', & 'e' above may be modified in addition to the size of the accessory dwelling.**

TABLE 2-13: MAX SQUARE FOOTAGE FOR ACCESSORY BUILDINGS/DWELLINGS IN RESIDENTIAL DISTRICTS

| <i>Zoning District or Lot Size</i> | <i>Maximum Square Footage</i> |
|------------------------------------|---|
| Accessory Buildings | |
| AO | None |
| RS-6, RS-8, RS-12 | Ten percent (10%) of the entire lot area |
| MF | One-half of the square footage of the principle building(s) |
| Accessory Dwelling Units | |

| | |
|----------------|---|
| AO, RR, and RS | 800 sq. ft. <u>Lots <2 acres in size: 1,200 sq. ft.</u> <u>Lots >2 acres in size: 50% of the primary structure or</u> <u>2.5% of the total lot size, whichever is greater</u> |
|----------------|---|

Council and Staff discussion included: 1) set backs for accessory dwellings; 2) replatting of large lots and costs associated with a replat of property; 3) Fort Phantom Lake lots and 4) notification of landowners of possibility of new homes being built.

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

- Tim McClarty - Chairman of the Planning and Zoning Commission asked that Option #3 be approved, as recommended by the Planning and Zoning Commission.
- Guy Ogden - Questioned whether existing homes would be grandfathered.
- Sam Chase - Supporting Option #3
- Ron Konstantin - Supporting Option #3

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

Councilman Williams made the motion to approve Option #2 with the following changes – adding sliding scale from option #3, go to Board of Adjustment, eliminate bathroom limit by exception, address front facing door through Board of Adjustment. Councilman Higgins seconded the motion, motion failed.

AYES: Councilmen Spano, Williams, Higgins

NAYS: Councilmen Price, Councilman Briley, Councilwoman Miller and Mayor Archibald

Councilman Briley made the motion to approve the amendment to the Land Development Code Sections 1.4.4.1 (Special Exceptions) and 2.4.4 (Accessory Uses and Structures) regarding Accessory Dwelling Units with Option #3 as approved by Planning & Zoning. Mayor Archibald seconded the motion, motion carried.

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

NAYS: Councilmen Williams and Higgins

Ordinance [# 5-2011](#) and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS , PROVIDING FOR THE APPROVAL OF A CONDITIONAL USE PERMIT AS PROVIDED FOR IN CHAPTER 23, SUBPART B, “LAND DEVELOPMENT CODE,” OF THE ABILENE MUNICIPAL CODE; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH CONDITIONAL USE PERMIT; CALLING A PUBLIC HEARING; AND PROVIDING A PENALTY AND AN EFFECTIVE DATE

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 10:36 am 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 11:31 am and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel – Abilene Housing Authority and Frontier *Texas!* Board of Directors, Section 551.072 Real Property and Section 551.071 Litigation/Consultation with Attorney.

10. Mayor Archibald made the recommendation in the form of a motion to approve the following:

Appointments made to the following Board or Commission:

Abilene Housing Authority – New appointment - David Mukire

Frontier Texas! Board – New appointment – Kyle Frush (replacing Homer Hillis)

Jeff Gore (replacing Jimmy Parker)

Mayor Archibald allowed public comment on the board recommendations and they heard from the following:

- Dawn Waggoner – Read letter from Conni Robinett of her concerns against the liberal/progressive agenda coming into Abilene.
- Pat Hippely – voiced her concern with board appointments to the Abilene Housing Authority
- Ron Konstantin – talked about his arrest and the possibility of jail time for something that he had not done, and then read a poem.
- Dawn Waggoner – also voiced her concerns in regards to board appointments.

Mayor closed the public comment time.

Councilman Williams seconded the motion, motion carried.

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

NAYS: None

There being no further business the meeting was adjourned at 11:48 am.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor