

CITY COUNCIL MEETING
December 2, 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 December 2, 2004, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Anthony Williams, John Hill, Stormy Higgins, Kris Southward and Councilwoman Laura Moore. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Luke Gibson a 5th grade student from Bonham Elementary who led the Pledge of Allegiance. Luke's parents and principal were also present.

EMPLOYEE SERVICE AWARDS

Mayor Archibald, assisted by City Secretary Jo Moore, presented Employee Service Awards to the following individuals for their years of service:

25 Years	Richard Froh	Equipment Mechanic II Equipment Services
20 Years	Amanda Cokonougher	Public Safety Dispatcher Supervisor Police
20 Years	Cassie L. Hughes	Program Administrator Public Works

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the November 18, 2004 Regular Council Meeting Minutes Councilman Higgins made a motion to approve the minutes as printed. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

3.0 Councilman Williams made a motion to approve consent agenda items 3.1 and 3.2, final reading of item 3.3, first reading of items 3.4 through 3.6, and item 3.7, as recommended by staff. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

Resolution:

- 3.1 Oral Resolution approving a Street Use License request from Abilene Psychiatric Center, Inc.
- 3.2 Oral Resolution approving a Street Use License request from Abilene Christian University.

Ordinances:

- 3.3 An Ordinance providing for increased Prior and Current Service Annuities for Retirees and Beneficiaries of Deceased Retirees of the City of Abilene, by amending Chapter 2, Article III, Section 2 of the Abilene City Code, and establishing an effective date for the Ordinance.

The Ordinance is numbered **36-2004** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM ("SYSTEM") FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY OF ABILENE, BY AMENDING CHAPTER 2, ARTICLE III, SECTION 2. OF THE ABILENE CITY CODE, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

- 3.4 **Z-2804** – Rezone from LC (Limited Commercial) and AO (Agriculture Open Space) to PDD (Planned Development District) zoning district, property located at 5309, 5317, and 5333 Buffalo Gap Road; and set a public hearing for December 16, 2004 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-96 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING, PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.5 An amendment to the City of Abilene Zoning Ordinance Section 23-306.5.B(18), regarding fences and setbacks for swimming pools accessory to single-family residences; and set a public hearing for December 16, 2004 at 8:30 a.m.

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.

- 3.6 Ordinance adopting "Youth Standards of Care" and set a public hearing for December 16, 2004 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PROGRAMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; AND CALL A PUBLIC HEARING.

Bid Award:

- 3.7 Knuckleboom truck for the Solid Waste Division. The bid was awarded as follows:
- Texas Local Government Purchasing Cooperative (TLGPC) Cab and Chassis “Buy Board” in the amount of \$46,232.00
 - Houston/Galveston Area Council (HGAC) knuckleboom assembly in the amount of \$39,433.00.

REGULAR AGENDA

Mayor Archibald noted that item 4.5 has been removed from today’s agenda.

4.1 Jon James, Director of Planning & Development Services briefed the Council on **TC-0704**, an Ordinance considered on second and final reading for a thoroughfare abandonment of the south 10 feet of the South 8th Street right-of-way from Peach Street east 140 feet to a north-south alley, subject to a replat of the property located adjacent to 1541 & 1533 South 8th Street.

Mr. James stated the applicant, Sacred Heart Church, is requesting that a portion of right-of-way be abandoned to provide space to add an entry area onto the front of the chapel. Mr. James noted the parkway is currently 22 feet in width, and if 10 feet is abandoned there will still be 12 feet between the curb and the property line, which is consistent with current City requirements for parkway widths along local streets such as South 8th Street. Mr. James further stated at the Planning and Zoning Commission meeting there were concerns expressed about parking in the area and it was believed this request would eliminate some head in parking that the chapel currently has. Mr. James noted that staff indicated there should not be any spaces lost, however, in follow-up visits to the site it was determined there would be a reduction of one parking space. Mr. James stated there are currently 3 head in spaces that are in the parkway area and these parking spaces are not publicly maintained spaces and therefore do not need to be located in the public right-of-way. Mr. James further stated the Plat Review Committee found that there are no public facilities in the requested area and supported approval with the condition that the adjacent property be replatted to include the abandoned portion of right-of-way. Staff and the Planning and Zoning Commission recommend approval of the ordinance with the recommendations of the Plat Review Committee.

Council and staff discussion included: 1) noting if the thoroughfare abandonment is approved any request for new variances by the applicant would go to the Board of Adjustment for consideration, and: 2) replatting of the property would not affect the traffic flow or the width of the streets.

Following Council and staff discussion Mayor Archibald opened the public hearing and the following individual addressed the Council:

- Joseph Lopez – agent for Sacred Heart Church. Mr. Lopez explained the function of the Adoration Chapel and distributed a copy of the Vestibule floor plan to the Council. Mr. Lopez requested Council's approval of the thoroughfare abandonment request.

Councilman Chase stated appreciation to Mr. Lopez for his personal efforts and time in pursuing the applicants request.

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

Councilman Southward made a motion to approve **TC-0704** an Ordinance considered on second and final reading for a thoroughfare abandonment of the south 10 feet of the South 8th Street right-of-way from Peach Street east 140 feet to a north-south alley, subject to a replat of the property located adjacent to 1541 & 1533 South 8th Street. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **37-2004** and captioned as follows:

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.

4.2 Jon James, Director of Planning & Development Services briefed the Council on **Z-2604** an Ordinance considered on second and final reading to rezone from MH (Mobile Home) and GC (General Commercial) to PDD (Planned Development District) zoning district, property located at 402 Arnold Blvd.

Mr. James stated the request is to rezone approximately 13 acres of an abandoned mobile home park that is to be reopened offering accommodations for both mobile homes and recreational vehicles. Mr. James further stated the site plan developed by the applicant will accommodate today's standard size mobile homes and RV's, while abiding by the setback requirements for each (15 feet in front, 5 feet in rear, and 7.5 feet on each interior side). Mr. James noted the total number of RV's allowed on the site will be limited to 30. The RV's are also limited to the north and south edges of the property, and may not be intermixed with the mobile homes in the central portion of the site, as indicated in the PDD ordinance. A clause was also written into the PDD that states, "the PDD text shall override the site plan". At the time the applicant prepared to obtain building permits for individual mobile homes, a more detailed site plan demonstrating the mobile home layout shall be necessary. Mr. James also noted the applicant has repaved the internal streets in the mobile home park and the width of those streets are 27'. The ordinance requires streets to be 36' in width and Council would need to amend the PDD providing the applicant with a variance to permit the 27' streets, otherwise the streets would have to be repaved to comply with the 36' width. Mr. James further noted the surrounding property owners were notified of the

rezoning request and have returned comments forms, two (2) comment forms being in favor and one (1) in opposition, with two (2) of the letters in opposition being written by owners of other local area campgrounds and RV parks. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) the street width variances; 2) all City standards being met; 3) the City site plan review process being required; 4) the rationale of allowing RV's to be in the same park (for a 3 month period) with mobile homes; 5) permitted uses in mobile home parks that pre-exist the current ordinance; 6) purpose of 3 month turnover; 7) concerns that customer friendly intent is not being met; 8) staff providing assistance to the applicant and following normal process in determining if standards are being met; 9) curb requirements and drainage issues; 10) RV's not allowed for permanent habitation under current ordinance; 11) City monitoring number of RV's and replacement issues; 12) coastal cities regulations of RV's; 13) processing of code complaints made by mobile home and/or RV owners, and; 14) requirements/standards for installation of permanent restrooms, showers, and laundromat facilities in park areas.

Following Council and staff discussion Mayor Archibald opened the public hearing and the following individuals addressed the Council:

- Jim Fox – property owner. Mr. Fox distributed pictures of the area for Council to view, and addressed the condition of the streets in the park, stated compliance with all staff requests would be met, addressed mixing RV's and mobile homes, removing and use of trees on the property, installing of electric/privacy fences, requested curbs not be required (will hold water and delay the opening of the park), prefers ½ RV's and ½ mobile homes, one year variance preferred (versus 3 months), explained how RV's and mobile homes will be situated on the property.
- Joe Lopez – realtor. Mr. Lopez noted a PDD will provide the City with more control, and stated, concerning the width of the streets, that the market will dictate that. Mr. Lopez thanked Mr. Fox for bringing more business to Abilene.
- Denny Marsalis – property owner to the north of the applicant. Mr. Marsalis addressed requirements as outlined in the 1984 ordinance and noted the variances that would need to be addressed if Council approves the request. Mr. Marsalis stated in his opinion the property should be converted to a recreational vehicle park.
- Paul Washburn – addressed City requirements he had to comply with when he built the four mobile home parks he owns and the issues the City will need to consider when the applicant requests variances.

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

Further Council and staff discussion included: 1) applicant's variance request would go to the Board of Adjustment instead of the City Council; 2) the different requirements of and options

available in mobile home parks and mobile home subdivisions; 3) applicants intent to sale the property or operate the park; 4) staff clarifying that RV's will only be allowed on the outside limits of the applicant's property, and; 5) staff clarifying the rezone request and the variance request to allow the street width to stay at 27' instead of upgrading to 36'.

Councilman Williams made a motion to approve **Z-2604** an Ordinance considered on second and final reading to rezone from MH (Mobile Home) and GC (General Commercial) to PDD (Planned Development District) zoning district, property located at 402 Arnold Blvd and to approve a variance allowing 27' street width instead of requiring an upgrade to 36' width. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: Councilman Southward.

The Ordinance is numbered **38-2004** 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-95 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.3 Jon James, Director of Planning & Development Services briefed the Council on **Z-2904**, an Ordinance considered on second and final reading to rezone from AO (Agriculture Open Space) to RM-3 (Residential Multi-family) zoning district, property located at 501 EN 10th Street.

Mr. James stated the property currently contains a single elevated duplex unit with attached tennis courts. Mr. James further stated the applicant desires to construct at least three (3) additional elevated duplex structures, for the maximum of eight (8) duplex units per acre. Mr. James noted the property owners in the surrounding areas were notified of the rezoning request and returned comment forms, two (2) opposed and one (1) in favor. Staff and the Planning and Zoning Commission recommend approval of the request.

Mayor Archibald opened the public hearing and the following individual addressed the Council:

- James Griffith – applicant. Mr. Griffith addressed: 1) the property being one of the highest points in the City and being located in the 100 year flood plain and floodway; 2) the work that has been done and will be done to the property; 3) the parking underneath the duplexes; 4) location of the air conditioners on the duplexes, and; 5) the storage facilities.

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

Councilman Southward made a motion to approve **Z-2904** an Ordinance considered on second and final reading to rezone from AO (Agriculture Open Space) to RM-3 (Residential

Multi-family) zoning district, property located at 501 EN 10th Street. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Chase

The Ordinance is numbered **39-2004** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.4 Richard Burdine, Assistant City Manager for Economic Development briefed the Council on a Resolution authorizing the City Manager to execute a Development Agreement with Kenneth L. Musgrave for an extension of East Lake Road from SH 351 to IH 20.

Mr. Burdine stated the development of a Wal-Mart Supercenter at the intersection of SH 351 and IH 20 is underway. Mr. Burdine further stated expectations of other commercial development is soon to follow and proper planning at this early stage will aide in the following:

1. avoid some of the access problems seen in areas of intense development;
2. create an attractive entrance off of IH20 into an Activity Center, consistent with the Comprehensive Plan;
3. implement a portion of the Thoroughfare Plan for this area;
4. demonstrate a commitment to north Abilene growth; and,
5. encourage residential development within AISD.

Mr. Burdine noted Kenneth L. Musgrave, owner of much of the property in this area, approached the City with a proposal to construct an extension of East Lake Road in advance of development. Mr. Burdine referenced the proposed project map noting Council has received a revised map that includes a 37.26 acre tract located at the northeast corner of East Lake Road and Hwy 351, owned by Kenneth Musgrave and already zoned for a shopping center. Mr. Burdine stated Mr. Musgrave proposes to bear all of the initial expense of extending East Lake Road as a thoroughfare from SH 351 east and south to IH 20. Mr. Burdine further stated the City of Abilene would reimburse half of the cost of the project for no more than 50% of property taxes generated by new development in an area bound by the new thoroughfare, IH 20 and Lowden Street. Mr. Burdine noted the City's responsibility would end after ten years regardless of whether or not full reimbursement was achieved. Mr. Burdine stated the project is designed to set a new standard for commercial development, by which the thoroughfare will have an irrigated and landscaped median its entire length with additional landscaping at entry points on SH 351 and IH 20. Mr. Burdine further noted thoroughfare lighting will be provided in the median with underground electrical service, and that the developer's engineer and City staff will pursue the installation of a traffic signal at East Lake Road and SH 351 in cooperation with the Texas Department of Transportation.

The estimated cost of the project is \$1,200,000 with the City reimbursing the lesser of 50% of actual project cost or \$600,000, plus 5% per annum (reimbursement sum) over a maximum ten-year period.

Council and staff discussion included: 1) the variety of land zones surrounding the property; 2) the exit off of I 20; 3) the developer adhering to the City's collector street standards; 4) the value of, and taxes on, the planned Wal-Mart Supercenter; 5) the expected cost of the new section of road; 6) the City revenues to be used to reimburse Mr. Musgrave for construction cost; 7) the importance of the City's legal counsel insuring that the City is and continues to be adequately covered, through current and future documents (i.e. deeds, etc.), in outlining the developers responsibilities for the maintenance and upkeep of the median, entry landscaping and the irrigation system; 8) the basis by which the City's and the developers individual responsibilities were determined; 9) staff's explanation of what the City's understanding of the developers engineer designing the project to adequately accommodate "bicyclist and pedestrian" means; 10) staffs explanation of the project reimbursement calculation and why interest (subject to negotiation) is also being paid, and; 11) the limitations faced by AISD in areas of economic development.

Following Council and staff discussion Mayor Archibald noted for the record that Mr. Musgrave's name is Kenneth L. Musgrave and not Kenneth P. Musgrave.

Following Council and staff discussion Councilman Higgins made a motion approve the Resolution authorizing the City Manager to execute a Development Agreement with Kenneth L. Musgrave for an extension of East Lake Road from SH 351 to IH 20. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

4.5 Item 4.5 was removed from the Agenda.

4.6 Mike Hall, Director of Community Services and Elizabeth Rankin, Chair of the Friends of the Public Library Board briefed the Council on the purpose of, and processes followed for, the development of the Library Strategic Plan. The Abilene Public Library's Strategic Plan was last updated in 1997 and due to the commitment of planning for the future of the Library by the Abilene Public Library Advisory Board, staff and Friends of the Public Library it was determined that it was time to revisit the Strategic Plan and to make certain that it reflects the needs of the community and the Library's capabilities. New technologies, new material formats and new services have been rapidly developing in recent years and the South Branch has contributed a significant new element to the overall Library's ability to serve. It was noted the time is right to assess how well the Library is meeting the needs of the community and to evaluate the direction it needs to be pursuing in services, facilities and in materials. The Friends of the Public Library agreed to fund the development of this Strategic Plan by contracting for the services of Larson-Todaro Consulting to guide the program and assist with the plan's development, with the Friend's group expending \$9,600.00 for those services. The planning process was directed at determining levels of user satisfaction, what services and materials were needed and wanted, and identifying areas for improvement. It was further noted the

study process was guided by a broad-based steering committee and used a variety of techniques to secure citizen involvement in the process. Four focus groups were employed, the Steering Committee, staff, targeted stakeholders, and the general public, with each group being given the opportunity to consider and comment on the role of the Library, its strengths and weaknesses and areas for improvements. In addition to the focus groups an open survey was offered to the public and over 850 people responded. At the conclusion of the process a plan was developed that makes specific recommendations for improvements to services, facilities and materials. Dr. Julie Todaro of Larson/Todaro Consulting then distributed a handout of, and presented, a summary of the primary elements of the Strategic Plan as follows:

- Planning is critical to:
 - Determining levels of user satisfaction.
 - Determining what services and materials are needed and wanted.
 - Identifying areas for improvement.
- Services as chosen by Abilene process participants:
 - Current topics and titles.
 - General information.
 - Commons.
 - Local history and genealogy.

Dr. Todaro then summarized the study recommendation for the basic elements of library business-services, facilities and materials, and marketing. Dr. Todaro noted the detailed three year recommendations are provided in the full text of the study. In conclusion Dr. Todaro noted the Unique Abilene Public Library Planning Process elements are:

- Excellent survey response.
- Excellent community participation in planning committee.
- Excellent community participation in focus groups.

Council, staff and consultant discussion included: 1) the positive impact that the library has in providing books for the Meals on Wheels program; 2) special programs other cities provide through specified branches (i.e. children's and services in lower income neighborhoods); 3) comparison of the library traffic in downtown and branch facilities; 4) technology not resulting in less library traffic; 5) the need to redesign/modernize the central library; 6) a good market contributing to citizens approving bonds for libraries; 7) possibility of integrating libraries with local universities libraries; 8) scope of consultants work not including a facility assessment; 9) consultant noting joint use of libraries most cost effective with high school's (K-12), and; 10) the multi-level process of looking at joint use libraries being a huge issue.

The Mayor and Council stated their appreciation to the consultants for the presentation of the Plan and to the Friends of the Public Library and Abilene Public Library Advisory Board for their contribution to the high quality of libraries in Abilene and for the opportunity they provide to increase that high quality.

No action was required by Council.

Councilman Hill left the meeting prior to Executive Session.

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.

REGULAR SESSION

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

There being no further business, the meeting was adjourned at 12:05 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor