

CITY COUNCIL MEETING
April 25th, 2013, at 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 April 25th, at 8:30 a.m. in the Council Chambers, 555 Walnut St. 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.

Councilman Price gave the invocation.

Mayor Archibald introduced Charity Hooper she is a 5th grader at Johnston Elementary School, and she led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATION

Mayor Archibald presented the following Proclamation:

May 12-18, 2013

National Police Week

Chief Standridge accepted the proclamation. Also represented where Taylor County Sheriff's Office and Texas Department of Public Safety.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the April 11th regular meeting there being no deletions, no additions, and no corrections. 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 and Councilwoman Miller and Mayor Archibald

NAYS: None

CONSENT AGENDA

Councilman Price pulled item 6.4. Councilman Williams made the motion to approve consent items 6.1 through 6.10 except item 6.4 as recommended by staff. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Resolutions:

6.1 **Resolution:** City Council approved Financing by the Stamford Higher Education Facilities Corporation for Hardin-Simmons University.

Hardin-Simmons University (HSU) has requested financing by the Stamford Higher Education Facilities Corporation, which is a higher education finance corporation. HSU is issuing approximately \$8.0 million that will be used for financing and/or refinancing on a tax exempt basis, the cost of acquiring, constructing, renovating, remodeling and equipping education and housing facilities including: central plant and boilers, Anderson Hall, athletic fields, parking, Mabee RTOC Building, Ferguson Hall, Nix Hall, Abilene Hall, Moody Center, Van Ellis Theatre, University Place Apartments, Hunter Hall, Mabee Complex, Frost Art Center, Caldwell Hall, Behrens Hall, Blanche Lange Hall, Richardson Library, Holland Health Science Building, Mabee Hall, Johnson Building, and other improvements including sidewalks, ramps, grounds and lighting, all on or around the HSU campus at 2200 Hickory, Abilene, Texas. Financing for the project has been arranged by Frost Bank. The Frost Bank offer is conditioned upon the financing being "Bank Qualified" which means that the issuer and the City on whose behalf it was created may not issue more than \$10 million in tax-exempt securities in any year. For this reason, HSU has opted to have the Stamford Higher Education Facilities Corporation issue the obligation instead of the Abilene Higher Education Facilities Corporation (AHEFC) since it is unknown at this time if the City will issue certificates of obligation.

The Internal Revenue Code of 1986, Section 147(f), contains a provision that requires the chief elected officer of the City of Abilene to sign an approval of the financing and the project, since the project is located in the City.

Resolution [#7-2013](#)

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

6.2 **Resolution:** City Council approved a request to the Brazos G Regional Water Planning Group and the Texas Water Development Board seeking to continue to evaluate the supplies available from Fort Phantom Hill Reservoir based on a two-year safe yield.

The City is a member of the Brazos G Regional Water Planning Group. The Brazos G Regional Water Planning Group is currently developing its 2016 Regional Water Plan, which will become part of the 2017 State Water Plan, to be adopted by the Texas Water Development Board ("TWDB"). The 2016 Brazos G Regional Water Plan and 2017 State Water Plan will, in part, estimate the water supplies available to the City.

The City serves as a regional water supplier for many communities and industries located within West Central Texas, utilizing supplies available to the City from its Fort Phantom Hill Reservoir, West Central Texas Municipal Water District's Hubbard Creek Reservoir, and Colorado River Municipal Water District's O.H. Ivie Reservoir. In light of the current drought and uncertainties associated with future drought conditions, the City's supplies should be conservatively evaluated so that adequate planning for future demands can be addressed.

Resolution 26-2009 adopted by the City Council, and subsequently approved by the Brazos G Regional Water Planning Group and the TWDB allowed evaluations of Abilene's Fort Phantom Hill Reservoir supply to be based on a two-year safe yield concept for the 2011 Brazos G Water Plan and 2012 State Water Plan. A two-year safe yield identifies the maximum annual diversions available from a water supply source that will allow two years of available diversions during the worst month in the drought of record.

The proposed resolution seeks to have the City Manager request that the Brazos G Regional Water Planning Group and TWDB evaluate the supplies available from Fort Phantom Hill Reservoir based on a two-year safe yield. Such evaluation will be used in adopting the 2016 Brazos G Regional Water Plan and the 2017 State Water Plan, and in subsequent planning cycles.

Hubbard Creek Reservoir is essentially operated based on a two-year safe yield by contracting with Member Cities (Abilene, Anson, Albany and Breckenridge) at 85% of the one-year safe yield. Inflows to O.H. Ivie Reservoir over the past ten years have reduced the one-year safe yield of the reservoir by over 27%, and will likely be reduced even further. Additionally, from 1993-2006, streams in the Abilene area experienced approximately a 18% reduction in stream flow from flows available during the previous drought of record lasting from 1943-1956. It appears the current drought will provide a new drought of record. Thus, it is prudent for the City's supplies to be evaluated based on a conservative approach so as to ensure the City's available supplies are not overestimated.

Resolution [#8-2013](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO REQUEST THAT THE BRAZOS G REGIONAL
WATER PLANNING GROUP AND THE TEXAS WATER DEVELOPMENT BOARD CONTINUE
TO AUTHORIZE THE EVALUATION OF THE WATER SUPPLIES AVAILABLE FROM THE
FORT PHANTOM HILL RESERVOIR BASED ON A TWO-YEAR SAFE YIELD ESTIMATE.

6.3 **Resolution:** City Council approved amendments to the Keep Abilene Beautiful, Inc. bylaws.

On April 3, 2013, the Keep Abilene Beautiful, Inc. Board of Directors voted and approved changes to the Bylaws of Keep Abilene Beautiful, Inc., as amended September 2, 2009. The Bylaw amendments were developed and presented by the Executive Committee of the Keep Abilene Beautiful, Inc. Board. The amendments consist of a modified Advisory Members list, revised and clarified duties of the Treasurer and Parliamentarian, and an annual audit as required by law.

Resolution [#9-2013](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING
AMENDMENTS TO THE BYLAWS OF KEEP ABILENE BEAUTIFUL, INC.

6.4 **Oral Resolution:** Authorizing and directed staff to prepare a Service Plan for property located at 4009 Beltway South and being the southern portion of the Beltway Park Baptist Church property for Annexation. (*Item pulled from consent by Councilman Price*)

- 6.5** **Oral Resolution:** City Council authorized the City Manager to execute an Airport Use Agreement with Experimental Aircraft Association.

Big Country AirFest was scheduled to occur May 4, 2013; however, it was cancelled due to resources restrictions associated with federal budget sequestration. The Experimental Aircraft Association's local chapter will now hold a Fly-in the same weekend. A Fly-in is a chance for general aviation pilots to gather at an airport and discuss aircraft and flying.

- 6.6** **Oral Resolution:** City Council authorized the City Manager to enter into a Charitable Solicitation Agreement with the Muscular Dystrophy Association for the "Fill the Boot" campaign.

The Muscular Dystrophy Association ("MDA") has a yearly campaign in the City of Abilene ("City") where volunteers solicit funds in the City right-of-ways as part of the MDA's "Fill the Boot Campaign" ("Campaign"). The money raised during the event allows the MDA to provide services to over 400 clients in the City of Abilene that includes financial assistance for wheelchairs, leg braces, communication devices, support groups, summer camps for children, and research grants to find treatments and cures.

In order to utilize the City right-of-ways the City and the MDA enter into a Charitable Solicitation Agreement as required by Texas Transportation Code §552.0071 in which the City gives permission to the MDA to use designated portions of the City right-of-way to conduct the Campaign.

- 6.7** **Ordinance:** (*First Reading*) **Z-2013-09** on a request from the City of Abilene to rezone property from LI (Light Industrial) to either the GC (General Commercial) or HC (Heavy Commercial) zoning, located along Industrial Blvd between Buffalo Gap Rd and S. Treadaway Blvd; and setting a public hearing for May 9, 2013.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," 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.

- 6.8** **Ordinance:** (*First Reading*) **TC-2013-03** on a request from Paceline Collision Center, Agent Charles Williamson, to abandon Central Drive, being a 60-foot right-of-way measuring approximately 220 feet west of S. Clack St; and setting a public hearing for May 9, 2013.

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.

- 6.9** **Bid Award:** **CB-1326** Dake Construction for Abilene Water Treatment Plant pump replacement project. City Council approved the pump replacement project in the amount of \$160,200.00.

On March 20, 2013 the City of Abilene received bids for the Abilene Water Treatment Plant Pump Replacement Project. The Project was advertised in the Abilene Reporter News on February 17th and 24th, 2013. Five bids were received. The low bid was submitted by Dake Construction, Inc. (Dake) of Pantego, TX in the amount of \$160,200.00. The Engineer, after evaluating the bid submittal and the contractor references, does recommend awarding the bid to Dake.

The Abilene Water Treatment Plant (AWTP) Pump Replacement Project (Project) involves the purchase of two new pumps, each of which pumps water into the third pressure plane. The Project also includes the upsizing of a section of piping existing on the pump station site. The pump and piping improvements will maximize the capacity of the AWTP pump station, provide additional operational flexibility, and restore pumping redundancy.

On October 27, 2011 the Abilene City Council awarded a bid for the AWTP Improvements Project. That project resulted in the reconfiguration of pumping and clearwell piping along with other changes necessary to allow the AWTP to be utilized as a distribution system pump station. The existing old pumps could not be fully evaluated until the completion of that project. It has since been determined that the old pumps are in very poor condition and must be replaced. The current project involves replacing the old pumps.

- 6.10 Bid Award: CB-1327** City Council awarded bid to Don Faulkner Construction for the Law Enforcement Center 2nd Floor Office Expansion in the amount of \$107,700.00. from Narcotics Seized Funds.

The Police Department created a Special Victims Unit in November 2012. The unit is comprised of specialized detectives who focus on crimes against children and family violence. The unit will be co-housed with the Child Advocacy Center, necessitating the construction of four additional offices. Currently all offices at the LEC are already occupied, so more must be built for the new unit. Additionally, some minor construction changes will be done in the Street Crimes Unit, such as moving a doorway so officers can access their offices through the secure portion of the LEC.

ITEM PULLED FROM CONSENT

- 6.4 Oral Resolution:** Authorizing and directed staff to prepare a Service Plan for property located at 4009 Beltway South and being the southern portion of the Beltway Park Baptist Church property for Annexation. *(Item pulled from consent by Councilman Price)*

Councilman Price asked if the City had received a letter from Beltway Park Baptist Church about the purposed annexation. Jon James Director of Planning and Development Services advised that the City had received the letter and a verbal confirmation from the Church.

Staff received a petition for annexation from the property to the east of Beltway Park Baptist Church for 55.88 acres. The annexation is currently concluding and would cause the city limits to surround a portion of the property owned by the church. The land is the southern part of the land owned by the church located at 4009 Beltway South. The Local Government Code allows for the City to annex land.

The City Council granted the authorization for annexation. The authorization begins an annexation calendar that will be prepared that will set out the dates for all public hearings and notifications for consideration of the annexation.

Councilman Higgins made the motion to authorize staff to prepare a Service Plan for property located at 4009 Beltway South for Annexation. Councilman Williams seconded the motion, motion carried.

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

REGULAR ITEMS

7.1 Mayor Archibald stated that this item was TABLED from the April 11th meeting. Councilman Spano made the motion to remove this item from the TABLE and Councilman Price seconded the motion, motion carried.

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

Mayor Archibald moved to TABLE the request from Valley Creek Investments, LLC, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) & RS-12 (Single-Family Residential) to RS-8 (Single-Family Residential), PH (Patio Home), & GR (General Retail) zoning, located at 902 ES 27th St. to the May 9th council meeting. Councilman Higgins seconded the motion, motion carried.

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

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," 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.

7.2 Jon James Director of Planning and Development briefed the council on the first reading and public hearing on an ordinance to annex and establish zoning on approximately 55.88 acres of land located south of Beltway South (FM 707) and east of the Beltway Park Baptist Church property; and setting a public hearing for May 9th, 2013.

This item originated as a request from Tack Investments, agent David Todd, to have approximately 56 acres of land annexed south of Beltway South (FM 707). The proposed area is adjacent to the Beltway Park Baptist Church.

The proposed area is currently undeveloped with no utilities (water and sewer) and no public facilities to be maintained (streets, drainage facilities, etc.). Police and Fire services will be available. The proposed annexation would present no adverse service impacts to any of the services or facilities offered by the Community Services Department.

Section 2.4.2.1 (c) of the Land Development Code states, "From the time an annexation takes effect until action is completed to zone the land, the initial uses permitted on the annexed property shall be consistent with uses permitted within the AO, Agricultural Open Space, District." Therefore, zoning of any property that is annexed should be AO until such time that a property owner requests some other classification through the normal rezoning process.

Two public hearings were held in the month of March in which no one spoke in support or opposition to the request.

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 move the ordinance, to annex and establish zoning on approximately 55.88 acres of land located south of Beltway South (FM 707), forward to the final public hearing to be held on May 9th, 2013. Councilwoman Miller seconded the motion, motion carried.

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

7.3 Megan Santee Director of Public Works, briefed the council on an application/permit to drill and/or operate oil and/or gas well – Perimeter Resource Co., Inc.: “City of Abilene No. 1”, Permit No. 752476.

Perimeter Resource Co., Inc. of Midland, Texas has submitted an application to drill the “City of Abilene No. 1” well on property owned by the City of Abilene (City), located on the City’s Hamby Wastewater Treatment Plant lands. This well is being drilled under an oil & gas lease agreement that the City negotiated and executed in August, 2011, and which was assigned to Perimeter Resource Co., Inc., et al, with the City’s permission, in June, 2012. The City owns one-half of the mineral interests under this tract and negotiated a one-quarter (1/4) royalty under this lease agreement. This application has been reviewed and approved by City Staff. The City owns all property within 500 feet of the proposed drill site, so no other property owners were required to be notified of this application and of the City Council meeting to consider its approval, as required by City ordinance. The City’s agricultural lessee on this portion of the Hamby Wastewater Treatment Plant lands has been notified of the proposed drill site, and has negotiated satisfactory surface damage terms with the applicant.

Tommy O’Brien Director of Water Utilities, briefed council that there are not any immediate plans for improvements to the Hamby Wastewater Treatment Plant that would be effected by the well.

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

- Brian Powers - Perimeter Resource Co., Inc. was here to answer any questions.
- Steve Savage – for the permit

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

Councilman Spano made the motion to approve an application/permit to drill and/or operate an oil and/or gas well - Perimeter Resource Co., Inc.: “City of Abilene No. 1”, Permit No. 752476. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 9:02 a.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 10:19 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property and 551.087 Business Prospect/Economic Development.

10 Oral Resolution: Approving the appointment to the following boards: Abilene Housing Authority, Abilene Health Facilities Development Corporation and Abilene Library Board.

Mayor Archibald made the motion to approve the following recommendations to appoint and reappoint board members. Councilman Williams seconded the motion, motion carried.

Abilene Housing Authority
Appoint - James Batiste – Realtor

Abilene Library Board
Reappoint – Dennis Regan

Abilene Health Facilities Development Corporation
Appoint – Tim Lancaster
Rosemary Suttle
Charles Black
Joe Crawford
David Green

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

NAYS: None

There being no further business the meeting was adjourned at 10:19 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor