

CITY COUNCIL MEETING
November 4, 2004, 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas, met in Regular Session on November 4, 2004, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase (arrived after the Pledge of Allegiance), Anthony Williams, John Hill, Stormy Higgins and Kris Southward. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff. Councilwoman Laura Moore was absent.

Councilman Williams gave the invocation.

Rachel Wagstaff a 5th grade student from Austin Elementary led the Pledge of Allegiance. Rachel's parents, grandmother and school principal were also present.

EMPLOYEE SERVICE AWARD

Mayor Archibald, assisted by City Secretary Jo Moore, presented an Employee Service Award to the following individual for his years of service:

20 Years	David L. Williams	Equipment Mechanic III Fire Department
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Mayor Archibald announced the City of Abilene was the recipient of an award from the Texas Chapter of the American Planning Association for the Best Comprehensive Plan for 2004. The Mayor noted the history and importance of the Plan then recognized Planning and Development Services staff members Jon James, Director, Elizabeth Grindstaff, Assistant Director and Shannon Meinhold, Planner.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- USC Agape Ministries Month, October 2004.
- Youth Appreciation Week, November 7 – 13, 2004.

DISPOSITION OF MINUTES

2.0 With one addition to the October 14, 2004 and one word correction to the October 21, 2004 Regular Council Meeting Minutes having been made Councilman Chase made a motion to approve the minutes with the noted correction and addition as submitted. Councilman Southward seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Hill, Higgins, Southward, and Mayor Archibald.
NAYS: None

CONSENT AGENDA

3.0 Councilman Williams made a motion to approve consent agenda item 3.1 and first reading of item 3.2, as recommended by staff. Councilman Hill seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Hill, Higgins, Southward, and Mayor Archibald.

NAYS: None

Resolution:

3.1 Oral Resolution authorizing lease agreements with the Clearwire Corporation for the installation of communication antennas on existing structures at 5221 Hartford Street, 2241 South 19th Street, and 774 Sandy Lane.

Ordinance:

3.2 An Ordinance approving the adoption of the 2003 International Existing Building Code, with local amendments; and set a public hearing for November 18, 2004 at 5:30 p.m.

AN ORDINANCE AMENDING CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 10, "ENERGY CODE", AND CREATING DIVISION 11, "EXISTING BUILDING CODE", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SERVERABILITY CLAUSE, DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

REGULAR AGENDA

4.1 Jon James, Director of Planning & Development Services briefed the Council on **Z-2304**, an Ordinance considered on second and final reading to rezone from Residential Single-family (RS-6) to Planned Development District (PDD) zoning district, property located at 1541 Lytle Acres Drive.

Mr. James stated the rezoning from Residential Single-family (RS-6) to Planned Development District (PDD) is desired to support the future development of an assisted-living facility. Mr. James noted at the Planning & Zoning Commission meeting on October 4, 2004 the vote was (4-0) in favor of recommending the zoning change to the City Council with the following alterations to the ordinance:

1. Adding the word "licensed" to the permitted uses description.
2. Re-wording the permitted uses to include clarification that offices are to be in the same structure.
3. Limiting the structure to one story not to exceed 40 feet in height, and
4. Adding "a minimum of 12 beds", to the permitted uses section.

Council and staff discussion included: 1) the fact that the PDD ordinance before Council today does include the P&Z recommendations; 2) Council establishing, for clarity purposes, the

maximum number of beds to be allowed; 3) 16 beds being the maximum allowed under “Class A” definition, the proposed ordinance only stating “licensed” and not the “class” and the difference between a “small” and “large” facility; 4) the practicality and or necessity of noting a 40’ height restriction for a single story structure; 5) fencing requirement issues; 6) why sidewalks are being required when none currently exist in the area; 7) zoning reversion time requirements; 8) parking issues including the number of parking spaces, on the street parking and parking being allowed only within the property lines; 9) establishing a form of separation between different types of properties (i.e. parking and residential); 10) a Site Plan Review being required prior to development; 11) the purpose of the proposed facilities all having exterior doors; 12) going from dirt to paved parking surface being viewed as an improvement; 13) current land use being noted as the primary opposition to the rezone request; 14) if buffers are needed for parking areas just because another owner owned the land and if buffers are needed between structures or just between open land, and; 15) concerns noted in the submitted opposition responses and staff stating an Assisted Living facility would not generate the kind of activities as noted by those opposing the rezoning.

Following Council and staff discussion Mayor Archibald opened a public hearing on the item. The following individual addressed the Council:

- Paul Thomas – applicant. Mr. Thomas briefed the Council on the history of the property and noted he would not be living in a facility on the property. Mr. Thomas reviewed the function of an Assisted Living facility (which will be patterned after a San Angelo facility). Mr. Thomas noted residents would not be allowed to have cars at the facility but transportation (facility owned vans) would be provided. Mr. Thomas stated he would agree to put sidewalks in and to buffer the parking areas (landscaping), but prefers no fences due to his wanting to maintain an upscale facility “park” type environment. Mr. Thomas reviewed various State of Texas rules regulating Assisted Living facilities including: defining large versus small facilities; and Class A and/or B requirements. Mr. Thomas addressed the question concerning the facilities all having outside doors, the 40’ structure height issue, and the approximate number of expected visitors to the facilities.

Council, staff and applicant’s discussion included: 1) a separate requirement on limiting parking for employees, visitors and residents; 2) adding buffer requirements between parking lots and residences; 3) establishing a minimum of a 5 feet set back from the property line on any parking lots along the north property line, and; 4) include landscaping to buffer the parking lots from the adjacent property to the north.

Sharon Hicks, City Attorney reviewed her understanding of Council’s discussed amendments to the proposed PDD ordinance as follows:

PART 7:

Permitted Uses:

- A licensed Assisted Living Facility, may include offices (only one residential structure permitted)
- Minimum of 12 beds permitted

Per Council discussion change to read:

Permitted Uses:

- A licensed small Assisted Living Facility having a minimum of 12 beds and a maximum of 16 beds
- Accessory office space
- A maximum of one primary structure including all residential and office uses

Maximum Structure Height:

- A single story structure not greater than 40 feet in height

Per Council discussion change to read:

Maximum Structure Height:

- A single story structure

Parking:

- Parking shall be provided for employees and visitors to the facility
- At least 8 parking spaces shall be provided
- Parking shall only occur within property lines

Per Council discussion change to read:

Parking:

- Parking shall be provided for employees, residents, and visitors to the facility
- At least 8 parking spaces shall be provided
- Parking shall only occur within property lines
- Any parking lots along the north property line shall be set back a minimum of 5 feet from the property line

Landscaping and Buffers:

- The parkways shall remain landscaped
- Additional landscaping (hedgerows, shrubs, or bushes) may be provided within the parkway areas
- Landscaping adjacent to the facility shall be provided to soften the appearance of the façade of the structure
- Landscaping shall be installed to soften or buffer the parking lots from the street
- Xeriscape principles shall be utilized

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- Additional landscaping (hedgerows, shrubs, or bushes) shall be provided within the parkway areas
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- Landscaping shall be installed to soften or buffer the parking lots from the street and from the adjacent property to the north
- Xeriscape principles shall be utilized

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

Prior to Council's decision on the rezoning request Mayor Archibald confirmed with Mr. Thomas that he is in agreement with the amendments as discussed by Council and the Mayor also confirmed with the Planning and Development Services staff that they understand the amendments as discussed by Council.

Councilman Southward then made a motion to approve **Z-2304**, an Ordinance considered on second and final reading to rezone from Residential Single-family (RS-6) to Planned Development District (PDD) zoning district, property located at 1541 Lytle Acres Drive as discussed and amended by the Council. Councilman Hill seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Higgins, Southward, Hill, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **34-2004** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-94 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.2 Odis Dolton, Assistant Director of Finance briefed the Council on **Bid #CB-4063**, an award of bid for the annual purchase of tire products. Mr. Dolton noted that bid invitations for tire products were sent to seventeen (17) vendors and six (6) were received. Mr. Dolton stated due to the fact that there were identical bids on **Item 5** (*Tire P235/75R 15, Load Range (extra load), Tread Design- Wrangler HT, Goodyear or equal*) and **Item 8** (*Tire P225/60R 16, Load Range (standard load), Tread Design RS-A, Speed "V" Rated, Goodyear or equal*), these items would be awarded by having the Mayor draw lots between the three (3) vendors for Item 5, Westgate Firestone, Pine Street Firestone, and GCR Tire Center, and two (2) vendors for Item 8, Westgate Firestone and Pine Street Firestone. Staff recommends awarding tire product Items 1,2,3,4,6 & 7 as follows:

Gray's Wholesale Tire Distributor, Ft. Worth, Texas

- Item 1 – Tire 11R/22.5, Load Range (H), Tread Design G286, Goodyear or equal, in the amount of \$25,800.00.
- Item 6 – Tire P235/70R 15, Load Range (Standard Load), Tread Design RS-A, Speed "V" Rated, Goodyear or equal, in the amount of \$1,710.00.
- Item 7 – Tire P225/70R 15, Load Range (Standard Load), Tread Design RS-A, Speed "V" Rated, Goodyear or equal, in the amount of \$819.00.

- Item 9 – Tire P205/75R 15, Load Range (Standard Load), Tread Design 97S HT, Goodyear or equal, in the amount of \$286.00.

Westside Tire, Abilene, Texas

- Item 2 – Tire 12R/22.5, Load Range (H), Tread Design G286, Goodyear or equal, in the amount of \$2,694.00.
- Item 3 – Tire 315/80R 22.5, Load Range (L), Tread Design G286, Goodyear or equal, in the amount of \$11,132.50.
- Item 4 – Tire 385/65R 22.5, Load Range (J), Tread Design G286, Goodyear or equal, in the amount of \$13,273.00.

Council and staff discussion included the process that is followed when a local bidder does not meet specifications.

It was noted that State Law provides when a municipality receives identical bids they must first look to see if they are local bidders. Staff has removed from consideration as required by State Law the non-local bidders and all of the remaining identical bids are from local bidders.

Mayor Archibald explained the next step in this process is to select the winning bid by the drawing of lots. Mayor Archibald further noted the Purchasing Department has put the identical bids in plain envelopes to be drawn and whomever's name is inside the drawn envelope will be awarded the bid.

Following the drawing of lots Mayor Archibald stated a successful draw of lots has been completed and Item 5 is awarded to Westgate Firestone, Abilene, TX in the amount of \$3,800.00, and Item 8 is awarded to Westgate Firestone, Abilene, TX. in the amount of \$5,975.00.

Councilman Williams made a motion to approve the annual purchase of tire products, **Bid #CB-4063**, as presented by Staff and per lots as drawn by the Mayor. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Williams, Higgins, Southward, Hill, and Mayor Archibald.

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.074, and 551.072 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, and to consider the purchase, exchange, lease or value of real property.

Councilman Williams left the meeting during Executive Session. Councilmen Hill and Southward left the meeting after Executive Session.

REGULAR SESSION

The Council reconvened from Executive Session and reported no action taken.

There being no further business, the meeting was adjourned at 11:55 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor