

**CITY COUNCIL MEETING**  
**July 14, 2005, 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 July 14, 2005, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase (arrived following the invocation), 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.

David Cason, pastor of Broadview Baptist Church gave the invocation.

Mayor Archibald introduced Emily Robertson a 5<sup>th</sup> grade student from Bonham Elementary School who led the Pledge of Allegiance. Emily's mother was also present.

**PROCLAMATIONS**

Mayor Archibald presented the following proclamation:

- “Neighbor to Neighbor Day” July 15<sup>th</sup> – West Texas Utilities Representative

**PRESENTATIONS**

Mayor Archibald, assisted by Donna Littlefield, Police Communications Manager, presented the 2005 Employee Scholarship Awards as follows:

- Bria Danielle Camarillo, daughter of Barry Camarillo, Health Dept. Program Manager
- Chad Matthew Dozier, son of Ken Dozier, Fire Battalion Chief
- Kayla Marie Whitton Leech, daughter of Mark Whitton, Fire Lieutenant
- Sara LeBrea Long, daughter of Johnny Clinton, Supervisor I, Streets
- Travis Edward Walding, son of Tom Walding, Risk Manager

Mayor Archibald introduced Lesli Andrews, Community Enhancement Division Manager. Ms. Andrews introduced Doug Hodel, Chairperson for the Keep Abilene Beautiful Board, and Martin Hernandez, Area-Wide Phone Book Representative. The following Keep Abilene Beautiful and Keep Texas Beautiful Awards were presented:

- Keep Texas Beautiful Gold Star Affiliate Award and letter to Mayor Archibald from Keep Texas Beautiful
- Governor's Community Achievement Award of Excellence
- Keep Texas Beautiful Business and Industry Award (Abilene Area-Wide Phone Book)

Following the presentations of awards Ms. Andrews distributed autographed, second edition, Keep Texas Beautiful Christmas Ornaments to each City Council member from the Keep Abilene Beautiful Board of Directors.

Mayor Archibald expressed the pride he felt being part of the group of citizens that traveled to San Antonio July 11<sup>th</sup> to attend the BRAC meeting in support of Dyess Air Force Base. Council expressed their appreciation to Mayor Archibald for his enthusiastic and supportive speech given to the BRAC Commission. Mayor Archibald stated his appreciation to Bill Ehrie and Mike McMahon for their leadership during the process of compiling all of the complex data that was given to the BRAC Commission.

### **DISPOSITION OF MINUTES**

2.0 There being no corrections, additions, or deletions to the June 23, 2005 Regular Council and Workshop Meeting Minutes Councilman Chase 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 through 3.3, first reading of items 3.4 through 3.9, and items 3.10 through 3.16, 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

### **Resolutions:**

3.1 Oral Resolution authorizing the City Manager to execute a professional services contract with Sabre, Inc. for air service development services.

3.2 Oral Resolution approving the appointment of Kathy Aldridge to the Community Access Task Force, term expires May 2008.

3.3 Resolution authorizing the filing of applications with the United States Department of Transportation for grants under the Urban Mass Transportation Act of 1964, as amended.

The Resolution is numbered **16-2005** and captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE FILING OF APPLICATIONS WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION FOR GRANTS UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED.

**Ordinances:**

- 3.4 Ordinance amending Chapter 18, "Motor Vehicles and Traffic", of the City of Abilene Municipal Code.

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.

- 3.5 Ordinance denying the request of Atmos Energy Corp., Mid-Tex division, for an annual Gas Reliability Infrastructure Program (GRIP) rate increase.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, DENYING THE REQUEST OF ATMOS ENERGY CORP., MID-TEX DIVISION, FOR AN ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM (GRIP) RATE INCREASE IN THIS MUNICIPALITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY DISTRIBUTION SYSTEM; APPROVING COOPERATION WITH OTHER CITIES WITHIN THE ATMOS ENERGY CORP., MID-TEX DIVISION DISTRIBUTION SYSTEM AS PART OF THE ATMOS CITIES STEERING COMMITTEE (ACSC); AUTHORIZING ACSC TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION; AUTHORIZING INTERVENTION AS PART ACSC IN ANY APPEAL OF THE CITY'S ACTION TO THE RAILROAD COMMISSION; APPROVING COSTS INCURRED AS REASONABLE AND PROVIDING A REQUIREMENT FOR PROMPT REIMBURSEMENT OF COSTS; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO ATMOS ENERGY CORP., MID-TEX DIVISION.

- 3.6 Ordinance to amend Sections 23-306.4 of the Zoning Ordinance pertaining to the parking requirement for certain uses; and set a public hearing for July 28, 2005 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.

- 3.7 **TC-2005-3** – Thoroughfare Closure of all of Lockheed Way, property located along the north line of 300 Wall Street; and set a public hearing for July 28, 2005 at 8:30 a.m.

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.

## City Council Meeting

July 14, 2005

Page 4

- 3.8 **Z-2005-23** – Ordinance to amend PDD-92 to increase the maximum dwelling density from 8 units per acre to 9 units per acre located on the northwest corner of Jennings Drive and Delaware Road; and set a public hearing for July 28, 2005 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-92 AND ORDINANCE NO. 25-2004 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

- 3.9 **Z-2005-24** – Rezone property from AO (Agriculture Open Space) to RS-8 (Residential Single-family) zoning district, property located in the 4500 block of Antilley Road, east of Twin Oaks Subdivision, and south of Wylie High School; and set a public hearing for July 28, 2005 at 8:30 a.m.

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

### Bid Awards:

- 3.10 Self-Contained Breathing Apparatus (SCBA)/U. S. Department of Homeland Security Grant. The bid was awarded to Casco Industries, Inc. as a sole source in the amount of \$37,342 due to the company being the only full-line authorized MSA Distributor to the Municipal Fire Service Market for Taylor County, Texas.
- 3.11 Solid Waste sideloader collection bodies. The units will be purchased through the Texas Local Government Purchasing Cooperative (TLGPC) Buyboard in the amount of \$155,712.00 to continue the standardization of sideloader bodies.
- 3.12 **Bid #CB-5057** – Tractor equipped with tow-behind rotary mowing unit. The bid was awarded to Parker Implement Co., Abilene, TX in the amount of \$28,383.00.
- 3.13 **Bid #CB-5058** – Zero radius mowers. The bid was awarded to Abilene New Holland, Abilene, TX in the amount of \$31,134.00.
- 3.14 **Bid #CB-5061** – Replacement of the Fire Apparatus Building and Civic Center auditorium roofs. The bid was awarded to Barr Roofing Co., Abilene, TX in the amount of \$92,331.00.
- 3.15 **Bid #CB-5064** – 14" C905 water pipe. The bid was awarded to Big Country Waterworks Supply, Inc., Brownwood, TX in the amount of \$33,696.00.
- 3.16 **Bid #CB-5066** – New Public Health facility furniture. The bid was awarded as follows:
- P&L Office Supply, Abilene, TX

- Chairs (Items 1-7) in the amount of \$36,363.33
- Bookcases, filing cabinets and metal desks (Items 12-19) in the amount of \$5,506.21
- West Office Supply, Big Spring, TX
  - Task chairs (Items 9-11) in the amount of \$13,360.32
  - Literature racks (Items 45-46) in the amount of \$801.92
- Abilene Printing & Stationary Co., Abilene, TX
  - Task chairs (Item 8) in the amount of \$1,942.25
  - Wood desks, returns, credenzas, hutches, storage cabinets, and tables (Items 20-44) in the amount of \$45,165.54
  - Folding tables and carts (Items 47-48) in the amount of \$9,106.00

### **REGULAR AGENDA**

4.1 Jon James, Director of Planning & Development Services briefed the Council on **Z-2005-18**, an ordinance considered on appeal and second and final reading to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning district, property located at 2582 Waldrop Drive.

Mr. James stated the applicant, Taylor Electric Cooperative, Inc., has requested rezoning of a 3.01 acre tract from AO (Agriculture Open Space) to PDD (Planned Development District) to allow an electric substation. Mr. James further stated the facility has been constructed by the proponent without them having obtained any approvals or permits from the City of Abilene. Mr. James noted near the end of construction, an area property owner contacted the City and complained about the facility. The City investigated the complaint and notified the applicant of the problem. The applicant in March 2005 applied to the Board of Adjustment for a Special Exception to allow the use of the facility in AO zoning. The Board denied the request, which had substantial opposition from nearby property owners, by a 2-2 vote. The applicant then appealed the Boards decision to District Court and to the Public Utility Commission. However, both of these appeals are on hold while the applicant pursues this request for rezoning. Mr. James stated staff has developed a PDD ordinance that would mitigate some of the potential effects of such a facility on nearby properties. Mr. James further stated the facility as constructed and as proposed in the PDD ordinance would have significant restrictions on signage and lighting, would require landscaping, and would limit the use to only the substation. Mr. James noted the area is sparsely developed with single-family residences and the remainder of the area is open space or utilized for agriculture purposes. As determined through Comprehensive Planning Analysis sufficient electrical service is necessary for the development of land and to accommodate this development, electrical facilities, such as the one under consideration, are often found in close proximity to residences. Taylor Electric Cooperative, Inc. needs a new facility to provide adequate electric service to the increased customers in the southern parts of Abilene, which this facility would provide the necessary capability. Mr. James noted the Planning and Zoning Commission's motion was to approve the request but the vote was 3 in favor and 3 opposed resulting in a denial of the request. Staff recommends approval of the request.

Council and staff discussion included: 1) staff processing the request as if it were submitted for vacant property; 2) staff's view on the basis of the need for this facility and location limitations; 3)

**City Council Meeting**  
**July 14, 2005**  
**Page 6**

the process and procedures Taylor Electric should have followed; 4) history of Special Exception requirements; 5) staff clarifying zoning areas (HC, LI, HI and PDD) where substations can be located without a Special Exception; 6) electrical substations impact on surrounding property values; 7) staff clarifying votes required by Board of Adjustment and Council for approval; 8) negative impact of AO (Agriculture Open Space) zoning; 9) staff's opinion on the impact PDD (Planned Development District) provisions would have on nearby residences; 10) Taylor Electric lawsuits currently on hold; 11) staff's explanation of possible procedures and appeals process, and; 12) basis for the Board of Adjustment and Planning and Zoning Commission decisions.

Mayor Archibald noted for the record that the only remedy or appeal available to a Board of Adjustment decision is to District Court and that Planning and Zoning Commission decisions are appealed to the City Council.

Mayor Archibald then stated in the interest of time when the public hearing is opened the proponent (Taylor Electric) and each opponent (Shahan, Stricklin, Poorman, Brown, and Graham) would be given 10 minutes for comments, any other individuals wishing to address Council will be given 3 minutes for comments. The Mayor reiterated this will be a public hearing not a trial, and that all actions and comments should be made in an appropriate manner. The Mayor further stated the Council does want to hear from all sides and all of the discussion.

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

- Darryl Schriver, Taylor Electric Cooperative General Manager/CEO, proponent – Mr. Schriver briefed Council on the history, purpose and function of Taylor Electric. Mr. Schriver stated the Waldrop substation is a \$750,000 investment that will enable Taylor Electric to enlarge their customer base. Mr. Schriver explained the rationale for the location of the substation as being the location, easy access, and transmission lines already in existence. Mr. Schriver stated the transmission lines are another utility company's lines and there will be no change of location for the transmission lines. Mr. Schriver noted the transmission substation switchyard is not a distribution substation like Taylor Electric. Mr. Schriver addressed the history of the processes that were completed prior to construction and noted a 9-1-1 address was also obtained prior to construction. Mr. Schriver stated construction was stopped immediately when the problems were discovered and all documentation was shared with City staff and that Taylor Electric followed all of the recommendations that were given to them by the city. Mr. Schriver noted the first recommendation from City staff was for Taylor Electric to appear before the Board of Adjustment to seek a variance and the second was to seek rezoning of the area to a PDD (Planned Development District) through the Planning and Zoning Commission. Mr. Schriver explained the decisions (tie votes, resulting in denial of the request) of the Board of Adjustment and the Planning and Zoning Commission and stated Taylor Electric is before Council asking for a tiebreaker and approval of their request. Mr. Schriver briefed the Council on the efforts Taylor Electric has made to address all issues and concerns surrounding their request. Mr. Schriver distributed to Council over 400 letters from area constituents in support of the request. Mr. Schriver stated Taylor Electric wants to contribute to making Abilene a better city, to help Abilene grow and that the Taylor Electric facility is one of public service and need, not one of personal gain.

Council recessed for a break at 10:15 a.m. and reconvened at 10:20 a.m.

- Jack Stricklin, opponent – Mr. Stricklin stated Taylor Electric distributes electricity and does not produce electricity. Mr. Stricklin questioned if the Waldrop substation is truly critical to the development of Abilene or to citizens receiving electricity. Mr. Stricklin noted the Board of Adjustment denied the request and asked if a three acre plot behind a house which is situated close to another substation should be the chosen place for a substation. Mr. Stricklin stated property used for other substations in the city, are usually located by commercial property. Mr. Stricklin distributed pictures to Council of the substation and its proximity to his property. Mr. Stricklin stated he felt Taylor Electric failed to determine that this property was not the only place to construct a substation in the area and questioned the use of the PDD (Planned Development District) zoning as a cover up for this mistake.
- Linda Stricklin, opponent – Ms. Stricklin stated the importance of core values, family values, health issues surrounding the location of the substation to residential property, the value of their property being lowered, and the overall quality of life. Ms. Stricklin noted other property is available in the area to construct a substation and thanked the Council for their time and help in this matter.
- Brad Poorman, opponent – Mr. Poorman addressed the Board of Adjustment and the Planning and Zoning Commission decisions and stated the location chosen for the substation was incorrect.
- Paula Shahan, opponent – Ms. Shahan stated her land has de-valued because of the substation and noted she had individuals that were interested in buying a portion of her land, but asked that the price of the land be reduced when they saw the substation. Ms. Shahan further stated Taylor Electric did not notify the surrounding landowners of the construction of the Waldrop substation.
- Kirk Brown, Taylor Electric employee and landowner in area, proponent – Mr. Brown stated his family would not have moved into their current home in the area if he felt there was a health risk. Mr. Brown noted a substation is the best neighbor and this substation is hidden and in a good location. Mr. Brown noted one reason he moved from a neighborhood in Abilene was due to unkept yards in the neighborhood.
- Karla Brown, proponent – Ms. Brown stated she sees no problems with being located close to a substation and that she feels the property in and around the substation will be well kept.
- Tom Choate, representing Paul and Sarah Graham, proponent – Mr. Choate stated Mr. Graham is in support of the substation.
- Tom Choate, attorney representing Taylor Electric – Mr. Choate stated the Waldrop substation will not adversely impact the surrounding land. Mr. Choate noted Taylor Electric's efforts to address issues and concerns surrounding this substation. Mr. Choate further noted

**City Council Meeting**  
**July 14, 2005**  
**Page 8**

various offers had been extended to the Stricklin's by Taylor Electric including landscaping on their property and that all offers had been rejected.

- Mark Zachry, attorney representing the Stricklin's – Mr. Zachry showed Council a map which reflected the AO (Agriculture Open Space) zoned areas of the city. Mr. Zachry stated there are many residences on the outer areas of the city that are located in AO zoning on land that had been annexed into the city limits.
- Shawn Aycock, opponent – Mr. Aycock stated he felt Taylor Electric should know the proper procedures to follow to construct a substation and felt they built the substation illegally.

Council recessed for a break at 11:30 a.m. and reconvened at 11:35 a.m.

- Leland Robinson, Director with Taylor Electric, proponent – Mr. Robinson stated Taylor Electric is only trying to address and meet the city's needs.
- Steve Owens, represented the company that designed the Waldrop substation – Mr. Owens addressed the need for the substation to be located somewhere and stated from an engineering stand point the location is ideal.
- Bill Libby, owns property in Callahan County and is a customer of Taylor Electric – Mr. Libby stated he is in the process of buying a home in Abilene and noted his concerns in reference to City ordinances and procedures. Mr. Libby further stated the City should enforce their own codes.
- B.J. Shirley, Lawn, Texas – Mr. Shirley addressed the subjects of commerce and families and stated the need to treat each other with honor and dignity.
- Tom Niblo, realtor, proponent – Mr. Niblo stated the impact of the substation on the surrounding property would be minimum and is not an issue. The PDD (Planned Development District) zoning will require landscaping that would address any de-value in land issues.
- Jeff Thames, employee of Taylor Electric – Mr. Thames stated Taylor Electric is a good company and will be a good neighbor.

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

Council and staff discussion included: 1) location of existing and future pole lines; 2) this not being a condemnation issue since the property was purchased on the open market; 3) the time lapse from beginning of construction until the complaint was filed; 4) PDD (Planned Development District) provisions; 5) Taylor Electric's choices of property in the area; 6) minimum noise factor; 7) the various distances from the area land owners property and structures to substation property; 8) action taken by opponent in filing complaint; 9) impact on property values; 10) dismantling and relocating of substation if request is denied; 11) city attorney addressed issues and clarified Council's position



## City Council Meeting

July 14, 2005

Page 9

and options, and; 12) noting a decision could be tabled by Council if Taylor Electric and Stricklin's are still negotiating.

Following discussion Councilman Chase made a motion to approve **Z-2005-18**, an ordinance considered on appeal and second and final reading to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning district, property located at 2582 Waldrop Drive, with all PDD (Planned Development District) provisions as submitted to Council, and with the following additions as proposed (and shown as paragraphs 1, 2, 3, 5 and 6) by Taylor Electric Cooperative, Inc. in the letter dated June 29, 2005 from Thomas Choate (attorney representing Taylor Electric) to Mark S. Zachary (attorney representing Mr. and Mrs. Jack Stricklin, Jr.).

1. In addition to the opaque chain link safety fence around the substation itself, Taylor is willing to construct a wooden fence around the perimeter of the property in question that would be not less than seven feet tall (and would be gated for access within the AEP easement).
2. Taylor will construct a wooden entry gate on the road leading up to the site, but which gate will be 35-40 feet off Waldrop Drive to allow access without traffic and safety concerns that would be caused by stopping on the Waldrop Drive.
3. Taylor will plant trees around the entire perimeter of the property (not just on the south and east boundary) and will plant tree clusters at strategic locations to minimize visual contact. This tree planting will be in accordance with national safety codes, the Tree Growing Guide for Abilene, and spaced at a density along the perimeter of no less that 10 feet apart (changed from 15 feet).
5. All emergency lightning within the electrical substation will be (a) inside the chain-link fencing and (b) will be lower than the fence height.
6. All Taylor electrical lines leaving the substation will be buried to avoid any additional overhead lines on-site.

Councilman Chase's motion further stipulated that existing temporary poles will be removed, and that the substation be limited in future construction, with no structure to be placed on the southern half of the tract in question. Councilman Hill seconded the motion.

Mayor Archibald noted due to the amount of opposition to this request from within the notification area, the item would require a super majority vote, (6 out of 7 affirmative votes), of the Council to be approved.

AYES: Councilmen Chase, Hill, and Mayor Archibald.

NAYS: Councilmen Southward, Williams, Higgins, and Councilwoman Moore.

Motion failed and the request was denied.

4.2 Jon James, Director of Planning and Development Services briefed the Council on, **Z-2005-19**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to HI (Heavy Industrial) zoning district, property located on the northeast corner of Loop 322 and South Treadaway Blvd.

**City Council Meeting**  
**July 14, 2005**  
**Page 10**

Mr. James stated the applicant is proposing to develop industrial warehousing to include significant outdoor storage. Mr. James noted the parcel is located on the north side of the interchange of Hwy 83/84, Loop 322, and S. Treadaway Boulevard. Mr. James further noted the areas to the north are zoned HI (Heavy Industrial) and the property to the east is zoned AO (Agriculture Open Space). Mr. James stated the property is located at a significant gateway into Abilene from the south. Mr. James further stated staff discussed PI (Park Industrial) zoning with the applicant, due to the aesthetic control that a PI zoning district would provide that an HI district would not, including lower scale signage, landscaped areas, and screening. Mr. James further noted the PI district would provide for development more consistent with the Comprehensive Plan. Mr. James stated the applicant indicated that PI zoning would be a problem due to the level of outdoor storage anticipated with the proposed use. The Planning and Zoning Commission approved the request for HI (Heavy Industrial) zoning. Staff recommends PI (Park Industrial) zoning versus HI (Heavy Industrial) to provide for better control of the appearance of the property located at this gateway to Abilene.

Council and staff discussion included: 1) clarification of the difference between PI (Park Industrial) and HI (Heavy Industrial) zoning; 2) aesthetic issues voiced by staff; 3) the land north adjoining the proposed rezoned property is zoned HI (Heavy Industrial); 4) HI zoning being compatible with the area, and; 5) issues with LI (Light Industrial) or PDD (Planned Development District) zoning.

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

- Terry Franklin, agent – Mr. Franklin stated 1 ½ acres of the land will be utilized for storage and future plans for the other 17 acres are not yet known.
- Matt Richey, representing opponent Winnona “Bea” Herring – Mr. Richey addressed Ms. Herring’s personal concerns and asked Council to deny the request. Mr. Richey stated Ms. Herring owns property to the east (63 acres) of the proposed area and is concerned about the uncertainty of what the property will be used for. Mr. Richey further stated Ms. Herring feels if the proposed area is rezoned as HI (Heavy Industrial) it will decrease her property value and noted Ms. Herring would be in favor of PI (Park Industrial) zoning district.
- Winnona “Bea” Herring, opponent – Ms. Herring stated she wants to sell 40-45 acres of the 63 acres for possible future homes.
- Jan Dixon, Ms. Herring’s daughter – Ms. Dixon expressed her concerns about the uncertainty of what the property will be used for and feels that Council should be concerned as well.

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

Councilman Hill made a motion to approve **Z-2005-19**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to HI (Heavy Industrial) zoning district, property located on the northeast corner of Loop 322 and South Treadaway Blvd. Councilman Williams seconded the motion, and the motion carried.

**City Council Meeting**  
**July 14, 2005**  
**Page 11**

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

NAYS: None

The Ordinance is numbered **28-2005** 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.

4.3 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-20**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to GC (General Commercial) zoning district, property located in the 3500 block of West Lake Road.

Mr. James stated the applicant is proposing to rezone 2.5 acres to GC (General Commercial) for the purpose of constructing a hotel. Mr. James further stated the property is adjacent to other GC zoning that has frontage on I-20. Mr. James noted the subject property does not have frontage on the interstate access road, which could make the tract inappropriate for the proposed zoning. Mr. James stated the property is near an area identified as a Major Activity Center in the Comprehensive Plan (I-20 and Pine Street), however the activity center has not been specifically defined to date. Mr. James noted until a further study is conducted on the area it would be inappropriate to rezone the property to GC at this time. Mr. James stated staff's preference would be to see how this individual proposal would fit within the context of the surrounding area rather than viewing this small property in isolation. The Planning and Zoning Commission recommend approval of the request. Staff recommends denial of the request.

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

- Raj Bhakta, proponent – Mr. Bhakta asked Council to approve the rezoning and stated a Hampton Inn and Suites is the proposed hotel to be constructed on the property.

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

Councilman Southward made a motion to approve **Z-2005-20**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to GC (General Commercial) zoning district, property located in the 3500 block of West Lake Road. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **29-2005** 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 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-21**, an ordinance considered on appeal and second and final reading to rezone property from RM-3 (Residential Multi-family) to GC (General Commercial) zoning district, property located at 2233 Walnut Street.

Mr. James stated the applicant is proposing to construct a Subway restaurant on a portion of the property that fronts Pine Street, but have parking and a driveway through to Walnut Street. Mr. James noted there are no known plans for the remainder of the property. Mr. James further stated there is an alley that abuts a portion of the property and the applicant has also requested a thoroughfare closure, **TC-2005-2**, that is also being considered at today's Council meeting. Mr. James stated there are several homes along the east side of Walnut and a home adjacent to the north of the property and that an intrusion of commercial activity and traffic to the intersection of Walnut and Sandefer may not be appropriate. Mr. James further stated currently there is no property in this area that is zoned commercial that does not front onto Pine or Ambler and to rezone this property would establish a precedence of allowing commercial zoning to encroach into the interior of this neighborhood. Mr. James stated this property is near an area identified as a Special Activity Center in the Comprehensive Plan (in the area of Hardin-Simmons University and Hendrick Medical Center), however, the activity center has not been specifically defined or studied to date. Mr. James noted until a further study is conducted on the area it would be inappropriate to rezone the property to GC at this time. Staff and the Planning and Zoning Commission recommend denial of the request.

Council and staff discussed the site characteristics and aesthetic issues of the area.

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

- Tom Niblo, realtor representing Horace Hardin and Robert Stephens – Mr. Niblo stated the contract for the proposed Subway restaurant is contingent on Council approving the rezoning at today's meeting and noted there will be no drive-up window, which should reduce traffic congestion.
- Robert Stephens, agent – Mr. Stephens clarified that the property to the north as shown on the City staff's map was inadvertently added by staff is not part of the original request.

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

**City Council Meeting**  
**July 14, 2005**  
**Page 13**

Councilman Hill made a motion to approve **Z-2005-21**, an ordinance considered on appeal and second and final reading to rezone property from RM-3 (Residential Multi-family) to GC (General Commercial) zoning district, property located at 2233 Walnut Street. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

ABSTAIN: Mayor Archibald (due to the Mayor's employer Hendrick Medical Center having the lease on the applicant's current Subway facility located on Pine Street).

The Ordinance is numbered **30-2005** 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.

4.5 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-22**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) and O (Office) to PDD (Planned Development District) zoning district, property located at 1801 Antilley Road.

Mr. James stated the applicant proposes to construct a restaurant and hotel on the property. Mr. James further stated the proposed PDD (Planned Development District) ordinance was modeled after the adjacent PDD ordinance, with a few modifications upon the request of the applicant, and a few changes by staff that are more consistent with the Comprehensive Plan as well as the standards established in recent PDD ordinances. Mr. James noted the proposed PDD would limit signage, require landscaping, establish a masonry requirement on structures and establish uses consistent with the area. Mr. James further noted the masonry requirement is not commonly used in the city, however, the adjacent PDD has this requirement and this would allow for more consistent development in this area. Mr. James stated this property is in an area identified as a Special Activity Center (focusing on medical uses) and the signage, landscaping and sidewalk requirements as proposed in the ordinance are consistent with the recommendations of the Comprehensive Plan. Mr. James further stated activity centers are intended to include a variety of uses and activities that work together to make a vibrant district, and in this case, the hotel and restaurant uses are appropriate uses to provide important services to those who work in and visit the area. Staff and the Planning and Zoning Commission recommend approval of the request.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard, the public hearing was closed.

Councilwoman Moore made a motion to approve **Z-2005-22**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) and O (Office) to PDD (Planned Development District) zoning district, property located at 1801 Antilley Road. Councilman Williams seconded the motion, and the motion carried.

**City Council Meeting**  
**July 14, 2005**  
**Page 14**

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

NAYS: None

The Ordinance is numbered **31-2005** 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-99 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.6 Jon James, Director of Planning and Development Services briefed the Council on **TC-2005-2**, an ordinance considered on second and final reading for a thoroughfare closure of a north-south alley located between Pine Street and Walnut Street extending southward from Sandefer Street.

Mr. James stated this is a dead-end alley that extends approximately halfway through the block from Sandefer Street southward. Mr. James noted the alley is not being utilized, serves very little purpose, does not extend the full length of the block, and there are no public facilities in the alley. Mr. James stated this request is associated with rezoning case **Z-2005-21**, and this abandonment would allow for the consolidation of some properties. Staff, the Plat Review Committee, and the Planning and Zoning Commission recommend approval of the request.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard, the public hearing was closed.

Councilman Hill made a motion to approve **TC-2005-2**, an ordinance considered on second and final reading for a thoroughfare closure of a north-south alley located between Pine Street and Walnut Street extending southward from Sandefer Street. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

ABSTAIN: Mayor Archibald (due to the Mayor's employer Hendrick Medical Center having the lease on the applicant's current Subway facility located on Pine Street).

The Ordinance is numbered **32-2005** and captioned as follows:

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

**City Council Meeting**  
**July 14, 2005**  
**Page 15**

4.7 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to amend Sections 23-306.5.E.(4)(a) and 23-306.5.B.(3)(f) of the Zoning Ordinance pertaining to fences surrounding playground areas at childcare facilities.

Mr. James stated this request is the result of the Day Nursery of Abilene building a new facility and that the current ordinance requires childcare facilities to provide opaque screening around their playground areas. Mr. James noted few, if any, childcare facilities in the city have opaque fencing and stated fencing is important for safety, but opaque fencing is not necessary. Staff and the Planning and Zoning Commission recommend approval of the request.

Mayor Archibald opened a public hearing on the item and there being no one present and desiring to be heard, the public hearing was closed.

Councilman Higgins made a motion to approve an ordinance considered on second and final reading to amend Sections 23-306.5.E. (4)(a) and 23-306.5.B. (3)(f) of the Zoning Ordinance pertaining to fences surrounding playground areas at childcare facilities. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **33-2005** and captioned as follows:

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 SERVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

4.8 Jon James, Director of Planning and Development Services briefed the Council on a resolution concerning an amendment to the Thoroughfare Plan, specifically to eliminate a proposed collector street extending north from Clark Road, located west of FM 1750.

Mr. James stated a developer is proposing to construct a residential subdivision in this part of the Extra-territorial Jurisdiction (ETJ) in which the streets would terminate in cul-de-sacs, however, the Thoroughfare Plan requires a collector street in this area. Mr. James further stated the request is to eliminate a portion of a proposed north-south collector street that extends from Clark Road to a point just south of FM 707 on a proposed future arterial street. Mr. James noted the applicant has requested the requirement be removed due to concerns about building in a flood hazard area and existing development to the north. Mr. James stated there is a substantial amount of developable land in the area and staff's opinion is that a collector street is necessary. The Planning and Zoning Commission recommend approval of the request. Staff recommends denial of the request.

Councilwoman Moore left the meeting.

Council and staff discussion included: 1) the benefits good grid streets are to cities; 2) the worthiness and appropriateness of cul-de-sacs; 3) the developer seeking a sub-division plat approval without a collector street; 4) proposed and possible alternative locations for the collector street; 5) the removal of the collector street would not eliminate the requirement that a connection to the adjacent property be provided; 6) the roadway that would serve the residents and the likelihood of the property being sub-divided; 7) what effects the collector street being moved to the west side of the sub-division would have, and; 8) a stub out street from the cul-de-sac would still require a turn around street (resulting in another cul-de-sac)

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

- Eddie Chase, agent representing the applicant – Mr. Chase briefed the Council on the applicants request and explained the proposal for the development of a subdivision and the concerns about the location and building of the collector street.
- Robert Allen, MPO Transportation and Planning for the City of Abilene – Mr. Allen stated staff researched the proposed areas history and feels the land will be sub-divided in the future. Mr. Allen requested Council not eliminate the collector street in the area or change the Thoroughfare Plan.

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

Councilman Hill made a motion to not approve the Resolution to amend the Thoroughfare Plan, specifically to eliminate a proposed collector street extending north from Clark Road, located west of FM 1750. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: Councilman Chase

ABSENT: Councilwoman Moore

### **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.

### **REGULAR SESSION**

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

There being no further business, the meeting was adjourned at 3:20 p.m.



---

Jo Moore  
City Secretary

---

Norm Archibald  
Mayor