

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, May 12, 1983, at 9:00 a.m.

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

1. Call to Order.
2. INVOCATION: Councilman Julian Bridges.
3. APPROVAL OF MINUTES: Regular Meeting held April 28, 1983.

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.

4. Ordinances
  - a. Consider on first reading - reclassification request from AO (Agricultural Open Space) to GC (General Commercial) District, located on West Lake Road & set a public hearing for May 26, 1983, at 9:00 a.m.
  - b. Consider on first reading - a PDD ordinance amendment, located at Ridgemoat and Rolling Green Drives & set a public hearing for Mayr 26, 1983, at 9:00 a.m.
  - c. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to HC (Heavy Commercial) District, located at 802 S. 8th & set a public hearing for May 26, 1983, at 9:00 a.m.
  - d. Consider on first reading - reclassification request from AO, GC & RS-6 (Agricultural Open Space, General Commercial & Residential Single Family) to HC & MH (Heavy Commercial & Mobile Home) District, located at Overland Trail & Clinton Street & set a public hearing for May 26, 1983, at 9:00 a.m.
  - e. Consider on first reading - reclassification request from RS-12 (Residential Single Family) to RM-3 & GC (Residential Multi-Family & General Commercial) District, located at ES 11th & Lytle Way, & set a public hearing for May 26, 1983, at 9:00 a.m.
  - f. Consider on first reading -reclassification request from HC & RS-6 (Heavy Commercial & Residential Single Family) to RM-1 (Residential Multi-Family) District, located at Ambler & Hardy Streets & set a public hearing for May 26, 1983, at 9:00 a.m.
  - g. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to PH (Patio Home Overlay) District, located at Simmons & Anson Avenues & set a public hearing for May 26, 1983, at 9:00 a.m.
  - h. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to PH (Patio Home Overlay) District, located at Westway Drive & Poplar Street & set a public hearing for May 26, 1983, at 9:00 a.m.
  - i. Consider on first reading - reclassification request from AO (Agricultural Open Space) to RS-6 (Residential Single Family) District, located on Chimney Rock Road & Bruce Drive & set a public hearing for May 26, 1983, at 9:00 a.m.
  - j. Consider on first reading - PDR ordinance amendment, located on Oldham Lane & set a public hearing for May 26, 1983, at 9:00 a.m.
  - k. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to RM-3 (Residential Multi-Family) District, located on Lakeside Drive & set a public hearing for May 26, 1983, at 9:00 a.m.
  - l. Consider on first reading - reclassification request from AO (Agricultural Open Space) to RS-8 & RS-6 (Residential Single Family) Districts, located on Meadows Drive & set a public hearing for May 26, 1983, at 9:00 a.m.
  - m. Consider on first reading - reclassification request from RM-3 (Residential Multi-Family) to RM-3 (MRH) (Modular Home Overlay) District, located in the 1600 Block of S. 14th & set a public hearing for May 26, 1983, at 9:00 a.m.

4. Ordinances, Cont'd.
  - n. Consider on first reading - reclassification request from AO (Agricultural Open Space) to RS-6 (Residential Single Family) District, located at Button Willow Parkway & Broken Bough Trail & set a public hearing for May 26, 1983, at 9:00 a.m.
  - o. Consider on first reading - a thoroughfare abandonment, being a public road west of Hwy 36 to west of Lytle Creek & set a public hearing for June 9, 1983, at 9:00 a.m.
  - p. Consider on first reading - prohibition of parking on various streets during street maintenance operations & set a public hearing for May 26, 1983, at 9:00 a.m.
  - q. Consider on first reading - amending Section 18-293, prohibiting parking at Kirkwood and Sandefer.
  - r. Consider on second and final reading - amending Section 18-290 concerning one way alleys.
5. Resolutions
  - a. Consider authorizing the Staff to issue request for proposal for Energy Conservation Grant.
6. Award of Bids
  - a. Polymer for Water Department.
7. Change Order
  - a. Consider Change Order #3 for Transit Maintenance Facility.
8. Request to Advertise
  - a. Tools & Equipment for Transit System.
  - b. Water Drafting Pit for Fire Department.
  - c. General & Fleet Liability Insurance.
  - d. Repair of Acid Vats at Water Meter Shop.


REGULAR AGENDA

9. Public Appearances
  - a. Floyd McDonald - Job Training Program.
  - b. Porter Wall - Member of the 90+ Club.
10. Public Hearings
  - a. Consider on second and final 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.
11. Ordinances
  - a. Tabled & Appealed Item  
Consider on second and final reading - reclassification request from RS-6 (Residential Single Family) to HC (Heavy Commercial) District, located at N. 21st and Hardy Street.
12. Award of Bids
  - a. Spring 1983 Paving Assessment - Phase II & set a public hearing for June 23, 1983, at 9:00 a.m.
13. Other Business
  - a. Discuss Health Facilities Development Corporation.
  - b. Discussion of request to operate fireworks stand in City limits.
  - c. Discussion of annexation request.
  - d. Appointment & evaluation of public officers.
  - e. Pending and contemplated litigation.

ADJOURN

CERTIFICATION

Thereby certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 9th day of May, 1983, at 9:00 a.m.

  
Assistant City Secretary

CITY COUNCIL OF THE CITY OF ABILENE  
CITY COUNCIL CHAMBER OF CITY HALL

The City Council of the City of Abilene, Texas, met in regular session, May 12, 1983, at 9:00 a.m., in the City Council Chambers of City Hall. Mayor Elbert E. Hall was absent. Councilman A. E. Fogle, Jr., presided with Councilwoman Billye Proctor-Shaw, Councilmen Juan C. Rodriguez, Robinson, and Harold Nixon. Councilman Julian Bridges was also absent. City Manager, Ed Seegmiller, City Attorney, Harvey Cargill, and Assistant City Secretary, Kelly Beard were also present.

Councilman Harold Nixon led the invocation.

The minutes from the last regular meeting held April 28, 1983, were approved as written. Councilwoman Proctor-Shaw moved approval of the minutes. Councilman Nixon seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.

NAYS: None.

Councilman Nixon moved approval of the consent agenda items with the exception of 4o, 4r and 5a. Councilman Rodriguez seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.

NAYS: None.

4. Ordinances

- a. Consider on first reading - reclassification request from AO (Agricultural Open Space) to GC (General Commercial) District, located on West Lake Road & set a public hearing for May 26, 1983, at 9:00 a.m. Denied by P&Z, but appealed.

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 RE-AO TO GC ON WEST LAKE RD 1ST READING APPROVED

- b. Consider on first reading - a PDD Ordinance amendment, located at Ridgemont and Rolling Green Drives & set a public hearing for May 26, 1983, at 9:00 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE AND ORDINANCE NO. 53-1982, CONCERNING THE RHODES PLAZA PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

ZONING AMEND. PDD ORD. AT RIDGEMONT & ROLLING GREEN DRIVES 1ST READING APPROVED

- c. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to HC (Heavy Commercial) District, located at 802 S. 8th & set a public hearing for May 26, 1983, at 9:00 a.m. Denied by P & Z and not appealed.

ZONING RE-RS-6 to HC AT 802 S. 8TH DENIED BY P&Z

- d. Consider on first reading - reclassification request from AO, GC RS-6 (Agricultural Open Space, General Commercial & Residential Single Family) to HC & MH (Heavy Commercial & Mobile Home) District, located at Overland Trail & Clinton Street & set a public hearing for May 26, 1983, at 9:00 a.m.

ZONING RE-AO, GC & RS-6 TO HC & MH AT

- e. Consider on first reading - reclassification request from RS-12 (Residential Single Family) to RM-2 & GC (Residential Multi-Family & General Commercial) Districts, located at ES 11th & Lytle Way, & set a public hearing for May 26, 1983 at 9:00 am.

OVERLAND TR. & CLINTON 1ST READING APPROVED

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 RE-RS-12 to RM-2 & GC AT ES11 & LYTLE WAY 1ST READING APPROVED

- f. Consider on first reading - reclassification request from HC & RS-6 (Heavy Commercial & Residential Single Family) to RM-1 (Residential Multi-Family) District, located at Ambler & Hardy Streets & set a public hearing for May 26, 1983, at 9:00 a.m. Denied by P&Z and not appealed. ZONING RE - HC & RS-6 TO RM-1 AT AMBLER & HARDY DENIED BY P&Z
- g. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to PH (Patio Home Overlay) District, located at Simmons & Anson Avenues & set a public hearing for May 26, 1983, at 9:00 a.m. ZONING RE - RS-6 TO PH AT SIMMONS ANSON AVE. 1ST READING APPROVED
- 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.
- h. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to PH (Patio Home Overlay) District, located at Westway Drive & Poplar Street & set a public hearing for May 26, 1983, at 9:00 a.m. ZONING RE - RS-6 TO PH AT WESTWAY POPLAR 1ST READING APPROVED
- 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.
- i. Consider on first reading - reclassification request from AO (Agricultural Open Space) to RS-6 (Residential Single Family) District, located on Chimney Rock Road & Bruce Drive & set a public hearing for May 26, 1983, at 9:00 a.m. ZONING RE - AO TO RS-6 ON CHIMNEY ROCK ROAD & BRUCE DRIVE 1ST READING APPROVED
- 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.
- j. Consider on first reading - a PDR Ordinance amendment, located on Oldham Lane & set a public hearing for May 26, 1983, at 9:00 a.m. ZONING AMEN PDR ORD. ON OLDHAM LANE 1ST READING APPROVED
- AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, ZONING, OF THE ABILENE MUNICIPAL CODE AND ORDINANCE NO. 55-1982, CONCERNING THE KINGS CROSS PLANNED DEVELOPMENT DISTRICT, CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.
- k. Consider on first reading - reclassification request from RS-6 (Residential Single Family) to RM-3 (Residential Multi-Family) District, located on Lakeside Drive & set a public hearing for May 26, 1983, at 9:00 a.m. ZONING RE - RS-6 TO RM-3 ON LAKESIDE DRIVE 1ST READING APPROVED
- 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.
- l. Consider on first reading - reclassification request from AO (Agricultural Open Space) to RS-8 & RS-6 (Residential Single Family) Districts, located on Meadows Drive & set a public hearing for May 26, 1983, at 9:00 a.m. Denied by P&Z and appealed. ZONING RE - AO TO RS-8 RS-6 ON MEADOWS DR. 1ST READING APPROVED
- 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.
- m. Consider on first reading - reclassification request from RM-3 (Residential Multi-Family) to RM-3 (MRH) (Modular Home Overlay) District, located in the 1600 Block of S. 14th & set a public hearing for May 26, 1983, at 9:00 a.m.

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 RE -  
RM-3 TO RM-3  
(MRH) IN 160  
BLK OF S.147  
1ST READING  
APPROVED

- n. Consider on first reading - reclassification request from AO (Agricultural Open Space) to RS-6 (Residential Single Family) District, located at Buttonwillow Parkway & Broken Bough Trail & set a public hearing for May 26, 1983, at 9:00 a.m.

ZONING RE -  
AO TO RS-6  
AT BUTTON-  
WILLOW PKWY  
& BROKEN  
BOUGH  
1ST READING  
APPROVED

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.

- o. Consider on first reading - a thoroughfare abandonment being a public road west of Hwy 36 to west of Lytle Creek & set a public hearing for June 9, 1983, at 9:00 a.m.

Mr. Bob Whitehead, Director of Public Works, presented the thoroughfare abandonment to the Council. Councilman Nixon asked how persons delivering or picking up equipment would gain access to the property that is now enclosed by gates. Mr. Whitehead said no through traffic would be allowed on the road if a thoroughfare abandonment was approved. He said the intent was to maintain, if abandoned, the road for private use, such as ranchers, farmers, oil companies, etc. He said, however, all of the properties have access from another road. He said that road may not be as convenient, but it would provide access to the properties.

Councilman Nixon asked how the gates would be opened if someone wanted to obtain access to the road. Mr. Whitehead said with the liabilities the City faces with the bridge being out on that road, the Staff felt that the gates need to remain locked from public use. He said if the road is abandoned, keys would be provided to property owners or anyone else who must use the road. He said ever since the October, 1981 flood, that is the method the City has been using to keep the public from using the road.

Councilman Nixon asked how a person would obtain a key. Mr. Whitehead said the person receiving a delivery would have a key and he would be responsible for passing that key on to the person delivering the equipment. Or, the delivery person could notify the Airport and someone from the Airport could unlock the gates.

Councilman Nixon said several years ago, the City wanted to extend the Airport runway in the area. The City purchased the property to make the extension and probably promised the citizens the City would build them a road to go around the extension so they could still have access to get through the area. Probably the City or County spent a lot of money building that road completely around the runway. He said the road was not merely a street that is proposed to be closed. He said it was a County road that has been available for public use for many years. He felt that the Council might be setting a precedent if it closed a County road. He asked if the Staff knew of any plans for development in that area and if the area would be closed to any development because of the thoroughfare abandonment.

Mr. Whitehead said in 1969 the Airport was expanded and the County road was rerouted around the Airport. The road was dedicated as a street right of way for public use, however, the road is on Airport property. In October, 1981, the flood damaged the bridge across Lytle Creek on the road. At that time, the City chose to close off the road because of public safety. He said the City has been trying to maintain the road in that status until information could be brought to the Council to determine what should be done with the road. In mid 1982, a low water crossing was built across Lytle Creek to serve the Rehab property. Rehab requested that something be built and it is on the Rehab lease property, not on the public thoroughfare property. All of the persons who have need of access to the properties, whether they be leased property or direct ownership, have been provided keys to the gates. He said the City has had a hard time of maintaining the gates and the closed street. Because of the rural, remote area, the City has lost several gates and locks.

On March 17, 1983, the City received a petition from persons in the area requesting the City Council officially open the road for public use. He said the petition was what really instigated the Staff to start the process of a thoroughfare abandonment. He said even though the Planning & Zoning Commission denied the request for the thoroughfare abandonment, the final decision must come from the City Council. He said of the 16 signatures on the petition, only three are residents of the City of Abilene. The other signatures are persons living outside the City limits and oil field workers and persons just interested in using the road.

One of the reasons the Staff did not try to resolve the issue prior to receiving the petition was that the Staff was aware of the master plans that have been developed and are waiting for the Stream Management Plan. He said all of those plans will have a factor in the issue that the Council will want to consider. He said the main reason the Staff did not push the issue was because of the Stream Management Plan--to try to figure out what was going to happen to the Lytle Creek system before the Staff would recommend repairing the bridge and spending money or even abandoning the road.

He said the Staff's reasons for recommending the thoroughfare abandonment were based on two factors: the master plans that have been developed and the possible liability that is imposed on the City by the continued use of the road.

Mr. Whitehead pointed out on the official thoroughfare and collector plan that Industrial Boulevard, even if extended, would not connect with the road in question. Instead, it will extend to the west side of Lytle Creek to FM 707 extended. Another plan, the land use plan for the area, proposes that Industrial Boulevard extended would swing south on the west side of Lytle Creek. He said the area between the Airport and Lytle Creek is underneath one of the Airport's flight paths. One of the things the Staff determined in the Airport Master Plan, was that a land use plan had to be developed around the Airport to protect the environment around the Airport. A lot of airports are now getting into trouble because they have allowed encroachment of development into the flight paths. The land use plan proposes that the best use for the area would be agricultural use. South of the area, industrial and commercial would be admitted and other streets would be available for their use. West of Lytle Creek would permit multi-family and residential housing once outside of the noise of the flight patterns.

Mr. Whitehead said the Stream Management Plan calls for a detention facility somewhere along Lytle Creek. He said the preliminary plans shows that the crossing of Industrial Boulevard and Lytle Creek would be an excellent place to have a detention facility. Therefore, the Staff through the use of the three plans, recommended a thoroughfare abandonment be considered by the Council.

Mr. Whitehead pointed out on a map, that WTU and the Rehabilitation Center owns the land on the west side of the Airport and to the south boundary. Mr. Beam, Manahan, Polk and Whiteside own land abutting the road, but access is available to their properties along another road along with keys to the locks on the gates erected by the City.

Mr. Whitehead presented slides of the road to show the Council the gates the City erected and the direction and condition of the road. Mr. Whitehead pointed out that embankments were installed along the damaged bridge to prevent the use of the bridge. He said the Staff felt that even with the low water crossing, the City was still facing a great deal of liability.

Mr. Whitehead said the Staff came up with four alternatives to the problem: 1) completely open the road for public use. In order to do that, the City would have to reconstruct the bridge. The State Highway Department, prior to the flood, had determined through their off-highway systems program where there were federal funds for bridges off-highway systems that the bridge did not have a sufficiency rating adequate to handle the traffic. The signing of the road would cost approximately \$1,700. The Airport lights frequently get shot out by vandals, therefore, if three of those lights are off in a row and something happens to an aircraft, the City will be liable. Mr. Whitehead said prior to the flood, it cost the City approximately \$2,500 to replace lights. The year after the flood, the City spent \$339 to replace lights. Therefore, there was a significant number of lights not damaged because the road was closed. The City will have to spend approximately \$45,000 for a security fence to secure the runway from public

access. 2) To construct a low water crossing and demolish the bridge on the public right of way. The cost would be approximately \$5,000 to demolish the bridge and about another \$30,000 to construct an adequate low water crossing. The signing of the road would still be necessary to cover any liability the City would have and the security of the Airport would still be necessary. With a low water crossing, there is a liability to adequately mark and adequately control the low water crossing during the time of a flood--the installation of gates, etc. Neither the alternative 1 nor 2 will be in compliance with the master plans discussed earlier. 3) To abandon and demolish just the bridge and create a cul-de-sac on either side of the bridge that would limit thoroughfare traffic from using the section of road, but would provide public access to all of the property that abuts it. The cost of demolishing the bridge would be about \$5,000 and several hundred dollars to create the cul-de-sacs. Airport security and signing would still be necessary. 4) To officially abandon the road. The fourth alternative would be in compliance with the master plans. The bridge could be demolished to prevent even someone on foot to stand on the bridge and perhaps result in injury. Therefore, the \$5,000 would be necessary to demolish the bridge and a certain amount to maintain the gates. The Staff proposed the City maintain the road as a private access, but with proper authorization, certain persons would be able to enter the road.

Mr. Whitehead said the Staff ran a time study in a car to find out if persons using the road would arrive at their destinations quicker than if they went around the Airport using Hwy 36. He said to use the road to get from Hwy 36 to Loop 322 took 9 1/2 to 10 minutes--to get to Oldham Lane took 8 1/2 to 9 1/2 minutes. To go around using Hwy 36 and Loop 322, it took 8 1/2--to Oldham Lane also 8 1/2 minutes. Therefore, time-wise, it would be faster for persons to use Hwy 36 and go around the Airport than it would be for them to use the gravel road.

Councilwoman Proctor-Shaw asked if the road is abandoned, who will own it and maintain it. Mr. Whitehead said the road will go back to the ownership of record. For example, WTU owns property on both sides of the road at a certain point. Essentially, WTU would gain ownership of the road at that point and WTU would have to maintain the road if they wanted to provide it as a private access to their property. Also, the City owns some property along the road near the Airport, therefore would gain ownership of road but also would have to maintain the road at that point. The City would maintain the portion of road abutting City property and would provide private access to that property up to the point where the adjoining property belongs to Rehab or WTU, etc.

Councilwoman Proctor-Shaw asked if the County would have some input on the abandonment. Mr. Whitehead said the portion of the road to be abandoned is now in the City limits, therefore, the County would have no input.

Councilman Rodriguez asked if there were any utilities or easements in the road owned by anyone other than the City. Mr. Whitehead said there was a WTU line and an underground telephone cable, but no water. He said there was a large gas main that crosses underground through the Airport property.

Mayor Fogle pointed out that the ordinance would be discussed on second reading on June 9, and the Council would hold a public hearing on that date also.

Councilwoman Proctor-Shaw moved approval of the thoroughfare abandonment, being a public road west of Hwy 36 to west of Lytle Creek on first reading and set a public hearing for June 9, 1983, at 9:00 a.m. Councilman Rodriguez seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson and Mayor Fogle.

NAYS: Councilman Nixon.

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.

THOROUGHFA  
ABANDONMEN  
PUBLIC ROA  
W. OF HWY  
TO W. OF  
LYTLE CREE  
1ST READIN  
APPROVED

Mr. Cargill pointed out that most items brought to the Council are voted upon on first reading to call a public hearing. Whether a Council Member wants to vote for or against the item ultimately is of no consequence on the first reading. The Council in effect votes on first reading to call a public hearing. Then the Council Member has not committed himself to vote for or against the item on second reading.

Councilman Rodriguez explained that it has been the practice of the Council to pass an item on first reading to allow the public to have input at a public hearing. Then, at that time, each Council Member may vote the final outcome of the item.

Councilman Nixon said if the Council had voted enough noes, however, there would be no abandonment, or no hearing.

- p. Consider on first reading - prohibition of parking on various streets during maintenance operations & set a public hearing for June 9, 1983, at 9:00 a.m.

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

TRAFFIC &  
TRANS -  
PARKING DU  
ING STREET  
MAINTENANC  
1ST READIN  
APPROVED

- q. Consider on first reading - amending Section 18-293 prohibiting parking at Kirkwood and Sandefer.

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.

TRAFFIC &  
TRANS. -  
PRO. PARKIN  
AT KIRKWO  
& SANDEFER  
1ST READIN  
APPROVED

- r. Consider on second and final reading - amending Section 18-290 concerning one way alleys.

Mr. Wayne Kurfees, Director of Traffic and Transportation, presented the ordinance to the Council. He presented slides of one particular alley running north and south off of Brentwood Drive intersecting Bob-O-Link Drive. He said the majority of the traffic using the alley uses it to go north from the Southwest Drive and Winters Freeway area. Unfortunately, the alley has only about 15' feet of pavement and cars meeting in the alley going in opposite directions sometimes become involved in a stand-off to see who will be the first to back up. He also pointed out that a driver of a car going south on the alley cannot see any traffic which may be travelling east on the east/west portion of the alley because of a blind corner.

Mr. Kurfees said there were approximately 3,000 residents in the Wyndrock Addition and the majority of those residents have been in that area for several years. In the last four or five years, there have been probably another 1,000 residents move to the area in the Haystack and Fairmont Apartments. When the freeway frontage system was made one way in 1980, the residents of Wyndrock Addition were probably the most severely affected of all those in Abilene. The only way those residents could get in or out of their neighborhood was to come in from S. 14th Street or go to Southwest Drive. The residents soon began to use the alley to gain quick access to and from Southwest Drive and to the Winters Freeway. The Staff has estimated that the alley carries about 1,200 cars per day. He felt that the public safety would be enhanced if the alley was made one way to the north. Persons travelling south could continue on Brentwood to Edgemont and then hit S. Clack to the Winters Freeway.

Mr. Kurfees said the situation has been in existence for about three years, but the Staff felt that the residents would sort of work out the problem themselves. But, since that has not happened in three years, he felt that it would be appropriate for the City to make the alley one way northbound.

Councilman Rodriguez asked if the residents would obey a do not enter sign at the alley. Mr. Kurfees said the sign could be enforced by placing a police officer at the alley and ticketing persons going the wrong way. But, he felt that would not be necessary. He said persons who disobey the sign at least will know who is in the wrong if he comes face to face with another car.

Mr. Kurfees said the Staff conducted a license plate match to determine who was using the alley. Most of the residents in the single family area of Wyndrock felt the alley was being used most by the occupants of the Haystack and Fairmont Apartments. However, the license plate match found that about 2/3 of the alley users were residents of the single family area. He said of the 1,200 cars observed using the two alleys, about 90 percent were using the north/south alley and of that 90 percent, 70 percent were headed north.



Mr. Kurfees pointed out that Mr. Ben Stribling's development will eventually extend Southwest Drive further southwest. Plus, the owners of the Triangle Lanes property intend to convert what is a north/south alley into a street which will extend on to connect with Southwest Drive. The owners of the Triangle Lanes property have also agreed to extend Bob-O-Link to the south. That those developments come to pass, there will be street connections for residents to get from the Southwest Drive interchange to the Bob-O-Link neighborhood.

Councilman Rodriguez moved approval of the amendment to Section 18-290 concerning one way alleys. Councilman Nixon seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.

NAYS: None.

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.

TRAFFIC &  
TRANS.  
ONE WAY  
ALLEYS  
2ND & FINA  
APPROVED

#### 5. Resolutions

- a. Consider authorizing the Staff to issue request for proposal for Energy Conservation Grant.

Councilman Robinson asked why the Library and Rose Field House were not included in the Energy Conservation Grant. He also asked why consultants from other than the City were being used instead of taking advantage of the Staff from the Energy Office and the different utility companies.

Mrs. Penny Boyett, the Energy Coordinator, said the City applied for the grant for the Civic Center and City Hall because some engineering procedures had been started on the City Hall and because the Civic Center had been a source of serious concern to the City. She said there will be further opportunities to apply for the grants again because the Federal Government looks like it is going to give more money to the State for such a program. Hopefully, at that time, the City can apply for more grants to do such studies on the Library and Rose Field House. She said with the grant from the Texas Energy and Natural Resources Advisory Council, the City is getting funding from the outside rather than having the City pay for the studies. The conditions of the contract specify that the studies be done by one of the four firms--ACR Energy Concepts, Inc., of Austin; Bywaters and Associates, Inc., of Dallas; Energy Engineering Associates, Inc., of Austin; or Estes, McClure and Associates, Inc., of Tyler. She said there have been local firms that have been qualified to contract for the studies, but this year, no Abilene firms were allowed to bid.

Councilman Robinson said if City Staff conducts the studies, then the City will not need a grant and the City will not be out the \$23,775 of the City's revenue. Mrs. Boyett said the studies to be conducted will be in much more detail than any of the City Staff would have either the time away from their normal responsibilities or in some cases the expertise to do. Mrs. Boyett said some studies have been completed on City Hall already in looking at the air conditioning system. Some of the more extensive work involving alternative energy uses or the use of computerized energy management systems will be investigated by local firms. She said the City does not have people on Staff who have the detailed knowledge of the energy management systems.

Councilman Robinson asked if City Staff could go to manufacturers or utility companies to get the detailed information. Mrs. Boyett said the City Staff is receiving information from several sources, but by applying for the grant and receiving it, it will be one way of perhaps getting a more objective reading than might be received from some of the manufacturers. She said the City Staff has a very good general knowledge of energy and they have done audits on other City buildings, but the study in question will be a very technical audit and it will be dealing with the potential of using a computerized systems or other mechanical systems. The grant from the State will cover half of the cost and the City will provide in-kind services which will make up for the other half of the cost. The Staff will be assisting the engineering firm and giving it support.

Councilman Robinson asked what will the City see in savings if the study is conducted. Mrs. Boyett said there will be a potential of a great deal of savings if after the recommendations have been made the City decide to follow up on them.

Councilwoman Proctor-Shaw asked what Mrs. Boyett meant by in-kind services. Mrs. Boyett said a great deal of time from the Engineering Staff and Building Maintenance personnel will be essential. Also, the record keeping and printing will be available through City Staff.

Councilman Rodriguez mentioned the Council approved an energy code for the City of Abilene. Mrs. Boyett said an Energy Conservation Building Code was approved in December as a voluntary code a builder could elect to conform with it and be certified that he built a building that conforms with energy conservation standards. If a builder chooses not to conform to the code, there is nothing said on the building permit.

Councilman Rodriguez asked if the Staff has implemented any of the recommendations received from previous studies conducted on City buildings. He felt that it was important to do everything possible on the local level before the City hires someone else from the outside to tell the City Staff what needs to be done when the Staff already knows what should be done. Mrs. Boyett said when the energy audit was completed on the Civic Center last summer, a number of recommendations were made. Mr. Dechant, Manager of the Civic Center, said some of those recommendations have been followed up on as money was available. An audit was conducted at City Hall several years ago through a similar grant program done by local engineers. Some of their recommendations included looking more at making some changes in the over all heating and air conditioning systems. Some of the smaller changes have been made, but some of them have not. Over all, 11 buildings have been audited by engineers and the building managers of the buildings have been able to carry out everything that did not cost anything. She said sometimes major changes have been recommended for the buildings, but more detailed information was needed than could be obtained in just a walk through audit. She said the Energy Office has been conducting audits in some of the smaller buildings, and those recommendations are being added to the next year's Budget requests.

Councilman Nixon said he has had an energy audit conducted in his home. He said almost 90 percent of the recommendations he received were things he knew he should be doing but just had not done. He felt the City should do the things the Staff knows it should be doing with what is available and then when new equipment is purchased, the Staff could receive all of the information possible.

Mrs. Boyett said the City has followed up on the recommendations it could without making major expenditures. She said an audit is a walk through type of situation where someone spends a day poking around in a building checking various obvious things. Possibly, the engineers conducting the audit in question would make more detailed recommendations of exactly how to go about implementing the changes.

Mayor Fogle asked if the Staff was expecting the audit to be cost effective--will the City over a period of time recoup the amount spent on the audit. Mrs. Boyett said the City should expect the audit to be cost effective.

Councilman Rodriguez said he felt there was a certain need for an audit to analyze the City's buildings. But he questions the fact that the City Staff has not followed up on previous recommendations. He moved that the Council table the item and request a report from the Staff of what has been done to the other buildings that have had audits conducted on them. He said he hated to duplicate into another study what has already been done. He asked that the report concern particularly City Hall and the Civic Center, but he also asked if information was available on other buildings that it be included in the report. He asked if there was a timetable the Staff must comply with in order to get the grant. Mrs. Boyett said everything should be completed by the end of February, 1984. That would include the audit and the report. Councilwoman Proctor-Shaw seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.

NAYS: None.

6. Award of Bids
  - a. Polymer for Water Department.
7. Change Order
  - a. Consider Change Order #3 for Transit Maintenance Facility.

ENERGY CON  
SERVATION  
AUDIT GRAN  
TABLED

AWARD OF B  
POLYMER FO  
W&S - APPR

CHANGE ORD  
NO. 3 FOR  
TRANSIT  
MAINTENANC  
FACILITY

8. Request to Advertise
  - a. Tools & Equipment for Transit System.
  - b. Water Drafting Pit for Fire Department.
  - c. General & Fleet Liability Insurance.
  - d. Repair of Acid Vats at Water Meter Shop.

REQ TO ADV.  
 TOOLS & EQU  
 FOR TRANSIT  
 WATER DRAFTI  
 ING PIT FOR  
 FIRE; GENE  
 & FLEET LIA  
 INSURANCE;  
 ACID VAT RI  
 FOR W&S

Mr. Floyd McDonald asked the Council to consider a job training program. He said he has done some research in Abilene concerning the lack of jobs for the needy. He said he realized that Abilene has a low rate of unemployment, but that fact does not help the people who need work and who want to work. He found through contacting the Manpower Program that it discriminates against the needy. He said no matter how much a person wants a job, if that person's spouse makes over \$6,000, then the person is not eligible for the program. He felt the City of Abilene needs a job training program whereby a person could go to school and be on the job at the expense of the City. He felt the City could use the \$341,000 Community Development grant expected in a few days to implement the job training program. Or, if the City does not want to use CD funds, then perhaps a tax could be instituted to help implement a job training program. He said all citizens pay taxes and no one should run away from taxes when there is a need for them.

Mr. McDonald said with Presidential Reagan's budget cuts, the black community was hurting for jobs and programs to put them to work. He felt the job training program could include training for carpenter, mechanic, plumber, electrician, cashier, and a body and fender repairman. He said Abilene could really use more plumbers and electricians because there are not enough in Abilene to provide the services necessary.

Mr. Cargill said taxes can be levied and the funds can be used for the City of Abilene for public purposes. Mayor Fogle asked if the City could raise the Ad Valorem tax as long as the proceeds were justified and used for a public purpose. Mr. Cargill said that was correct.

Mr. McDonald also told the Council that the City needed some sort of rent control. He felt that rent was too high for the amount of money that the average Abilenian made. The commercial rates are approximately \$1 per square foot for a building. That is extremely high for the small businessman and the small businessman is what makes America. He said the small businessman supplies most of the jobs in America. If those businessmen go out of business, then jobs will become more and more difficult to find. He asked if it was possible for the Council to pass some sort of resolution to get the commercial rent down to 40¢. He said if that was not possible, then he asked if the citizens of Abilene could hold an election to decide.

Mayor Fogle said he was not aware if the Council has the authority to establish rent control. He said the Council could probably not give Mr. McDonald an answer at the present time, but they would keep the question in mind.

Mr. McDonald also spoke on rental assistance. He said the Taylor County Welfare Office should raise the amount of money that they allow the person to be making in order to receive assistance. He wondered if the City of Abilene could institute some sort of program to help people pay their rent if they are unemployed.

PUBLIC  
 APPEARANCE  
 FLOYD MCDONALD

Mayor Fogle said the Council will spend several days in a retreat session soon to discuss future goals for the City and present problems. He said the Council appreciated Mr. McDonald's input and told him that his input would be considered during the Council's retreat and Budget sessions in the upcoming months.

PUBLIC  
 APPEARANCE  
 90+ CLUB

Mr. Porter Wall, a member of the 90+ Club, wished to express the Club's appreciation to the Council for all of the programs and activities available to senior citizens. Mr. Wall said each of the persons attending the Council meeting belonging to the 90+ Club were over 90 years of age. He introduced to the Council, Mrs. Eleanor Lawrence, Mrs. Anne Bowers (96), Mrs. Edith Cunningham, Mrs. Claudia Counts, Mrs. Lillian Morley, Mrs. Allie O'Dell, Mr. George O'Dell, and Mr. Frank Collier. Mayor Fogle said he appreciated the group attending the meeting.

Mrs. Diane Foresman, Assistant Zoning Administrator, presented a 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. She said the request came from Ronald Morley. The

location of the abandonment is in the 5100 Block of Buffalo Gap Road. She said the purpose of the request was to remove a street right of way from being located over high pressure gas lines. The abandonment would be in the interest of public safety. The Plat Review Committee recommended approval subject to the retention of utility easements to cover existing utility lines. The Staff and the Planning & Zoning Commission both recommended approval subject to the retention of the utility easements.

Councilwoman Proctor-Shaw asked where the YMCA southside location was. Mrs. Foresman pointed to an area to the west of the church. She said Chimney Rock Road is projected to go through to the west to Catclaw Drive. Therefore, the YMCA customers do have access through Chimney Rock Road.

Mayor Fogle opened the public hearing on the thoroughfare abandonment. After no one asked to speak, Mayor Fogle closed the public hearing.

Councilwoman Proctor-Shaw moved approval of the 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 subject to the retention of utility easements to cover existing utility lines. Councilman Rodriguez seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.

NAYS: None.

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.

THOROUGHFARE  
ABANDONMENT  
MABRAY LANE  
FROM BUFFAL  
GAP RD TO  
RIDGELINE D  
2ND & FINAL  
APPROVED

Mrs. Foresman presented the reclassification request from RS-6 (Residential Single Family) to HC (Heavy Commercial) District, located at N. 21st & Hardy Street. She said the request was denied by the Planning & Zoning Commission in April, but was appealed, then tabled by the City Council on April 28, 1983. The proponent requests the zone change for the purpose of multi-family development which is permitted in heavy commercial districts. Plans for the project are still tentative and if the proposal is not completed, then the proponent would like to accommodate unspecified commercial uses. The Staff is in favor of new development in the area since it has not seen any in recent years. However, the Staff is concerned about having heavy commercial uses adjacent to a residential neighborhood. Heavy commercial 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 uses. The site is not within a land use plan, although it may be appropriate for the Staff to study the area to determine whether to encourage commercial or residential development. The Staff's recommendation is uncertain, but the Planning & Zoning Commission recommended disapproval.

Mr. Cargill said Mr. Lee Roy George, Director of Planning and Community Development, has informed him that the proponent is going to ask the Council to return the ordinance to the Planning & Zoning Commission.

Councilman Nixon moved to lift from the table the reclassification request. Councilman Rodriguez seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.

NAYS: None.

Mr. Cargill said the Council has already held a public hearing on the reclassification request and the public hearing was closed. Now, the proponent is asking the Council to send the item back to the Planning & Zoning Commission.

Mr. Wilfred Kennon, representative of the proponent, said the proponent would like to reduce the zoning from heavy commercial to multi-family (RM-2). In order to do that, the Council would need to return the request to the Planning & Zoning Commission.

Councilwoman Proctor-Shaw moved to return to the Planning & Zoning Commission the reclassification request from RS-6 (Residential Single Family) to HC (Heavy Commercial) District, located at N. 21st & Hardy Street.

Before the vote, Councilman Rodriguez asked if the RM-2 zoning would be compatible with the residential single family neighborhood. Mr. Lee Roy

George Mr. Kennon would like to ask that the back half of the property be rezoned to RM-2 and to leave the front half at HC. But the proponent is planning to keep the heavy commercial zoning that is already at the location.

Councilman Rodriguez seconded the motion. The motion carried as follows: ZONING RE - RS-6 TO HC AT N. 21ST & HARDY STREET RETURNED TO P&A  
AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.  
NAYS: None.

Mr. Bob Whitehead presented the award of bid for the Spring 1983 Paving Assessment Phase II program. He said the special assessment procedure is a method for paving streets. Most of the new subdivisions are all built with paved streets, so paving assessments are usually for older streets that were built before the Subdivision Ordinance came into effect. He said two methods of having a paving assessment program are petition (50 percent of residents agreeing to have their street paved by special assessment) or as proposed by the Staff on a needs basis. The Council then considers those requests, then authorizes the Staff to go for bids. Specifications are written, then bids are let to see what the costs will be. The special assessment will require a public hearing so the residents or property owners will have the opportunity to appear before the Council. The bids then will be awarded on a unit price basis, therefore, the City will only pay for the number of units (square yards of paving or feet of curb) that are paved. Between that time and the public hearing, the Staff hires an appraiser to appraise the property along a street. He must testify how much the property is enhanced in value. The City will not be able to assess more than enhanced value that the pavement will occur against the property.

Mr. Whitehead said the Staff was authorized by the Council on March 24, 1983, to receive the bids for the paving, and the bids were received April 27, 1983. The Staff recommended the low bid of West Texas Construction Company in the amount of \$275,856. The streets suggested to be assessed are: Russell Street from Clyde Street to Elm Creek; South 2nd Street from Clyde Street to Willis Street; Oak Street from existing paving north of South 25th Street to Treadaway Boulevard; Vogel Avenue from east side of Catclaw Creek Bridge to Old Anson Road; China Street from South 5th Street to South 7th Street; and Old Anson Road from Vogel Avenue to north right of way line of Lowden Street. He said in the resolution there is a built in contingency of about 10 percent which makes the total in the resolution read \$303,441.60. The resolution also calls for a public hearing to be held June 23, 1983, at 9:00 a.m.

Councilwoman Proctor-Shaw asked which of the streets were brought to the Council by petition or by Staff directive. Mr. Whitehead said the only street brought by a petition is Russell Street. He said there was a development on the southside where the curb and gutter requirements were waived based on the developer submitting a petition to pave that street. Those persons living on Russell Street will probably be more aware of the current costs of paving, therefore, the Council should not again be confronted with residents expecting lower costs.

Mayor Fogle asked if the Council will have the option to reduce the number of streets to be paved at the public hearing. Mr. Whitehead said the Council can delete streets or can reduce the amount assessed.

Councilman Nixon asked how the Council would determine to assess the residents on a street when several did not want the paving. Mr. Whitehead said the Council will be asked to authorize the paving of a whole block or none of it. Mr. Seegmiller said on petitioned streets, 50 percent of the persons living on the street must sign a petition. When the appraiser testifies as to the enhancement of the properties along a street, the Council will have the option to charge the entire assessment rate or reduce it. Therefore, any citizen affected by the assessment will have the opportunity to speak before the Council to oppose or speak in favor of the assessment. That will allow the Council some flexibility as to the final decision about the assessment.

Mr. Whitehead said a notice will be sent to the persons assessed reminding them that they have 30 days after completion of the project to pay the City. There is an option for the persons to contact the Accounting Division to set up a payment program to allow them to pay out the assessment. The City charges 5 percent interest up to three years. Another option for them is that they do not have to pay it, but the amount would go as a lien against their property so that upon sale of their property that lien would be the

first thing that would have to be paid off. The City has never taken anyone's property.

Mr. Seegmiller asked if the Council would be asked to approve of just one resolution or two for the paving assessment at the public hearing. Mr. Whitehead said only one resolution must be approved at the public hearing and the Council's choice would be to approve the resolution or to delete certain streets then set a price for each individual street.

Councilwoman Proctor-Shaw moved approval of the resolution awarding the bid to West Texas Construction Company and setting a public hearing for June 23, 1983, at 9:00 a.m. Councilman Nixon seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.

NAYS: None.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDING A CONTRACT FOR THE IMPROVEMENT OF THE FOLLOWING NAMED STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF ABILENE, TEXAS, TO-WIT:

UNIT I - 30' WIDE STREET F/C TO F/C

1. Russell Street - from Clyde Street to Elm Creek.

UNIT II - 36' WIDE STREETS F/C TO F/C

1. S. 2nd Street - from Clyde Street to existing paving west of Willis Street.
2. Oak Street - from existing paving north of South 25th Street to Treadaway Boulevard.
3. Vogel Avenue - from east side of Catclaw Creek Bridge to Old Anson Road.

UNIT III - 40' & 48' WIDE STREETS F/C TO F/C

1. China Street - From South 5th Street to South 7th Street.
2. Old Anson Road - from Vogel Avenue to north right of way line of Lowden.

Mayor Fogle announced that item 13a, Discussion of Health Facilities Development Corporation, has been deleted and will be discussed at the next regular Council meeting.

Mr. Tony Neitzler, Assistant Director of Planning & Community Development, said early in April, the Council received a request from Mr. and Mrs. Guy Weeks to operate a fireworks stand in the City limits. Their fireworks stand was annexed as a part of the Lake Fort Phantom Hill annexation in January, 1983. The Staff did research the Code provisions concerning fireworks stands, and in two separate sections of the Code, fireworks sales are prohibited in the City limits (Art. 2, Offenses Against Public Safety and Art. 78, Fire Code). The Legal Staff has advised him that there is no provision in either of those Code provisions for variances or exceptions and that short of an ordinance amendment, there would be no way around the Code provisions. However, there is a precedence in the matter of fireworks stands that have been annexed. On May 29, 1980, when the City annexed property on the southside, the Council did grant an extension to some fireworks stands that were annexed for a period of four months. That time extension carried those particular fireworks stands through the July 4th season. The Legal Staff has advised him that because there was an expressed time limit placed on those uses that action was consistent with the Code because at some point that use will cease.

Mr. Neitzler said the Staff is asking the Council for some direction as to what the Staff should do in order to resolve Mr. Weeks' problem.

Mayor Fogle said as long as the City annexes property, the Council will run into problems such as this where there are non-conforming activities. Mr. Neitzler said what makes the situation a little different is that in most instances when the City annexes new uses, they fall under the provision of the Zoning Ordinance. However, in this case, fireworks stands are outright prohibited by the Code.

Councilman Rodriguez asked if Mr. Weeks' stand was the only one in the newly annexed area. Mr. Neitzler said Mr. Weeks' stand was the only one the Staff has found in the annexed area. He said all of the stands that were located on the southside have since been relocated.

Mr. Guy Weeks said he would like to continue operating the fireworks stand even though it is in the City limits, although if the Council would give him an extension to deplete his inventory, he would accept that decision.

Mayor Fogle asked Mr. Weeks how long it would take him to deplete his inventory and move the stand. Mr. Weeks said he would like to go through the July 4th season. As for relocating the stand, the City annexed the entire FM 600 road so it would be difficult to find a new location.

Councilman Nixon said at the April 28th meeting, Mr. George answered a question he had asked by saying that a particular use could continue as long as the use exists in the state that it was when it was annexed. However, he understood Mr. Neitzler to say that the fireworks stand does not fall under the same provision. Mr. Neitzler said that was correct.

Councilman Nixon said if the Council gave Mr. Weeks a four month extension from the date the property was annexed, his extension would run out May 13, and that would not help Mr. Weeks. He asked if the Council could consider an extension from the Council meeting date (May 12th). Mr. Cargill said even though the fireworks stand is in Jones County, the City has jurisdiction throughout the City of Abilene. Ordinances can be passed that are consistent and uniform throughout the City of Abilene. On two occasions the City has annexed areas which turned out to contain fireworks stands. The Council found out about the stand on the first occasion after the property was already annexed. An ordinance amendment was passed allowing the owner to deplete his inventory. The second time, the Council was aware of the stand during the annexation process and the extension was built into the annexation ordinance. Mr. Cargill said the Council can reasonably provide some type of time limit. Because of the fire hazard, most cities like Abilene have completely banned the use of fireworks in city limits.

Councilman Rodriguez asked if fireworks stands are usually on private property or if they are sometimes located on County property. Mr. Weeks said his stand was on his own property. Mr. Cargill said most stands are located on private property.

Councilwoman Proctor-Shaw told Mr. Weeks that the Council did not want to penalize him with such an inventory of fireworks. She asked Mr. Cargill if it would be preferable for the Council to extend his fireworks sales from the time of annexation or from the time of the meeting (May 12). Mr. Cargill said the starting date of the extension really makes no difference.

Councilman Robinson asked Mr. Weeks when he could deplete his inventory. Mr. Weeks said that was hard to determine. Mayor Fogle said the Council would like to allow Mr. Weeks as much time as he needed to permit him to deplete his inventory. Mr. Weeks said he felt he could deplete his inventory by July 4th. Fireworks can be sold at any time, although July 4th and Christmas are the two seasons fireworks sell the best.

FIREWORKS -  
EXTENSION O  
MR. WEEKS'  
STAND IN CI  
LIMITS  
APPROVED

Councilman Nixon moved to extend Mr. Weeks ability to operate his fireworks stand for six months from the date of annexation (January 13, 1983), which would mean July 13th Mr. Weeks would have to move his stand out of the City limits. Councilwoman Proctor-Shaw seconded the motion. The motion carried as follows:

AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon, and Mayor Fogle.

NAYS: None.

Mr. Weeks said he raises bird dogs and likes to hunt on his property. He asked if it would still be against the law for him to continue raising the dogs and hunting on the property. Mr. Cargill said there is no problem with Mr. Weeks raising the bird dogs, however, firing a gun in the City limits is illegal. He said the City has looked at the possibility of allowing the discharging of guns in the City limits especially in rural areas. However, the Chief of Police has advised the Council not to allow that. Mayor Fogle said the Council sympathizes with the property owners in newly annexed areas because of the problems the annexation has caused them, however, the Council cannot allow violations of existing law.

Mr. Lee Roy George presented the request for annexation near Dyess Elementary School. On April 6, 1983, the City received a request for annexation from Mr. Gordon Asbury, Jr., concerning a 64 acre tract on land west of the City near Dyess Elementary School. The entire parcel was the subject of a preliminary plat that was recently approved by the Planning &

Zoning Commission. He said the natural features of the land are generally that it slopes from an easterly direction toward a low area that is right along the western edge of the property in about a 22' topography fall. He said most of the topography slopes a little more gently than that. He said there is the Elmwood Cemetery and Elmwood Memorial Funeral Home, and several smaller businesses located to the southeast of the proposed annexation site. Most of the residential uses in the area are mobile home or small wooden dwellings. Those residents living along Twilight Trail to the east of the proposed annexation site are situated along the City limits line. Those living on the north side of the Twilight Trail are in the City limits, but those living on the south side are not in the City limits. He said there has been a good bit of development along Vapor Trail just south of Texas Avenue fairly recently. The Council has recently approved some zoning for multi-family and mobile homes in the general area. He said Bishop Drive has been improved, not necessarily to City standards, but it has been improved all the way to Hwy 277. Jennings Drive is also paved in a rural type fashion all around Dyess Elementary School.

Mr. George said there is a 16" water line that goes along an easement forming the City boundary. The line goes west to serve the Dyess Air Force Base housing. Other lines are tied into the 16" water line and those lines are around 6" to 8". The south half of the residents along Twilight Trail pay double water rates since they are not in the City limits. He said the City will be infringing into the area of the View-Caps Water Supply System. Those lines are usually small, plastic lines of 1 1/2" to 2".

Mr. George said the property slopes from an easterly direction to a westerly direction toward a shallow drainage area that is a part of Little Elm Creek water shed.

Mr. George said some of the land use plans the City has adopted in the area have some impact on future decisions the Council might make regarding annexation. The Staff has proposed an extension of Vapor Trail to eventually tie into Hwy 277 and Rebecca Lane tying into Hwy 277. The general land use the Staff has projected in the area are single family, residential areas, multi-family with small areas for general commercial. This land use plan is not cast in concrete and the Council is able to change that land use plan when it feels it is necessary. He said Southwest Drive would also extend further southwest in the future.

The property under consideration is owned by Mr. Gordon Asbury, Jr. Some of the other property owners in the area are Mr. Meyers, Elmwood Park, Bagley family, etc. The tracts are all fairly large tracts still under family ownership. There will be a small triangular piece of property left out of the City limits if the proposed area is annexed. That piece is owned by Mr. Foster Cox and Mr. Meyers. The Staff asked for some direction from the Council to consider if annexation proceedings should continue. He said a request for annexation is treated the same as a non-request. There is an amendment pending for State law that would treat a request a little differently than a non-request. Normally, two or three public hearings are required, a calendar must be set up notifying of the public hearings, notification to the railroad must be made, etc. Once an annexation is begun, the Council may delete areas, but additional area may not be added to the request once proceedings have begun.

Councilman Nixon asked if any property owners adjacent to the proposed site are aware of the request for annexation. Mr. George said the property was purchased from Mr. Foster Cox and Mr. Meyers so those two men probably know about the request, However, other property owners in the area probably do not know about it.

Mayor Fogle asked if Mr. George anticipated the extension of Vapor Trail to tie into Hwy 277 and eventually tie into Rebecca Lane. He asked if that would not cause that area to be developed more rapidly than it has in the past. Mr. George said development probably would occur more rapidly with the extension of Vapor Trail. He said the City received a request from Mr. B. D. Click for annexation in the general area not too long ago, but the property was further down on Rebecca Lane on Elm Creek. The Council chose not to act on that request. He said he told the Council in a workshop session that once those streets are extended, there will probably be more and more requests for annexation.

Mayor Fogle asked what View-Caps Water Supply Corporation's certification was around their lines in the area. Mr. George said 200 feet.



Councilman Rodriguez said in light of the fact that other annexation requests will be coming up, would the City be able to take all of those requests at the same time and begin annexation proceedings instead of one or two requests at a time. Mr. Cargill said that would be possible-- in the City's history, the Councils have taken proposed properties plus adjacent area likely to be urbanized in one total package. Mr. George mentioned that a woman living on the south side of Twilight Trail called him and told him that she was working on a petition to get her property and the surrounding area annexed.

Councilwoman Proctor-Shaw asked if annexation proceedings would occur twice a year or would the Staff just try to accumulate a certain amount of requests before beginning an annexation proceeding. Councilman Rodriguez said it would probably depend on how many annexations were requested. He would like to see the City annex an area all at one time instead of taking little sections one by one.

Mr. George mentioned that the general direction of growth in the City is south and southwest and as the City continues to extend water and sewer lines and open up more streets, he felt there will be a continuing pressure for development to occur. Councilman Rodriguez said perhaps it would be better if the City annexed a whole area instead of annexing one tract to the west then skipping a tract and annexing a tract to the east.

Mayor Fogle asked if there were sufficient City sewer services in the area. Mr. George said there are sewer lines in the area, one reaching to Twilight Trail, and one of the lines would have to be extended to the area, and if there was an oversize request, the City would be required to participate in it.

Mr. Gordon Asbury, Jr., said he owns all of the 64 acre tract except for a small 100' strip on the northeast corner. He has contracted to acquire that strip from Mr. Foster Cox who has owned that strip for 15 years. The preliminary plat indicated that the additional strip was needed to completely utilize to the fullest extent the land Mr. Asbury already owned. He said Mr. Cox is aware of Mr. Asbury's intention for the property and has not objected to it. He said Mr. Meyer also voiced no objection to his intention. He said he does not want to purposefully cause the annexation of anyone's land in the area who does not want it. He felt his property is very well suited for moderate income housing and with the expansion of Dyess Air Force Base and Dyess Elementary School it will be the proper time for the development of housing. He said he also owns the tract that surrounds Dyess Elementary School on the north and west.

Councilwoman Proctor-Shaw asked Mr. Asbury if he knew of any existing sewer lines in the area. Mr. Asbury said he has been in contact with the City Staff and alternatives will be worked out.

Mayor Fogle asked Mr. Asbury if any annexation had been discussed with any of the property owners south of his land. Mr. Asbury said those property owners probably do not know of his annexation request.

Councilman Rodriguez asked if Mr. Asbury had thought about how crowded Dyess Elementary School already is and if the AISD might have to build another school somewhere else. Mr. Asbury said with the size of his development, there would need to be another school. But, his immediate predecessor of title donated 20 acres of land for a new school.

Mayor Fogle asked how many units were planned for his development. Mr. Asbury said probably 350 residential units were planned.

Councilman Nixon said he liked the looks of the straight line Mr. George pointed out on the map earlier. Mr. George suggested that other property owners to the east of Mr. Asbury's tract and even those across the Hwy 277 might be interested in being annexed. Mr. Asbury said he did not say that Mr. Meyers or Mr. Cox were in agreement with having their land annexed. He said they did not object to what he was doing with his property. He felt like the area proposed to be annexed, except for possibly the little strip owned by Mr. Cox, is not going to cause a vast irregularity in the shape of the City limits or will infringe on anyone else's property.

Mayor Fogle said the Council would probably like to see the City limits squared up and that all of Mr. Asbury's property be contiguous to the present City limits. He felt that what the Council was trying

to ponder was to whether or not at least study the possibility of some additional land being included in an annexation program so that 30 days from now, the Council will not have to redo the same things.

Mr. George said the Staff has had some requests to tie onto the 16" water line in the past. Those requests have been refused because those persons are outside the City limits. He pointed out that Elmwood Memorial Park currently receives through three different meters, water off of the 16" water line. Also, all of those persons on either side of Twilight Trail are receiving City services. Some of those are outside of the City limits. Elliott Hamil Funderal Home under an agreement with the City back in the early 1970's, also has a meter off of the 16" water line.

Mr. George presented to the Council a map showing the water lines that are serving customers outside the City limits. He mentioned lines to FM 18, the Abilene Brick Plant and the Sun Water Supply Corporation.

Mayor Fogle asked if the City is serving those customers as the result of contracts that go back beyond the policy established by the Council. Mr. George said those customers have agreements with the City.

Councilwoman Proctor-Shaw said although the request is legitimate and Mr. Asbury has a right to ask for annexation so he can have water and so he can develop the area, it still seemed to her that it would be like spot zoning. Perhaps the City should have some system wherein requests could be studied at one time in certain areas. She personally was opposed to any more annexation because the City probably has more responsibilities than it can handle now. However, she does not want to stand in the way of progress.

Mayor Fogle asked if the Staff has conducted a study of some of the property owners' attitudes in the area. Mr. George said the Staff probably has enough information now to notify most of the property owners in the general area concerning their feelings of annexation. He said a report of that nature would probably take the about two weeks before it could be brought to the Council.

Councilman Robinson asked where the B. D. Click property was located. Mr. George said one of the reasons the Council did not consider the request was because it was not contiguous with the City limits. However, there is a request in the same general area as the Click property that is contiguous with the City limits. The Click property is located southeast of Mr. Asbury's request.

Mr. Asbury said he would not consider his request spot zoning. He said his request was merely an orderly extension of the City limits as it presently exists. He is not asking the Council to jump out and take something into the City limits that is remote or that is unattached to the present City. He is only asking the Council to move the City limits down in a square manner. He is not asking that anyone else's property be annexed--only his.

Mayor Fogle said he would like to know if the surrounding property owners would be interested in having their property annexed. If they are, then he would like to see those owners' property included with Mr. Asbury's property. After the report is submitted and the City finds that those owners do not want to be annexed, then the Council can again take up the question of whether to annex Mr. Asbury's property.

Councilman Nixon moved to table Mr. Asbury's annexation request until the Staff has had the chance to submit a report concerning the possibility of annexing the surrounding area. If the owners reject the possibility of being annexed into the City limits, then the Council can consider Mr. Asbury's request at the next meeting. Councilman Robinson seconded the motion.

Mr. Asbury said he would feel comfortable with the two weeks delay. Mr. George said the Staff could prepare a report in two weeks. Councilman Nixon asked that those property owners east of Mr. Asbury's property be polled to find out if they would like to be annexed. Mr. George said those three properties belong to Elmwood Cemetery, Frank Meyers and Foster Cox. He said at a minimum, the Council should look at those three properties. He has talked with the Tax Assessor/Collector of Taylor County and he has said that those plot owners at Elmwood Cemetery would be tax exempt unless the land has not been developed into plots. Concerning property on the east of Hwy 277, Elliott Hamil property runs all the way to Elm Creek and the

City limits goes to Catclaw Creek then west on Curry Lane then Elm Creek until it intersects south of Twilight Trail.

Councilman Nixon said he would like to include in his motion the property east of Hwy 277 to Elm Creek on the survey line and that the Council have the chance to look at the report in two weeks and ask that the request be placed on the agenda at the next regular Council meeting. The motion carried as follows:

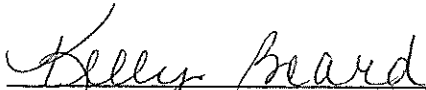
AYES: Councilwoman Proctor-Shaw, Councilmen Rodriguez, Robinson, Nixon and Mayor Fogle.


NAYS: None.

ANNEXATION -  
PROPOSED NEAR  
DYESS AIR FORCE  
BASE BY GORDON  
ASBURY, JR.  
DISCUSSED

Mayor Fogle the items concerning the appointment and evaluation of public officers and pending and contemplated litigation will not be discussed.

Mayor Fogle adjourned the meeting at 12:25 p.m.

  
Assistant City Secretary

  
Mayor