

Regular Meeting of the Mayor and City Council of the City of Abilene, Texas, to be held in the Council Chamber of the City Hall on Thursday, April 28, 1983, at 9:00 a.m.

CITY COUNCIL: Mayor Elbert E. Hall; Council - Dr. Julian Bridges, Billye Proctor, Juan C. Rodriguez, A. E. Fogle, Jr., L. D. Hilton and Harold D. Nixon.

1. Call to Order.
2. INVOCATION: Councilman A. E. Fogle, Jr.
3. APPROVAL OF MINUTES: Special Work Session with Planning & Zoning Commission held March 3, 1983, Regular Meeting held March 24, 1983, Special Session held March 28, 1983, Special Session held April 8, 1983, and Regular Session held April 14, 1983.

4. AWARDS & PRESENTATIONS:

Dwayne Hargesheimer	Water Utilities Director	Water Department	20 Years
Thomas C. Goble	Lt. Fire Inspector	Fire Department	20 Years

CONSENT AGENDA

All items listed below are considered to be routine by the City Council and will be enacted with one motion. There will be no separate discussion of items unless a Council Member or citizen so request, in which event the item will be removed from the general order of business and considered in its normal sequence.

5. Ordinances
 - a. Consider on first reading - thoroughfare abandonment, being the north 10' of Mabray Lane from Buffalo Gap Road to the west side of Ridgeline Drive and all of Mabray west of Ridgeline Drive & set a public hearing for May 12, 1983, at 9:00 a.m.
 - b. Consider on first reading - amending Section 18-290 concerning One Way Alleys.
 6. Resolutions
 - a. Consider authorizing a license agreement with the Missouri Pacific Railroad Company.
 - b. Consider grant application for Big Country Library System.
 7. Award of Bids
 - a. Uniforms for Fire Department.
 - b. Asphalt Products for Street Division.
 - c. Stadium Bleachers at Rose Park.
 8. Request to Advertise
 - a. Truckster for Golf Course.
 - b. Three Fire Engines for Fire Department.
 - c. Truck mounted crane for use in flood control.
- REGULAR AGENDA
9. Public Hearings
 - a. Consider on second and final reading - reclassification request from RS-8 (Residential Single Family) to RM-3 (Residential Multi-Family) District, located at 2959 Buffalo Gap Road.
 - b. Consider on second and final reading - reclassification request from RS-6 (Residential Single Family) to HC (Heavy Commercial) District, located at N. 21st & Hardy Street.

9. Public Hearings (cont'd)

- c. Consider on second and final reading - reclassification request from RS-12 (Residential Single Family) to RS-6 (Residential Single Family) District, located at South 21st Street & Belmont Blvd. (Elm S
- d. Consider on second and final reading - reclassification request from AO (Agricultural Open Space) to RS-6 (Residential Single Family) District, located at Hartford & Andy Streets.
- e. Consider on second and final reading - reclassification request from SC (Shopping Center) to RM-2 (Residential Multi-Family) District, located at Quail Run & Texas Avenue.
- f. Consider on second and final reading - reclassification request from RS-6 (Residential Single Family) to RM-3 (Residential Multi-Family) District, located at S. 22nd & Poplar Streets.
- g. Consider on second and final reading - thoroughfare abandonment, being N. 12th Street between Alameda & Roma Streets.
- h. Consider on second and final reading - amending Section 32-9.2 of the Zoning Ordinance under Retail Sales to permit plant material including shrubs, trees, and garden supplies conditionally in GC (General Commercial) zones.
- i. Tabled Item:
Consider on second and final reading - reclassification request from AO (Agricultural Open Space) to GC (General Commercial) District, located at 7601 Buffalo Gap Road.

10. Resolutions

- a. Consider authorizing participation in the Keep America Beautiful Program.

11. Other Business

- a. Appointment & evaluation of public officers.
- b. Financial Workshop.
- c. Discuss Health Facility Development Corporation.

ADJOURN

CITY COUNCIL OF THE CITY OF ABILENE
CITY COUNCIL CHAMBERS OF CITY HALL

The City Council of the City of Abilene, Texas, met in Regular Session on April 28, 1983, at 9:00 a.m., in the City Council Chambers of City Hall with Mayor Elbert E. Hall present and presiding. Councilman Julian Bridges, Councilwoman Billye Proctor, Councilmen Juan C. Rodriguez, A. E. Fogle, Jr., L. D. Hilton and Harold D. Nixon were present. Also present were City Manager, Ed Seegmiller, City Attorney, Harvey Cargill, and Assistant City Secretary, Kelly Beard.

Invocation by Councilman A. E. Fogle, Jr.

Mayor Hall began the meeting by telling the audience and news media that item 11a on the agenda, appointment and evaluation of public officers, would be discussed in executive session. He pointed out that item 11b, discussion of Health Facility Development Corporation, would take place during the meeting, but it would only be to approve his appointment of several citizens to the Health Facility Development Corporation Ad Hoc Committee. Another item he clarified was item 11c, Water Rights Adjudication--Proceeding Update. He said the item would be discussed in executive session, but that the City Attorney would also have a brief public presentation afterward.

The minutes of the Special Work Session held March 3, 1983, the Regular Meeting held March 24, 1983, the Special Meeting held March 28, 1983, the Special Meeting held April 8, 1983, and the Regular Meeting held April 14, 1983 were approved with corrections to be made on pages 112, 153, 154, 155, 165, 166 and 167. Councilman Hilton moved approval of the minutes with corrections made on those pages. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.

NAYS: None.

Mayor Hall presented Mr. Dwayne Hargesheimer, Director of Water Utilities, with a 20 year pin and service award. Mayor Hall also presented a 20 year pin and service award to Tommy Goble, Lt. Fire Inspector.

COMMENDIN
DWAYNE HA
SHEIMER &
TOMMY GOB

Councilman Bridges moved approval of the items listed on the consent agenda with the exception of items 7a, 7b, 7c & 8b. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.

NAYS: None.

5. Ordinances

- a. Consider on first reading - thoroughfare abandonment, being the north 10' of Mabray Lane from Buffalo Gap Road to the west side of Ridgeline Drive and all of Mabray west of Ridgeline Drive & set a public hearing for May 12, 1983, at 9:00 a.m.

THOROUGHFA
ABANDONME
MABRAY LN
BUFFALO G
TO RIDGEL
DR - 1ST
APPROVED

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.

- b. Consider on first reading - amending Section 18-290 concerning One Way Alleys.

TRAFFIC &
ONE WAY A
1ST READI
APPROVED

AN ORDINANCE AMENDING CHAPTER 18, MOTOR VEHICLES AND TRAFFIC, OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

6. Resolutions

- a. Consider authorizing a license agreement with the Missouri Pacific Railroad Company.

WATERLINE
CROSSING
MENT - MIS
PACIFIC R
ROAD COME
APPROVED

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING LICENSE AGREEMENT BETWEEN THE MISSOURI PACIFIC RAILROAD COMPANY AND THE CITY OF ABILENE TO INSTALL A FOURTEEN INCH (14") WATER LINE CROSSING UNDER CERTAIN TRACKAGE AND RIGHT OF WAY OF THE MISSOURI PACIFIC RAILROAD COMPANY AT MILE POST 5.92, NEAR ABILENE, TEXAS.

- b. Consider grant application for Big Country Library System.
- 7. Award of Bids
 - a. Uniforms for Fire Department.

Councilman Bridges asked Mr. Bernard Huett, City Purchasing Agent, why items 3, 4 and 6 were deleted from the bid for the uniforms. Mr. Huett said item 3 was for ties, but the firefighters do not wear ties in the summer months; item 4 was for belts, but there were enough belts left over from last year to provide enough for the coming year; and item 6 was for light jackets, which the firefighters do not need during the summer months.

Councilman Bridges moved approval of the award of bid of the uniforms for the Fire Department in the amount of \$20,385.75. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

AWARD OF I
UNIFORMS I
FIRE - API

- b. Asphalt Products for Street Division.

Councilwoman Proctor asked if Mr. Huett would explain how the Division would pay for the asphalt products in the amount of \$729,198 when only \$314,000 was budgeted. Mr. Huett said the contract for the asphalt products would span two budget years. Whatever is left of the current budget would be used to purchase the asphalt products at the bid price. However, when the next year's budget is completed, funds will be set aside to obtain the remainder of the asphalt products needed. He said the \$314,000 would be spent during the current year if the entire amount is needed. Councilwoman Proctor asked how the delivery could be controlled for the asphalt products. Mr. Huett said a purchase order would not be written unless the Street Division requested the asphalt products. A company will not provide the materials unless a purchase order is written.

Mr. David Wright, Finance Director, said an annual bid is taken from a supplier. The Street Division will not exceed the current year's budget or the upcoming year's budget. Mr. Seegmiller said a base price for the entire year is established with the bid.

Councilman Rodriguez asked if the prices quoted on the bids were firm. Mr. Wright said the unit prices were firm.

Councilman Fogle pointed out that only one bid was received on several of the items. He asked if the Staff was satisfied with the products that were bid for those items. Mr. Wright said the Staff was satisfied with the bids that were received. He said the Staff also looked at the increase the companies bid since the products were bought last year. He said the Staff felt that the inflation increase included in the bid was substantiated. He also mentioned that the prices bid would stay the same regardless of the quantity.

Councilman Nixon asked how long the bid would be good for. Mr. Wright said the bid would cover one year from the date of the award.

Councilwoman Proctor moved approval of the award of bid for asphalt products for the Street Division in the amount of \$729,198. Councilman Hilton seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

AWARD OF
ASPHALT I
DUCTS FO
STREET DI
APPROVED

- c. Stadium Bleachers at Rose Park.

Councilwoman Proctor asked why the Community Services Department composed the bid for the vendor to purchase the bleachers and remove the rock wall when the Public Works Department could remove the rock wall and use the rocks. Mr. Hall said the bids were composed in that manner just to see what type of bids would be received. The Staff felt that a very reasonable bid might have been received for the entire project. However, later it was found that the Public Works Department could remove the rock wall and use the rocks in other areas. He said Green Valley Lumber, Inc., was the only vendor to submit a combined bid. However, that vendor did not place a bid for only the removal of the bleachers or for only the removal of the rock wall. He said the Staff felt that the bid of B & B Ditching would be the most advantageous bid for the City. B & B Ditching would pay \$3,665 for the bleachers and at the

same time, the Public Works Department could remove the rock wall and utilize the rocks. The Staff also felt that the other bids to remove the rock wall were too high.

Councilwoman Proctor moved approval of the award of bid for the stadium bleachers at Rose Park to B & B Ditching in the amount of \$3,665 with the Public Works Department removing the rock wall and utilizing the rocks. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

AWARD OF
STADIUM B
CHERS AT
PARK
APPROVED

Mr. Seegmiller said the Staff felt that the bleachers were becoming too dangerous to use and the formation the bleachers were in would not be suitable for the type of activities Rose Park will be used for.

REQUEST TO
TRUCKSTER
GOLF COURSE
APPROVED

8. Request to Advertise
 - a. Truckster for Golf Course.
 - b. Three Fire Engines for Fire Department.

Chief Richard Knopf said presently the Fire Department is operating 20 emergency units with an on-duty personnel of 50. Therefore, some units are being staffed with one to three persons. Engines, boosters, ladder trucks, rescue trucks and tankers are classified as units. He said the number of personnel (50) does not include the non-emergency personnel. He said the result of operating 20 units is to produce relatively low firefighter personnel on each unit, which precludes any team work development. He said the chief officers in the Department have evaluated the types of services the Fire Department provides. He said those officers have revised that type of response and adjusted from 20 units to 11 units. Those 11 units would be 8 engines or pumpers and 3 ladder trucks. The units would normally be staffed by three or four people. With that staffing, the Department can develop some team work supervised by a Captain or a Lieutenant. The Department would also have an additional benefit of reducing emergency vehicles on the road, thereby improving the traffic safety for the public as well as firefighters.

The change will not reduce in any way the number of firefighters who arrive at an emergency. It will increase the capabilities of the first arriving personnel to contain the fire. By staffing 8 engines and 3 ladder trucks, the Fire Department can effectively remove from the front lines the boosters, one ladder truck; and the rescue vehicles can be staffed on an as needed basis. Chief Knopf said the three engines that will be replaced are no longer capable of providing the increased level of service. He said the City should not have to purchase any more boosters for a long time, since only one piece of apparatus will be used per company.

Mr. Seegmiller said the funds to pay for the engines would come from bond funds, although the vehicles being purchased are different than those listed for bond funding. Mr. Knopf said after reviewing the original bond request, it was found that an additional ladder truck, which has not been purchased, will not be needed.

Mr. Harvey Cargill, City Attorney, said as a matter of practice, a type of activity will be described for the use of funds. He said the intent of the Staff is to carry out the purpose of the bond election, but buying a different type of truck. Mr. Roy McDaniel, Assistant City Manager for Fiscal Resources, said \$3,750,000 was voted for the purpose of constructing, improving and permanently equipping fire stations and acquisition of sites. Mayor Hall asked if the ballot listed the type of equipment or number of vehicles to be purchased. Mr. McDaniel said the \$3,750,000 was broken down as follows: \$1,303,000 for apparatus, \$711,000 for Fire Station #8, \$620,000 for Fire Station #6, \$555,000 for new station in southeast area, \$410,000 for Fire Station #3 in Cooper High School area, and \$150,000 for a contingency fund. The apparatus that was planned for at the time of the bond election involved five engines, of which the City purchased four; one aerial ladder truck, which the City has not purchased; one snorkel, which has been purchased; two boosters, of which the City has only purchased one; one rescue van, which the City has purchased; and one tanker, which is on order. In effect, the Fire Department would like to buy the other engine listed in the bond election, then substitute two engines for the aerial ladder truck and one booster. Mr. McDaniel said the language in a bond election is intentionally general because plans do change over a five year period.

Councilman Rodriguez asked if the aerial truck listed in the bond election would be missed since there are so many multi-story buildings going up in the City. Chief Knopf said the Fire Department currently has four very good aerial ladder trucks, three of which are 1980's models. He said on the very tall buildings, ladder trucks are only effective to about five or six stories. As the buildings get taller, levels of protection must be incorporated into the construction of the buildings by the developer or owner. Also, firefighters will operate from within the building at whatever level the fire occurs.

Councilman Nixon asked if the Fire Department will be within the Budget for the three new engines. Chief Knopf said he felt the Fire Department would be within the Budget.

Councilman Bridges asked if other funds will be needed for more equipment after the engines are purchased. Chief Knopf said the Staff projects that after the purchase of the three engines, the Department will need to develop a regular replacement cycle and to plan for it in the budgeting process. Mr. McDaniel said of the \$1.3 million that was approved for Fire Department apparatus out of the total \$3,750,000, a little over \$700,000 was spent leaving approximately \$600,000 for the purchase of apparatus. He said one of the new stations, Station #8, went over budget, therefore, the Staff knew that they might need to do some adjusting at the end of the bond fund period.

Councilman Bridges moved approval of the request to advertise for three pumper trucks for the Fire Department. Councilman Hilton seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon, and Mayor Hall.
NAYS: None.

REQ. TO
3 PUMPER
TRUCKS F
FIRE DEP
APPROVED

c. Truck mounted crane for use in flood control.

Mayor Hall pointed out that item 9a, reclassification request from RS-8 (Residential Single Family) to RM-3 (Residential Multi-Family) District, located at 2959 Buffalo Gap Road, was never appealed after the Planning & Zoning Commission meeting. Therefore, it was not considered by the Council.

REQ. TO
CRANE FO
FLOOD CO
APPROVED

Mrs. Diane Foresman, Assistant Zoning Administrator, presented the reclassification request from RS-6 (Residential Single Family) to HC (Heavy Commercial) District, located at N. 21st and Hardy Street. She said the appeal came from George W. Cox. The property is located in a residential single family zone, but the proponent would like the zone changed to HC for the purpose of multi-family development which is permitted in HC zones. The plans for the development were still tentative but the proponent wanted the zone to accommodate an unspecified use if the current plans did not develop. She said the Staff is in favor of new development in the area since there has been none in recent years. However, the Staff was concerned with heavy commercial uses adjacent to residential neighborhoods. HC uses may be interpreted to be building material yards, contractor yards and welding or machine shops. Those uses are generally not compatible with single family residential use. Since the property is not within a land use plan, the Staff felt that it might be appropriate to study the area to determine whether to encourage commercial or residential development. The Staff did not give a recommendation since it was uncertain at the time, however, the Planning & Zoning Commission recommended disapproval.

ZONING R
RS-8 TO
2959 BUF
GAP ROAD
DENIED B

Councilman Hilton asked if part of the area was zoned general commercial presently. Mrs. Foresman said the whole tract was within residential single family zone, with general commercial to the south and west, light industrial to the east and heavy commercial to the north, although part of the tract that the Blue Top Courts are located are in a general commercial zone.

Councilman Bridges asked if the proponent discussed the possibility of studying the area for a land use plan and how long the Staff would need to do that. Mr. Lee Roy George, Planning & Community Development Director, said it would probably take the Staff about three months before something could be presented to the Council.

Councilman Rodriguez said he remembered the Council had another zone request brought to them where a heavy commercial zone was close to a residential area. At that time, the Council suggested the proponent seek

other areas for a heavy commercial zone. He asked if proponents such as that are shown the available areas for heavy commercial zoning. Mrs. Foresman said during the preliminary discussions with the Staff, proponents are made aware of all of the opinions available.

Councilman Bridges asked what kind of zoning would be required for the elderly housing development. Mrs. Foresman said it would depend on the density the developer is proposing. The development could be located in a multi-family residential zone. Councilman Bridges asked why the proponent could not wait on the Staff to conduct a land use study on the area, because he said he was very reluctant to approve the zone change request in the present form.

Mayor Hall opened public hearing on the reclassification request.

Mr. Wilford Kennon, of Rhodes and Kinnon, asked that the Council table the zone change request because the proponent would like to try to work out a zone that will be acceptable to the purchaser and also be compatible with the neighborhood.

Mayor Hall closed the public hearing after no one else requested to speak.

Mr. Cargill said the Council has generally referred a zone change request back to the Planning & Zoning Commission when the proponent has said he would try to work something out to be compatible with the neighborhood. Then the Planning & Zoning Commission usually has another public hearing to evaluate all the factors that need to be considered in order for the Council to have the input about the new items that have been brought up. He said the Council, however, could table the zone change request and not send it back to the Planning & Zoning Commission.

Mr. George said the zone change request has already been placed on the next Planning & Zoning Commission agenda. He said the proponent is in essence making a different request that will come before the next Planning & Zoning Commission meeting scheduled for May 2, 1983. He felt that was why the proponent made the request to table the request so it would not close out any of his options.

Councilman Fogle asked if that meant the Staff would not make a land use study of the area. Mr. George said the Planning & Zoning Commission did not answer that question. He said the Planning & Zoning Commission still must decide whether there is a difference between the proponent's present request and the request scheduled for May 2.

Mr. Cargill said another type of zone change request would be coming from the Planning & Zoning Commission plus the request before the Council. He said it made more sense to have the Planning & Zoning Commission to look at the two requests at the same time. Mayor Hall said if the Council denied the present request, it would prevent the proponent from bringing the same request back for one year. If the Council denied the present request, would the proponent have the right to go back to the Planning & Zoning Commission to ask for a modification. Mr. Cargill said the proponent would have the right to present another item, and the Planning & Zoning Commission has the obligation to see whether or not the request is substantially different than what it was that was denied. Mayor Hall asked if there would be more protection for the proponent if the Council tabled the item. Mr. Cargill said, in his opinion, if the Council sent the item back to the Planning & Zoning Commission, the proponent would not lose the alternative. The proponent could come back to the Council with the present item and the item that is scheduled for the next Planning & Zoning Commission.

Mr. George said the Planning & Zoning Commission must make a recommendation on each case. Mayor Hall said he did not think the Council wanted to approve the request in its present form, however, the Council might consider approving it in another form. Mr. George said he did not know if by sending the request back to the Planning & Zoning Commission if the Council would be closing any of the proponent's options.

Councilman Hilton said he thought if the Council tabled the request it would give the proponent more protection and that area does need improving. He said he did not think the Council should arbitrarily say no to the proponent, therefore, he moved to table the request without sending it back to the Planning & Zoning Commission. Councilman Bridges seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

ZONING R
RS-6 TO
AT N. 21
& HARDY
TABLED

Mrs. Foresman presented the reclassification request from RS-12 (Residential Single Family) to RS-6 (Residential Single Family) District, located at S. 21st & Belmont Boulevard. She said the request was from Mr. Doyce F. Clouse who wanted to rezone the 3/4 of an acre to be subdivided into four lots meeting the minimum lot size of the requested 6,000 square feet. She said the current zoning specifies a minimum lot size of 12,000 square feet. The development of the vacant tract meets the recommendation of the Strategies for Responsible Growth Committee for encouraging infill development. The Staff and the Planning & Zoning Commission both recommended approval.

Mayor Hall opened the public hearing on the reclassification request. However, no one requested to speak, so Mayor Hall closed the public hearing.

Councilman Rodriguez moved approval of the reclassification request from RS-12 (Residential Single Family) to RS-6 (Residential Single Family) District, located at S. 21st & Belmont Boulevard. Councilwoman Billye Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

ZONING F
RS-12 TC
RS-6 AT
21ST & F
MONT BLV
2ND & FI
APPROVEI

AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES, AS DESCRIBED BELOW; DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

Mrs. Foresman presented the reclassification request from AO (Agricultural Open Space) to RS-6 (Residential Single Family) District, located at Hartford and Andy Streets. She said the request came from Bontke Brothers Construction Company to develop the five acre tract into 25 lots with single family uses. The site is within the Western Area Land Use Plan and is in conformance with the Plan and the thoroughfare and collector plan. Mrs. Foresman said a 10' portion of the property is within the floodway of Elm Creek. The 10' is covered by a drainage easement which is a method of dealing with the floodway in conformance with the Stream Management Plan. The development permit has been approved by the Public Works Department. The area of the floodway is attributed to an overflow of water from Big Elm and Little Elm Creeks. The City services and facilities are readily available to the site. The Staff and Planning & Zoning Commission both recommended approval.

Councilman Bridges asked if the Public Works Department had finished their approval of the development permit. Mrs. Foresman said the permit was more specifically for the horseshoe street that goes from the development across the floodway to Hartford Street and the Public Works Department has approved it.

Mayor Hall opened public hearing on the reclassification request, however, no one requested to speak, so Mayor Hall closed the public hearing.

Councilman Bridges moved approval of the reclassification request from AO (Agricultural Open Space) to RS-6 (Residential Single Family) District, located at Hartford and Andy Streets. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

ZONING :
AO TO R
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& ANDY
2ND & F
APPROVE

AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

Councilman Rodriguez asked if any kind of development that occurs in the floodway must receive a development permit. Mr. Bob Whitehead, Director of Public Works, said any development will have to get a development permit. Councilman Rodriguez asked if a zone change will still come

to the Planning & Zoning Commission and Council if it does not receive a development permit. Mr. Whitehead said Planning & Zoning Commission will probably not consider that type of item without a development permit. Councilman Rodriguez said the Council still could make a zone change pending a development permit approval. Then, if the development permit approval is not obtained then the zone change would already be there although the proponent would still have to go through the development process all over again until he received that development permit.

Mrs. Foresman presented the reclassification request from SC (Shopping Center) to RM-2 (Residential Multi-Family) District, located at Quail Run and Texas Avenue. She said the request had been appealed by the proponent in regard to the Planning & Zoning Commission denial. She said the site was currently vacant with residential single family zoning surrounding it. The proponent, Ramcom, Inc., would like to rezone the 2.8 acres from SC to RM-2 to build some two story apartments. This request is related to the RM-2 tract to the west. The site is in the Western Land Use Plan which recommended General Commercial zoning in the location because of the current SC zoning and in an effort not to take away any privileges of a current property owner. The thoroughfare and collector plan suggested multi-family uses at the location to be generally accepted provided that access to the development be off the arterial street, which in this case is Texas Avenue. The Staff recommended approval, however, the Planning & Zoning Commission recommended denial in an effort to leave some commercial zoning in the neighborhood to service it since there seems to be no other commercial zoning in the immediate area, as well as to maintain conformance to the Western Area Land Use Plan. Mrs. Foresman said when the Western Area Land Use Plan was completed the zoning in the location was already in place. Usually, the Staff tries to conform with the present zoning unless it is very out of place. Mr. George said the Staff would probably not have recommended commercial if the SC zone had not already been there.

Mayor Hall said he got the impression that the property was really a part of two pieces of property of which both are owned by the same people. He asked why the Staff did not recommend that both pieces be brought before the Council at the same time. Mr. George said the proponent would have to answer that question. Mayor Hall asked if there was some concern from the Staff or from the neighborhood about the alleys in the area being used as streets. Mr. George said there was some discussion in the Planning & Zoning Commission meeting about the ingress and egress on a major thoroughfare.

Mr. Wayne Kurfees, Director of Traffic & Transportation, said he did not think the traffic caused by the apartments would cause any problems with the residential area. He said traffic would probably travel down Texas Avenue, or Corsicana, or Quail Run or an alley. The development has frontage on all three streets plus the alley. He said he has not seen the plans of the developer but he felt that access could be gained to the parking areas from any of the three streets or the alley. It is generally not good to have residential on one side of an alley and commercial or multi-family on the other because of the problems with access to and from. However, he felt that multi-family would be the lesser of the two evils.

Mrs. Foresman said the proponents did provide a site plan at the Planning & Zoning Commission meeting, but they did not provide one to the Staff. Mr. Kurfees mentioned that site plans presented for zone changes are not binding, therefore, the site plan that might come in for a project might not look the same after the project was begun. He said this project has more egress and ingress than most multi-family developments already in operation. He felt that the only potential problem would be with the alley.

Mayor Hall asked if the Council approved the request would Mr. Kurfees have to approve the access plat. Mr. Kurfees said the site plan would be required before a building permit would be available. However, the City cannot deny the developers access to the alley. The Staff could only encourage them to design their parking areas and points of ingress and egress to minimize traffic on the alley.

Councilman Nixon asked if apartments were on the property located to the west and if the property was owned by Ramcom, Inc. Mrs. Foresman said there were no apartments located there yet, but it was owned by Ramcom, Inc.

Mayor Hall asked what zoning was in place for the property located to the west that Councilman Nixon referred to. Mrs. Foresman said the property Councilman Nixon referred to was presently zoned RM-2; the property to the west of that tract was zoned AO.

Councilman Fogle asked if the absence of commercial zoning in the area was an issue. Mrs. Foresman said the Planning & Zoning Commission evidently thought it was because the nearest commercial zoning was Albertson's located on S. 14th.

Councilman Bridges asked if the five persons who answered the comment forms thought there was not enough commercial zoning in the area. Mrs. Foresman said that those persons probably thought the traffic would be a problem during all hours of the day and night. She said the people thought that a shopping center, at least, would be closed during most of the night, therefore, cutting down the traffic during that time. Councilman Nixon asked if those five persons owned businesses in the area or if they were just residents. Mrs. Foresman said they were residents living in the Quail Run Subdivision.

Mayor Hall pointed out that the thoroughfare and collector plan recommended residential multi-family uses at the location provided access to the development was off the arterial street. He asked if that suggested that access be limited to the arterial street. Mrs. Foresman said the thoroughfare and collector plan meant the major access to the development must be off an arterial street, but that there would be other egress and ingress as needed for fire protection.

Mayor Hall asked if Mrs. Foresman meant that the only access must be off Texas Avenue and if she said that it would be taken care of in the approval or disapproval of the site plan. Mrs. Foresman said she understood the thoroughfare and collector plan to mean that major access be off of the arterial street and that, yes, it would probably be taken care of in the site plan meeting. The major access would probably be where the most traffic could get in or out of the development and perhaps the secondary access would be where residents from the back apartments would be able to use the access off of the alley.

Mayor Hall opened the public hearing on the reclassification request.

Mr. Les Teiss, Ramcon, Inc., said they wanted to take a commercial type property and down zone that into a residential type property. He thought it was understood by City Staff and real estate professionals that the RM-2 would be a more restrictive type of zoning and it will protect the adjacent neighborhoods and properties against non-conforming type uses. He said the reason why Ramcon did not bring both rezoning requests to the Council at the same time was because they were contemplating building condominiums. Ramcon felt that the condominiums could be built first, then depending upon how the economy was doing, it could come back and either leave the SC zone or try to build some apartments on the property before the Council.

Mr. Teiss said they have tried to provide as many access points as possible to the development. He felt that if the property were to remain SC, then it would become very detrimental to the surrounding residential areas and create more of a traffic problem than any apartments that may be built there.

Councilman Bridges asked how Mr. Teiss would respond knowing that the residents who returned the comment forms preferred a shopping center to apartments. Mr. Teiss said Ramcon designed the project totally around what input Ramcon received. He said Ramcon has designed the buildings so they will not be facing a residential area and they have designed the parking areas where minimum parking will be near the alley exits. He said unlike shopping centers, residents of the apartments will probably create less traffic because they will leave in the mornings, come back in the afternoons and possibly go out in the evenings. Also, shopping centers must have deliveries made by large trucks during all hours of the day and night.

Mr. Teiss said Ramcon did not anticipate any problems at the Planning & Zoning Commission meeting since they wanted to down zone the property, therefore, he was not able to present Ramcon's case to the Commission.

Councilwoman Proctor asked if the property owned by Ramcon to the west was being developed. Mr. Teiss said that property and the property before the Council will be developed together. He said both pieces of property will be needed to build the apartments.

Councilman Fogle asked if the shopping center zone was in place when Ramcon bought the property. Mr. Teiss said it was not, that Ramcon had that tract rezoned to SC as a part of their master plan. He said that was done a number of years ago. The commercial zone would provide Ramcon the highest flexibility. Councilman Fogle asked if Mr. Teiss did not think more commercial zoning would enhance the neighborhood. Mr. Teiss said he did not think more commercial zoning would enhance that neighborhood especially since Texas Avenue was sort of a dead end street ending at Dyess Air Force Base. He felt that there was plenty of vacant land along Hwy 277 for commercial zoning.

Mr. Teiss mentioned again that only a few of the apartment residents would be using the alley access. He pointed out that if the property were to remain shopping center, large delivery trucks, trash bins, etc., would be lining the alley instead. Mr. Teiss presented the Council with two maps depicting the lay out of the apartments and the accesses.

After looking at the two maps presented by Mr. Teiss, Mr. Kurfees, said Ramcon's site plan would probably be approved because the City cannot keep Ramcon from using the alley as an access street. The site plan is really used to make sure the parking requirements are met and the ingress and egress to that parking is satisfactory. Mr. Kurfees felt that Ramcon's site plan according to the maps that Mr. Teiss presented would present no problem to the City. He did say, however, that it concerned him that the City has no regulations that would prevent a multi-family use from utilizing an alley for ingress and egress when there is residential single family on the other side of that alley.

Mayor Hall closed the public hearing after no one else wished to speak.

Councilman Hilton moved approval of the reclassification request from SC to RM-2 District located at Quail Run and Texas Avenue. Councilman Nixon seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton and Nixon.

NAYS: Mayor Hall.

AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES, AS DESCRIBED BELOW; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

ZONING I
SC TO RM
AT QUAIL
& TEXAS
2ND & F.
APPROVEI

Mrs. Foresman presented the reclassification request from RS-6 (Residential Single Family) to RM-3 (Residential Multi-Family) District, located at S. 22nd & Poplar Streets. She said the request came from Larry Curnutt to allow the repair of an existing non-conforming garage apartment. In order to improve the non-conforming structure to meeting minimum housing standards, a zone change from single family to multi-family was required. The owner had no plans to change the use of the land, but merely to refurbish the garage apartment which had been in existence since the 1950's. The Staff and Planning & Zoning Commission recommended approval.

Mayor Hall opened public hearing on the reclassification request.

Mrs. Martha Thorn, representing Mr. Curnutt, said the property had been condemned but work has been done and he wants to use the garage apartment as a rental.

Councilman Fogle asked if Mr. Curnutt was the owner who allowed the property to get run down. Mrs. Thorn said Mr. Curnutt bought the property later as condemned property. She said Mr. Curnutt has made what was a three unit apartment into a five bedroom house with three baths. A garage has been started, but was stopped when he realized he needed to come before the Planning & Zoning Commission and the Council.

Mr. Bob Fowler, Director of Building Inspections, said he was familiar with the renovation of the garage apartment. He said the property was illegally used for five rental units previously and was in extremely bad condition. Finally, the property was condemned and Mr. Curnutt bought the property for renovation. He said Mr. Curnutt was stopped from continuing with the renovation of the apartment when the Staff found that the property was zoned for single family residential.

Mayor Hall closed the public hearing after no one else wished to speak.

Councilwoman Proctor moved approval of the reclassification request from RS-6 (Residential Single Family) to RM-3 (Residential Multi-Family) District, located at S. 22nd & Poplar Streets. Councilman Rodriguez seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

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RS-6 TO
AT S. 22
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AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES, AS DESCRIBED BELOW; DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

Mrs. Foresman presented a thoroughfare abandonment, being North 12th Street between Alameda & Roma Streets. She said the location was off of N. 10th Street and Winters Freeway and is located within a mobile home subdivision. The proponent would like to replat the property by not using N. 12th Street at the location. The Plat Review Committee considered the request and recommended approval of the abandonment of the portion of N. 12th Street. The Staff and the Planning & Zoning Commission both recommended approval. She mentioned that the replatting had been accomplished.

Mayor Hall opened public hearing on the thoroughfare abandonment.

Mayor Hall closed the public hearing after no one wished to speak.

Councilman Bridges moved approval of the thoroughfare abandonment, being N. 12th Street between Alameda & Roma Streets. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.
NAYS: None.

THOROUGH
ABANDONM
N. 12th
ALAMEDA
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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.

Mrs. Foresman presented the amendment to Section 32-9.2 of the Zoning Ordinance under Retail Sales to permit plant material including shrubs, trees, and garden supplies conditionally in general commercial zones. She said the Staff recommended to allow retail sales of plant materials with the condition that outside storage be screened by a 6' opaque fence. Currently, the use is permitted as a right-of-use in the central business district, heavy commercial district, and light industrial district. General commercial uses are commonly characterized by retail activities generally designed to be carried on within an enclosed structure, therefore, by the enclosure of outdoor storage associated with the use, the Staff felt the use would be appropriate in general commercial zones. Currently, many plant material sales centers are located in general commercial districts. She said the amendment was a request by the Staff as well as South Gate Nursery and Buzz Jones to take a closer look at allowing retail sales of plant material in general commercial zones.

Councilman Bridges asked if there are any of the retail sales agencies that are not in conformity. Mrs. Foresman said there are many that are not in conformity. The Staff has just now decided to take a good look at the problem since so many new facilities are being built.

Mayor Hall asked of those persons owning businesses in non-conformity were they in violation of the Zoning Ordinance or did they have legal non-conforming use permit. Mrs. Foresman said in the cases she was aware of, the owners had legal non-conforming use. However, more recently, there was a violation and that is really what brought it to the attention of the Staff.

Councilman Rodriguez asked if the large delivery trucks stopping at the garden and plant shops would create a hazard. Mrs. Foresman said most general commercial uses have large delivery trucks stopping by. She reminded Councilman Rodriguez that the amendment will be restricted to retail sales. Wholesale activity would not be permitted. Wholesale activities would have a greater intensity of traffic from the large delivery trucks than retail. Mrs. Foresman said the Staff is in the process of revising the Zoning Ordinance. In an effort to handle some immediate problems, amendments such as this is

being brought to the Council's attention. Later, the Council will be taking a look at the Zoning Ordinance comprehensively--probably within the next year.

Councilman Rodriguez said by reviewing the Zoning Ordinance comprehensively that would eliminate the Staff from bringing amendments to the Council all the time. He said he did not like to set a precedence with retail sales, etc., because possibly other retail uses would also try to get an amendment. Mrs. Foresman said usually that discretion is used within the Planning & Community Development Department. She said Mr. George is also very discreet with what he will allow to come before the Council.

Mayor Hall said he agreed with Councilman Rodriguez in that the Council would not like to have to rewrite the Zoning Ordinance one paragraph at a time.

Mayor Hall opened public hearing on the Zoning Ordinance amendment.

Mr. Buzz Jones, owner of South Gate Nursery, said there has been a massive change in the nursery business in the last 15 to 20 years. He said nurseries used to be lumped into the retail sales and growing operation. In the past 10 to 12 years, there is a clear distinction between a retail operation and a growing or wholesale operation. He said South Gate sells plant material which prohibits him from having a covered structure because everyone knows that covered plants won't live. That makes it necessary for him to have an outside facility. He, therefore, felt that the City does need an upgrading of the Zoning Ordinance.

Mayor Hall closed the public hearing on the Zoning Ordinance amendment.

Councilman Rodriguez moved approval of the Zoning Ordinance amendment under Retail Sales to permit plant material including shrubs, trees, and garden supplies conditionally in general commercial zones. Councilwoman Proctor seconded the motion. The motion carried as follows:

Before the completed vote, Councilman Nixon pointed out that another person in the audience wanted to be recognized during the public hearing.

Mayor Hall reopened the public hearing on the Zoning Ordinance amendment.

Mr. Roland Miller said he was not necessarily opposing the Zoning Ordinance amendment, but that he was opposing the next item on the agenda which was a reclassification request on Buffalo Gap Road. He explained that his home is located at 7558 Buffalo Gap Road directly across the street from a vacant building that if approved will be used as a nursery. He said the Zoning Ordinance amendment would provide those persons to renovate the building into a nursery.

Mr. Cargill said by approving the Zoning Ordinance amendment, the next item could, if the Council wished, be approved to operate as a nursery.

Mr. Jack Bryant, attorney for the proponent concerning the next item, said the request came before the Planning & Zoning Commission a few months ago. At that time, it was discovered that the requested zoning did not comply with what the proponents wanted to do with the property. The amendment to the Zoning Ordinance will provide the proponents with the opportunity to do with their property what they want. He said, however, since there has been a proposed ordinance amendment, the proponents would like to ask that the next item be referred back to the Planning & Zoning Commission.

Mrs. Foresman said the Zoning Amendment request was not instigated because of the proponents of the next item. They are, however, interrelated because the next request asks for GC zoning to operate a nursery. Councilman Rodriguez explained that the next item was a request for general commercial zoning, not necessarily for a nursery.

Mayor Hall closed the public hearing after no one else wished to speak.

Councilman Rodriguez moved approval of the Zoning Ordinance amendment under Retail Sales to permit plant material including shrubs, trees, and garden supplies conditionally in general commercial zones. Councilwoman Proctor seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.

NAYS: None.

ZONING A
RETAIL S
OF PLAN
MATERIAL
GC ZONES
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AN ORDINANCE AMENDING CHAPTER 23, PLANNING AND COMMUNITY DEVELOPMENT, SUBPART E, ZONING, 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.

Councilman Hilton moved to remove from the table the reclassification request from AO (Agricultural Open Space) to GC (General Commercial) District, located at 7601 Buffalo Gap Road. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.

NAYS: None.

Mrs. Foresman said the request came from Landscaping, Unlimited. She said the tract was within the Southside Area Land Use Plan which recommended residential uses for the property. The request is for commercial zoning to accommodate a landscape office and a retail nursery. Extensive discussion concerning the plans of commercial zoning at the intersection of Buffalo Gap Road and FM 707 resulted in the area zoned general commercial which presently extends 1,400' north of that intersection. Additional extension of commercial zoning to the one acre tract, in the Staff's opinion, would place Buffalo Gap Road in an undesirable strip zone situation. The tract of land is not adjacent to City sewer lines but is served by other public utilities. The Staff and Planning & Zoning Commission both recommend disapproval based on the Southside Area Land Use Plan.

Councilwoman Proctor asked why there was some residential inside the commercial zoning on the property. Mrs. Foresman said the property was annexed in 1980. At the time, there was an antique store on half of the tract and a house on the other half. She said that made the antique store an unconforming structure. As the property was annexed, the owners were allowed to continue that use. However, if the owners wanted to change that use to anything that would not be allowed in an AO zone, they would have to go through the rezoning process.

Councilman Nixon asked what the other businesses were that were indicated on the map shown to the Council. Mrs. Foresman said one of them was a gift shop and the other was a fencing company. She said both of those businesses were located in the 1,400' general commercial area.

Mayor Hall opened public hearing on the reclassification request.

Mr. Jack Bryant, representing the proponents, said he was not present or involved at the time the Planning & Zoning Commission reviewed the request. He said only after the proponents bought the land, did they realize that the zoning was not correct for what they wanted to do. Therefore, the Planning & Zoning Commission denied the request and the Staff opposed it. At that time, the proponents hired Mr. Bryant. He said in view of the Zoning Ordinance amendment which would allow the use the proponents have in mind, the proponents would like to have the opportunity to have the request go back to the Planning & Zoning Commission so a presentation could be made to them.

Mayor Hall said ordinarily the Council will send a request back to the Planning & Zoning Commission when there seems to be some reasonable chance of conformance. However, the proponents are asking for a general commercial zone and the record indicated that it was not voted down by the Commission because the use was not permitted in the zone, but because the Commission did not think the commercial zone should be on Buffalo Gap Road. Mr. George said that was the way he understood it.

Mr. Bryant said he realized that the Staff thought the property would be a potential strip zoning situation. But, he pointed out that except for the width of Buffalo Gap Road, the property is adjacent to a substantially sized general commercial area. Mayor Hall pointed out that if the Council approves the general commercial zoning for the property, the proponents could operate something else on that tract instead of a nursery.

Mrs. Foresman said there was no violation concerning the property because a nursery is not on the property--an antique shop is.

Councilwoman Proctor asked if it was in keeping to send back to the Planning & Zoning Commission a request that they have already denied for the same zone change. Mr. Cargill said the proponents asked for general commercial zoning for a nursery--they could not legally have been given one when the first time the Planning & Zoning Commission considered it. He said the Council has the option to send it back to the Planning & Zoning Commission or not.

Councilman Hilton said the Council does not know whether the Planning & Zoning Commission denied the request because they knew that even if the request was approved the proponent still could not do what he wanted to do. If the Planning & Zoning Commission had known that the proponent could do what he wanted to do, they might have approved it.

Mayor Hall said the Council does not like to send something back to the Planning & Zoning Commission with the implication that the Council thinks the Commission made the wrong decision or that it did not go deep enough into it. Mr. Bryant said he did not think that was the case, because really the Staff is objecting to cleaning up a situation that has existed for a long time.

Mr. Roland Miller said he was present when the Planning & Zoning Commission denied the request with the reason that the request would be spot zoning. He felt that the Planning & Zoning Commission thought the request would contribute to spot zoning especially since a street to the north of the request had been created and a subdivision started there.

Councilman Rodriguez asked if Mr. Miller was opposed only to the general commercial zoning or the specific use for a nursery. Mr. Miller said he is opposed to the general commercial zoning because it would be in violation of City ordinance concerning spot zoning.

Mayor Hall closed the public hearing when no one else wished to speak.

Councilman Rodriguez moved to deny the reclassification request from AO (Agricultural Open Space) to GC (General Commercial) District, located on 7601 Buffalo Gap Road. Mayor Hall seconded the motion. The motion carried as follows:

Councilman Fogle asked for a clarification of the motion. He asked if the motion was to deny the request to send it back to the Planning & Zoning Commission. Councilman Rodriguez said his motion was to deny the reclassification request.

Mr. Bryant asked to have the Council decide whether to send it back to the Planning & Zoning Commission. He said if the Council decided not to send it back, then he would like to have the chance to present more information to the Council regarding the request.

Mayor Hall reopened the public hearing.

Councilman Hilton said the proponent actually requested to have the zone change request sent back to the Planning & Zoning Commission. He felt that their request should be voted upon before the zone change request is considered.

Councilman Hilton made the motion to send the reclassification request back to the Planning & Zoning Commission. Councilman Bridges seconded the motion. The motion failed as follows:

AYES: Councilmen Bridges, Fogle, and Hilton.

NAYS: Councilwoman Proctor, Councilmen Rodriguez, Nixon and Mayor Hall.

Mr. Bryant presented photographs of the property in question. He said the property consisted of approximately 3/4 of an acre that has been used for 30 years for an antique shop, service station, farming activity, and a residence. He said, historically, the property has been used for commercial activity for almost 30 years. When the property was taken into the City limits in 1980, an AO zoning was placed on it that in reality had no relationship to what the use was at that time. He did not feel that the property could be considered spot zoning because it is within 110' of commercial property on the same side of the street. He said the City has placed a great deal of strip zoning along both sides of Buffalo Gap Road.

He mentioned that the property would not sell for residential housing very easily. He said people are not buying property immediately on Buffalo Gap Road, but instead, they are buying property several yards off of Buffalo Gap Road.

He pointed out that Buffalo Gap Road was a major thoroughfare and the operation of a general commercial business at the location would not significantly increase traffic. The property is too small to operate something as large as a shopping mall that would create more traffic and noise.

Councilman Nixon asked if the antique store was still in operation. Mr. Bryant said the store was not in operation, but that there were several other buildings on the property besides the stores. He said there is a small gas station to the south of the store that was in operation until the proponents bought the property. Then there is a small shed to the north of the store with a run down residence. Finally, there is a barn in the back of the residence that had at one time stabled horses.

Councilman Rodriguez asked if there had been public hearings held for the neighbors in the area to have input concerning the zone change. Mr. George said the Staff attempted to notify every owner in the area. There were also a couple of public hearings in order to gain input before the Southside Area Land Use Plan was finalized. The Plan was even changed due to some of the property owners' input.

Mayor Hall asked if the antique store use would be the only thing that would continue to be permitted without zoning and if and when the antique store ceases to exist what zone will the property be. Mr. Cargill said when an area is annexed, the owners are able to continue the use of the property. An owner is not, however, authorized to change from that use to some dissimilar use. If the owner of the antique store decided to change the use of the building to perhaps a dress shop or a convenience store, it would not be legal. The Zoning Administrator is charged with the responsibility of interpreting the Zoning Ordinance. But an owner cannot change from one use to another and he could not expand the use.

Mr. Cargill said his interpretation of spot zoning is when property is rezoned for an individual's personal benefit or use and it is not consistent with the public's general welfare.

Councilman Nixon asked how long the proponents owned the property. Mr. Bryant said four or five months. Councilman Nixon asked if the property must conform after it is sold. Mr. George said changing ownership has nothing to do with the use. A particular use can continue as long as that use exists in the state that it was when it was annexed. If the property becomes vacant or ceases to be a use for a period of six months, the previous use cannot be put back in without a zone change request.

Councilman Nixon asked what could the proponents use the property for if the zone change request is denied. Mr. George said the property is zoned A0, so whatever uses are allowed in A0 could be used for the property.

Mr. Bryant said the uses previously in existence before the proponents bought the property have been ceased approximately four months. He said legally, his proponents could start peddling antiques and pumping gas, but that is not what they want to do.

Mr. Roland Miller said he has attended most of the public hearings on the Southside Area Land Use Plan since 1979. He said if the property was allowed to be zoned general commercial, it would be in violation of the Southside Area Land Use Plan. Councilman Fogle said he understood Mr. Miller to say that there is a separation between the existing general commercial zoning and the property in question, and it is separated by residential zoning. Mr. Miller said there has been a request previously denied by the Planning & Zoning Commission adjacent to the property in question because the Commission felt it would be spot zoning. Mrs. Foresman said that those proponents wanted general commercial zoning as well, but they did not appeal when their request was denied.

Councilman Hilton asked Mr. Miller if he would not oppose the zone change request if it was not for the Southside Area Land Use Plan. He said the Plan was to be changed any time if in the public interest to change it. Mr. Miller said he was only trying to protect his own property because he lives

across the street from the property with an open area next door to his home. He felt that if the proponents' property is spot zoned, then the property next door to him will also be spot zoned.

Mayor Hall asked if the Council approves something that is contrary to a land use plan, will that land use plan be simultaneously changed to comply with what the Council approved. Mr. George said when zoning is completed, the Council does set the land use pattern in a given area, therefore, the Staff does change the plan. Mayor Hall said he remembered several times when the Planning & Zoning Commission denied zone change requests because they differed from a particular land use plan. He also remembered that those zone change requests were eventually approved by the Council and the land use plans modified. Mr. George said that was correct that several instances have happened like that.

Councilman Hilton said probably the best thing for the proponents to do would be to contact the Blue Bonnet Lane developers and ask that the entire area be zoned general commercial. He said he did not see how the developers of Blue Bonnet Lane would be able to use their property effectively other than for general commercial.

Mr. Bryant said each of the other tracts that had been mentioned are not property that had commercial useage on it at the time the property was brought into the City. He felt that anything new that would be developed on the property would be an improvement over what is currently on the property.

Mayor Hall asked if the property use currently in place was all non-conforming use or have the proponents asked for an area larger than that. Mr. Bryant said there is an area 10' wide with a service station on it, there is an area where the antique store was located, there is an area where horses were involved, and there are the barns. He said he does not know the square footage extent of the non-conforming use. He felt that since the property had commercial useage on it would be a non-conforming use at the time it was annexed into the City.

Councilman Rodriguez asked if the Southside Area Land Use Plan recommended commercial at the location. He said he thought that recommendation was not designed to preclude the owner from using his property from the current zoning. He understood the Staff to say that when the City annexed the area, everything reverted to AO zoning, however, when the Southside Area Land Use Plan was adopted, it was not taken into consideration for the particular property. Mrs. Foresman said the land was already zoned shopping center (Mrs. Foresman was referring to an earlier zone change request). Councilman Rodriguez said he realized that, but the Staff now states that it was looking at the use that was already on the property. Now, he said the Staff seemed to be doing something totally different when the Southside Area Land Use Plan was adopted because the area in question was recommended to be used as commercial. Mrs. Foresman said the City still could not preclude the owner from continuing to use his property as it was when it was annexed. Councilman Rodriguez pointed out that it was never legally adopted as a general commercial use--it was legal non-conforming. He continued to say whereas in the other previous item it was adopted as a general commercial area or shopping center.

Mr. Bryant mentioned that the property in the prior request came before the City since it was annexed into the City limits and the shopping center was placed on it by the City at that time. He said in this particular property, it was not in the City limits at the time the use was placed on it so it is a factual use as opposed to a usage put on it in platting and the original zoning ordinance.

Mayor Hall closed the public hearing.

Mayor Hall said he understood Mrs. Foresman to say that the area the Council discussed previously had already been zoned commercial or shopping center and when the Land Use Plan came along it took that zoning. He asked if that was correct. Mrs. Foresman said that was correct. Mayor Hall said whereas in the particular property in question, when the Land Use Plan was drawn, the area was not zoned commercial. He said it did have a legal but non-conforming commercial use on it, but it had not been zoned. He said he did not see any inconsistency in it.

Mrs. Foresman said that area was quite different also. She said it was the corner of a major thoroughfare and a collector street where commercial is often located. The property in question is located in the middle of a block. She said until zoning is requested by a proponent it comes into the City as AO. She said the Staff does not initiate any zoning unless the proponents initiate it.

Mayor Hall asked Mr. Cargill what should be done about Councilman Rodriguez' motion to deny the request. Mr. Cargill said the Council could either let that motion stand or Councilman Rodriguez can withdraw it, or Councilman Rodriguez could clarify the motion to say what he actually intended. He said the Council wanted to make sure the record correctly reflected everyone's intentions.

Mayor Hall said Councilman Rodriguez made the motion and asked if he wanted to withdraw it or if he wanted to clarify it.

Mr. Hilton pointed out that the Council had a motion and it was not tabled, so he thought Councilman Rodriguez actually withdrew it.

Councilman Rodriguez moved to deny the reclassification request from AO (Agricultural Open Space) to GC (General Commercial) District, located at 7601 Buffalo Gap Road. Mayor Hall seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, and Mayor Hall.

NAYS: Councilmen Hilton and Nixon.

ZONING I
AO TO GC
7601 BU
GAP ROAD
2ND & F
DENIED

Mr. Whitehead presented the resolution authorizing participation in the Keep America Beautiful Program. He said it is a program that the Staff would like to present to the Council. He said the Staff has been looking at the Keep America Beautiful--the Clean Community System--for almost one and a half years. He said the Staff met recently with a representative from Keep America Beautiful and found that they have the facilities in a training program available the first part of June in the Ft. Worth area. Other training programs this year are to be held in California, New Jersey and probably will not be back in Texas for a few years. That fact helped urge the Staff to bring the program to the Council.

Mr. Seegmiller said the Chamber of Commerce would also be involved in the program as well and would have representatives also.

Mr. Whitehead said the Clean Community System is a program from Keep America Beautiful Incorporated. The intent is a litter education program--clean up programs just by going out and cleaning up the community has found to not be an effective long range solution. Communities throughout America are reducing their litter by as much as 80% and are keeping it that way through the Keep America Clean Community System. In a three year research project conducted by Keep America Beautiful, Inc., three situations were found that encourage people to litter. The first one is when people feel no sense of personal ownership for the property; the second, when people know someone else will clean up after them; and third, when people see litter already accumulated. In order to make communities cleaner on longer than just short term, citizen's attitudes about trash and litter need changing. On the local level is where a bad attitude develops first. The Clean Community System goes through a systematic plan involving business, government, labor, the media, schools and civic and professional organizations. Since 1976, the Clean Community System has made towns, cities and counties with populations from 1 1/2 million to 500 in 36 states as much as 87% cleaner. Once a community establishes sufficient support for the system, Keep America Beautiful trains a project team from the community in the techniques of carrying it out. The project team's first step is to get the facts about trash and litter in the community and to involve the people with the strongest influence over community trash handling attitudes. This influence can be anyone, from the Mayor to the sanitation route man, to key employers to finally, volunteer leaders. These persons are put together in a broad base clean city committee. Once the committee is formed, it plans systematically to carry its program to every part of community life. As its work progresses, the committee focuses on results. It uses a photometric index of litter accumulation developed for KAB by the American Public Works Association to measure how much litter there is before, during and after the program takes effect. As a result, the Clean City Committee provides positive reinforcement to keep the program working successfully and to sustain the reductions already attained and to encourage everyone to an even greater effort on behalf of a cleaner city.

Mr. Whitehead said there are four basic components that make the system work--a unified, enforceable sanitation code, a public education workshop specifically geared for each segment of the community, to upgrade sanitation procedures and technology, and a fair and consistent ordinance enforcement. He said the cost benefit analysis, shows that in ten communities the Clean Community System has reduced litter by as much as 88% and sustained these reductions as long as 7 years. The communities have each reported from \$2.20 to \$110.90 in benefits for each one dollar in municipal funds invested in the Clean Community System in the past fiscal year. He said the program is designed not to be sponsored by a City. It is a community wide, broad based citizens' committee that really sponsors and organizes and develops the system-wide clean community system. The City would serve as an instigator to have the program started, then the City's obligation from that point will be more of Staff support to provide various services developed from the program.

Mr. Whitehead said the Staff will provide the Council with as much information as needed about the program to enable them to consider the program. Also, the Staff asks that the Council authorize the Mayor to enter an application for certification which would involve preliminary work to be submitted and a commitment of \$2,500 which will pay for training three individuals (one each from government, business community, and civic leader) to develop organizations and committee structures. Later, those committees will present their recommendations to the Council and to the Chamber of Commerce. The Council at that time, would make the final decision whether the community really wants to get involved in the program or not. If the City gets involved in the program, Keep America Beautiful suggests that during the first couple of years, usually the city that is involved, should budget from \$3,000 to \$5,000 for promotional materials. That, however, is not a commitment at the present time--only the \$2,500 for the training of the three individuals.

Mr. Seegmiller said if the Council decides to enter into the program, he recommended that the Council meet with the Chamber of Commerce officials because they are very interested in participating. Mayor Hall asked if the Chamber would be willing to select someone from the business community to be one of the individuals to head a committee. Mr. Seegmiller said he felt the Chamber would do that if the Council asked.

Mayor Hall asked if there was a similar program at Dyess Air Force Base. Mr. Seegmiller said Colonel Bennington organized a program similar, although he did not know if it is still going on.

Councilman Bridges asked if the program meant that the City would have to support a City agency. Mr. Whitehead said the intent that has worked in other cities has been to get the agency out of City Hall. It would then become a community project not a City project. The \$3,000 to \$5,000 would go to the support of the agency for the first few years. Possibly, the City Staff might be able to provide some in-kind support. The \$3,000 to \$5,000 would be mostly for promotional material. The in-kind support would probably be in addition to the \$3,000 to \$5,000 in promotional material.

Mr. Seegmiller said when the program is developed, the bulk of the Staff work will come from the Public Works Department.

Councilman Bridges asked what a photometric measurement was. Mr. Whitehead said it is a system of taking photos before, during and after a project. The photos will be taken randomly throughout the City of vacant lots, industrial areas and commercial areas. The system includes overlaying the photos to give an index of litter problems on the photos. After the program is implemented, random samples are taken again to compare the cleanliness of the community.

Councilman Bridges moved to authorize the Mayor to proceed with the Keep America Beautiful--the Clean Community System Program and to provide funds from the Public Works Department. Councilman Fogle seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.

NAYS: None.

Mr. David Wright, Director of Finance, discussed the City's financial situation with the Council. He said at the Workshop in January, some critical dates were mentioned. For the most part, those date have passed. Through six months, currently the revenues are about 60 percent of the Budget. That gets skewed somewhat from the fact that the City's property taxes come

in during the first four months of the fiscal year. The property taxes historically, have come in at 95 percent, and the Staff does not expect anything to be different this year. The sales tax has been a problem. Currently, according to the Staff's calculations, the City will be about \$800,000 below Budget. That is taking into consideration that the sales tax will stabilize at last year's level for the rest of the year. The City's April sales tax check was by far the smallest decline in many months. He said, however, it was a less than 2 percent reduction. The Staff is using that as an indicator that the sales tax will stabilize the remainder of this year at last year's level.

Mr. Wright said the franchise tax checks have come in and are over Budget. He reminded the Council that at the January Workshop, he hoped that the franchise tax checks would be able to take up the slack where the sales tax left the City short. He said the Lone Star Gas franchise tax was \$300,000 over; the West Texas Utilities franchise tax was \$70,000 over; the Southwestern Bell franchise tax was \$9,000 over; and the Cable TV franchise tax will be received in May.

Mr. Wright said the other revenue sources appear to at least meet the Budget and perhaps will exceed it. Therefore, current projections show that the City should get approximately 99 1/2 percent of the original Budget. Historically, revenues have gone over Budget because of the City's conservative approach. The sales tax, however, took away whatever gains the City might have received. Therefore, the 99 1/2 percent equates to an approximate \$100,000 shortfall against the Budget. He said two weeks ago, the Staff began the Budget process and the refined revenue estimates are due from the Directors soon. Mr. Wright mentioned a few other revenue sources for the City such as, recreation fees and interest on investments. He said if the City made no more investments this year, the City would be about \$200,000 over Budget. The City does expect to make more investments this year, therefore, that figure will be even further exceeded by the end of the year.

Mayor Hall asked if the City will be receiving more than was expected from long term certificates of deposit. Mr. Wright said the City is receiving better rates than before and the City is able to put the CD's on longer terms. However, under revenue accrual accounting, the City will recognize the revenue that this year has earned on the utilization of those funds. The City may not have the cash, but the revenue is there. The City fully reserves the tax from the standpoint that the City goes on a cash basis of taxes because they could all go delinquent very easily. Interest earnings are a little different because that is one of the very few revenues that are accrued except for billings for the landfill. When the landfill uses are billed, it goes on the books as a landfill revenue. Water & sewer revenues are not taken into consideration because it is the General Operating Fund. Water and sewer is self-sustained, therefore, its revenues have to support it. He said the Staff is going into the Budget process, and while the revenues are being refined, the expenditures as well will be refined. During that process, the Staff will also look at alternative methods to the situation, whether or not the City utilizes any balances in revenue sharing for any additional capital that has not been purchased to solve the problem.

In summary, Mr. Wright, said while the Staff's current projections appear to be \$100,000 below the Budget, through the Budget process, the Staff hopefully will be able to make the necessary adjustments to cover the \$100,000.

Councilman Bridges asked how much excess did the City have in revenues. Mr. Wright said last year, the City was about 12 percent over the entire Budget. Mr. McDaniel said the City uses that excess to help build the City's fund balance for emergencies. If the City does wind up this year having to come up with \$100,000, that fund balance is where it will come from.

Mr. Wright said the Council's goal has been to develop a 30 percent of the general fund's Budget as the fund balance. Liquid fund balance needs to be at least 95 percent of that. Through last year, the City is about at 27 percent if considering all of the City's reserves. However, the bank stock situation has taken some \$900,000 from that which is giving the City an approximate 24 percent fund balance toward the 30 percent goal. If the City loses the bank stock suit, then the City will refund the \$900,000.

Mayor Hall pointed out that the City is not replacing the money at the same interest rate that the City is drawing. The City can also probably anticipate lower valuations from the appraisal district. He said the fund balance was not set up to take care of a bad year, but to take care of some disaster that the City might experience.

Mr. Seegmiller said as the Staff moves into the Budget process, the departments and divisions will go through a process of reviewing this year's Budget as well as next year's Budget, so the Staff does re-look at the Budget.

FINANCIAL
UPDATE C
THE CITY
DISCUSS

Mayor Hall said the item concerning the Health Facilities Development Corporation will not be to discuss the Corporation, but he would like to ask for a motion to approve a committee he appointed. He said the committee would be an Ad Hoc Committee serving in an advisory capacity to give the Council some input regarding the Health Facilities Development Corporation. The members of the Ad Hoc Committee, subject to Council's approval, are: Dr. Jack Bargainer, Richard M. Johnson, Rodney Joy, Bobby Melson, Norman Naill, Bob Springer, Chairman, Rosemary Suttle, L. J. Webster, MD, and Oliver Howard.

Councilman Hilton moved approval of the members appointed by Mayor Hall to the Ad Hoc Committee to serve in an advisory capacity in regard to the Health Facilities Development Corporation. Councilman Nixon seconded the motion. The motion carried as follows:

AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.

NAYS: None.

APPOINTM
AD HOC C
ITTEE FC
HEALTH F
ITIES DE
MENT COF

Mayor Hall recessed the meeting to go into an executive session to discuss pending and contemplated litigation regarding water rights adjudication proceedings update and to consider the appointment and evaluation of public officers.

APPROVE

The Council reconvened and asked Mr. Gary Landers, First Assistant City Attorney, to discuss the water rights adjudication proceedings update. Mr. Landers presented a map showing the different water sheds that Abilene claims that are the sources of Abilene's water. In Texas, there is a State agency, the Texas Department of Water Resources, that is concerned with the development and use of water in Texas. The TDWR is different from State agencies in that it has two boards of directors that are appointed by the Governor. One is the Water Development Board which is in charge of the agency itself and where the City must go to get permits to use the water. The second board is the Water Commission made up of three members. The Water Commission is sort of like a court in that they actually determine what water rights a city or anyone else has in Texas. Under the Water Commission are hearings examiners who act in a capacity similar to judges presiding over hearings to determine water rights. In Texas, the law is that all water belongs to the State. Anyone that uses water must obtain a permit, whether to build a dam (impounding), to divert water (scalping operations at Lake Ft. Phantom), and for using water (appropriate water). The permits give the City the right both to impound or divert or use water. The permits have two amounts in it. One amount would be the amount of acre feet of water that the City could impound and the second would be an amount of acre feet that the City could appropriate or use. The right to use the water would further be broken down into specific uses such as municipal use or industrial use.

Mr. Landers said the City currently has five permits to cover Lake Abilene, Lake Kirby, Lake Ft. Phantom, for the scalping operation from the Clearfork of the Brazos and the gravity flow scalping operation at Deadman's Creek. Both of the scalping operations occur when the creeks are on a flood rise. The diversion dam is built into the Deadman's Creek that causes the water to back up and spill over another diversion dam to flow into Lake Ft. Phantom.

The City has retained an Austin law firm, Booth, Lloyd and Simmons, to advise the City during the water rights adjudication proceedings. The adjudication process is a series of hearings before a Water Commission examiner, a staff attorney and a staff engineer where anyone who claims a right to impound, divert or use water presents their evidence. During these hearings, the staff attorney acts as an advocate for the State as a whole in trying to make the claimant prove their case. The adjudication process was

originally set up by the Texas Legislature as an attempt to quantify the water available in Texas and the water that was being claimed. The adjudications are done on a water shed of the different water basins in Texas. Water basins have sub-geographical areas called water sheds. Abilene is considered to be in the Clearfork of the Brazos general water shed so the City's adjudication is the Clearfork Water Shed of the Brazos Basin adjudication.

The first round of adjudication hearings were held in 1979, where the City of Abilene gave evidence and testimony concerning its five permits. Based on the first round of hearings, a preliminary report was released in 1982. The preliminary findings cut back some of the rights that Abilene had. The findings on the Clearfork Water Shed were rough on everyone who claimed water rights. As a result, the City went back to Austin this year in March, and held the second round of hearings where evidence was presented to try to convince the hearing examiner and the staff attorney that the City was entitled to all of the water rights it was claiming--except for the permit concerning Lake Fort Phantom was postponed until May.

Mayor Hall asked if Mr. Landers could give figures on the cutbacks in Abilene and others were forced to take after the 1982 report. He said the State cut the Deadman Creek diversion from 3,000 to 0. Mr. Dwayne Hargesheimer, Director of Water Utilities, said another example was on the Clearfork Division. He said the City has a permit that allows the City to divert 30,000 acre feet in any one year. In the City's previous years' history, the City had only diverted about 21,000 acre feet. The hearing examiner limited the City in the future to that 21,000 acre feet. The same thing has happened with the other permits.

Mayor Hall asked how it will affect the people downstream from the City who have obtained some water rights through the City. Mr. Landers said the staff will be coming back to the Council at a later time with some recommendations concerning the downstream customers. He said there are persons living downstream from Abilene who receive irrigation water and their rights to receive that water from the City will be affected by the adjudication.

Mayor Hall asked about the City's right to water as a major stockholder in the West Central Texas Municipal Water District. Mr. Landers said the people over in the Hubbard Creek Reservoir are also involved in the same adjudication hearings. Those hearings have been put on by the WCTMWD's attorney. The City's rights are also at risk in that adjudication also. Mr. Hargesheimer said Hubbard Lake was built mainly for Abilene's use. A lot of the use which has been permitted at Hubbard has not been perfected because that is the City's future water.

Mr. Landers explained that the word "perfection" meant the actual legal use of the water that is permitted. A City may have a permit right to use 10,000 acre feet, but if the City is only using 5,000 acre feet, it is only perfecting 5,000 acre feet. If someone else comes in and wants the additional 5,000 acre feet, the City could permit them the 5,000 acre feet.

Councilman Fogle asked about future population growth and its influence on the water supply. Mr. Landers said all entities in Texas that build lakes or provide water sources build those lakes larger than for their immediate need. Councilman Fogle said he understood that the City may be trying to develop another water supply by the year 2,000. He asked if the adjudication would alter those plans substantially. Mr. Landers said another water supply could be needed much earlier than the year 2,000.

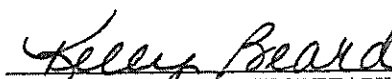
Mayor Hall asked the Council to approve the appointment of Mrs. Martha King to replace Mr. Ray B. King for a term which ends August 31, 1983, the appointment of Mrs. Joy Carter, Mr. G. Holman King, Mr. John H. McGaughey, Mrs. Martha King, and Mr. Royce Money for term expiring August 31, 1985 to the Mental Health/Mental Retardation Board. Councilwoman Proctor seconded the motion.

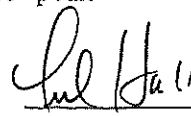
AYES: Councilman Bridges, Councilwoman Proctor, Councilmen Rodriguez, Fogle, Hilton, Nixon and Mayor Hall.

NAYS: None.

BOARD APPT-
MH/MR
APPROVED

Mayor Hall adjourned the meeting at 3:30 p.m.


ASSISTANT CITY SECRETARY


MAYOR