

**CITY COUNCIL MEETING
October 13, 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 October 13, 2005, 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, Kris Southward, John Hill, Stormy Higgins 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.

Councilman Higgins gave the invocation.

Mayor Archibald introduced Madison Moore a 5th grade student from Austin Elementary School who led the Pledge of Allegiance. Madison's mother, Councilwoman Laura Moore 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:

30 Years	Roger Berry	Sergeant II Police Department
30 Years	Dwight Kinney	Police Officer Police Department

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- "Physical Therapy Month" October 2005 – Mary Lou Garrett.
- "Pink Ribbon Sunday" October 30th – Marion Smith.
- "Key City Coin, Stamp & Sports Card Club Day" October 14th-16th – Jim Saunder, President, and Bob Kirkly, Vice President.

Mayor Archibald assisted by Councilman Higgins introduced Chief Mumena from Zambia, who is visiting the United States to help raise awareness and funds for a hospital project in Zambia, a joint effort between himself and a Hillcrest Church of Christ mission program. Councilman Higgins also introduced Dr. Cleddy Varner, who is serving as host to Chief Mumena during his stay in Abilene.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the September 20, 2005 Special/Budget Workshop Minutes or the September 22, 2005 Regular Council Meeting and Budget Workshop Minutes Councilwoman Moore made a motion to approve the minutes as presented. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Mayor Archibald stated items 3.3 and 3.4 have been removed from today's agenda.

Item 3.5 was removed from the Consent Agenda to be considered separately at the request of Councilman Southward.

3.0 Councilman Williams made a motion to approve consent agenda items 3.1 and 3.2, first reading of items 3.6 through 3.9, and items 3.10 and 3.11, as recommended by staff. Councilman Hill 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 Amendment 1 of the contract with Orval Hall Excavating Company, Inc., assigning the contract to Orval Hall Excavating General Partner, Limited Liability Company dba OHE GP, LLC.

3.2 Oral Resolution approving a Street Use License for Enprotec, Inc., on property at 542 Plum Street.

3.3 *Removed from the Consent Agenda:* Resolution approving disposition of property located at Highway 36 and Loop 322 by exchange or sale between the City of Abilene and Development Corporation of Abilene, Inc.

3.4 *Removed from the Consent Agenda:* Resolution authorizing approval of the sale of two (2) parking lot properties located in the 900 Block of South 1st Street between Chestnut and Oak Streets.

3.5 *Removed from the Consent Agenda to be considered separately:* Resolution authorizing approval of the sale of the Matera Building located at 101 Oak Street.

Ordinances:

- 3.6 **Z-2005-29** – Rezone approximately 265 acres from AO (Agriculture Open Space) and PDD-2 (Planned Development District) to PDD (Planned Development District), property located at the northeast corner of Highway 36 and FM 18; and set a public hearing for October 25, 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-98 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.7 **Z-2005-30** – Rezone from AO (Agriculture Open Space) to RS-6 (Residential Single-family), property located in the 3100 block of Beltway South (FM 707); and set a public hearing for October 25, 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.

- 3.8 **Z-2005-31** – Rezone 9.705 acres from AO (Agriculture Open Space) to RS-6 (Residential Single-family), property located at the north end of Valley Forge Road and Liberty Boulevard; and set a public hearing for October 25, 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.

- 3.9 Ordinance to amend Chapter 29.5, Subsection (e) (Article XV, Safety) 15.3, "Swimming Pools and Spas", of the Abilene City Code; and set a public hearing for October 25, 2005 at 8:30 a.m.

AN ORDINANCE AMENDING CHAPTER 29.5, "SWIMMING POOLS AND SPAS", ARTICLE III, 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.

Bid Awards:

- 3.10 **Bid #CB-5091** – Rewinding of two (2) electric motors for Clear Fork Pump Station. The bid was awarded to B. J. Electric Motor Service, Inc., Midland, Texas in the amount of

\$81,771.84 and the City Manager or his designee was authorized to execute all necessary documents related to the contract.

3.11 **Bid #CB-6000** – Vehicles for various divisions. The bid was awarded as follows:

- Lawrence Hall, Abilene, Texas:
 - Two (2) Utility Trucks \$43,957.00
 - Two (2) Midsize SUVs \$40,432.80
 - Nine (9) ½ Ton Pickups \$121,651.00
 - One (1) ½ Ton Pickup (Extended Cab, Computer Use) \$17,126.00
 - One (1) ½ Ton Pickup – 4WD Extended Cab \$21,380.00
 - Five (5) 8600 GVWR Trucks \$86,560.00
- Baby Jack Automotive, Ford Vehicles, Caldwell, Texas:
 - Four (4) Sedans \$50,344.00
 - One (1) ½ Ton Pickup-Extended Cab \$17,688.00
- Arrow Ford, Abilene, Texas:
 - Twenty (20) Patrol Sedans \$421,660.00
 - Two (2) Full Size Sedans \$41,804.00

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Section 551.072 of the Open Meetings Act, to consider the purchase, exchange, lease or value of real property; pertaining to agenda item 3.5, “Resolution authorizing approval of the sale of the Matera Building located at 101 Oak Street”.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

Removed from the Consent Agenda to be considered separately:

3.5 Resolution authorizing approval of the sale of the Matera Building located at 101 Oak Street.

The Matera Building located at 101 Oak Street, is one of the most historically significant buildings on the south side of the identified downtown area. The structure was entered into the National Register of Historic Places on March 23, 1992 and is still located on one of the busiest traffic corridors in Abilene. The building is adjacent to the main thoroughfare to the Taylor County Courthouse, Police Department and other government facilities. The City of Abilene owns the Matera Building and sent out a Request for Proposals on the building. Staff received a redevelopment proposal from a company based in Dallas, Texas. The principals of the company have visited the building twice in the past 60 days and feel the highest and best use of the property can be obtained through the development of residential units. The company was incorporated in 1997 and has experience in the redevelopment of historic properties into loft style apartments. They recently completed a 126 unit loft style apartment complex in Waco, Texas. Their proposal plans an approximate \$2MM rehabilitation of the building into approximately 40 rental units with construction to begin immediately after closing. The project is required to restore this National Register building in accordance with Secretary of the Interior guidelines under the City of Abilene’s historic overlay

zoning and still make the complex marketable in today's economic conditions. The company has provided business and professional references, along with a construction budget for the project. The TIF Board has considered the proposal for the Matera Building and has indicated by the passage of TIF Resolution 2005.003, the support of the proposed sale. The funding and fiscal impact will be a receipt of \$19,800 for the sale of the property. Staff recommends approval of the resolution.

Councilman Chase made a motion to approve the Resolution authorizing approval of the sale of the Matera Building located at 101 Oak Street, as presented conditioned upon the fact that the property be converted into residential housing in accordance with the proposed plan. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered 30-2005 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING THE SALE OR LEASE OF PROPERTY BY MUNICIPALITIES (TEXAS LOCAL GOV'T CODE ANN. SEC. 272.00) FOR CONVERSION TO RESIDENTIAL UNITS.

Mayor Archibald stated appreciation to Mr. T.D. Watson, owner of T.D. Watson Interests and noted the use of the landmark building as proposed will be a great asset to the community.

Mayor Archibald responded to a verbal request made by Maria Velasquez to speak on an item that was not on the Council's agenda for today's meeting. The Mayor explained to Ms. Velasquez the State law as outlined in the Open Meetings Act that require items before the Council to be properly posted on the Council's agenda. The Mayor stated Ms. Velasquez could request through the City Secretary's office that the item be placed on the October 25th Council agenda. The Mayor further stated for the record, that due to the TML Conference conflicting with the Council's October 27th Council meeting, that that meeting has been moved to Tuesday, October 25th at 8:30 a.m. in the Council Chambers.

REGULAR AGENDA

4.1 Finance Director David Wright briefed the Council on an ordinance considered on second and final reading to amend Chapter 20, Article V., by replacing the current Article V., Burglar Alarms of the Abilene Municipal Code and combining proposed Chapter 20, Article VI., Fire Alarms into one new Article V., Alarm Systems of the Abilene Municipal Code.

As part of the proposed FY 06 budget staff has proposed the following changes:

1. Burglar alarm permits from a \$10 one time fee to an annual fee of \$20 for residential and \$40 for commercial. False alarms will change from five (5) free false alarms to three (3) free false alarms. There is also a change from a \$50 per false alarm over five (5) to: \$50 for the 4th and 5th, \$75 for the 6th and 7th, and \$100 fro the 8th or more false alarms; and

2. Fire alarm permits from a \$25 one time fee at the time of installation to an annual fee of \$20 for residential and \$40 for commercial. False fire alarms, which currently there are no fees, will allow for three (3) free false alarms, then: \$100 for the 4th, \$100 for the 5th, \$400 for the 6th, and \$500 for the 7th or more false alarms.

Both ordinances were approved on first reading at the September 22, 2005 Council meeting, however, it has been requested by the Fire and Police Chiefs that the two ordinances be combined into a single ordinance entitled "Alarm Systems" in order to streamline the process and adequately reflect current alarm trends. It is estimated that the burglar fee change will result in approximately \$88,000 in new revenue on an annual basis. Since the fire alarm fee is new, no historical data is available for projecting that revenue. However, \$59,110 is projected from both the fire alarms and Emergency Medical Service (EMS) user fee to offset the startup costs. Staff recommends approval of the proposed ordinance.

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 an ordinance considered on second and final reading to amend Chapter 20, Article V., by replacing the current Article V., Burglar Alarms of the Abilene Municipal Code and combining proposed Chapter 20, Article VI., Fire Alarms into one new Article V., Alarm Systems of the Abilene Municipal Code, as recommended by staff. 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 **50-2005** and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 20, "OFFENSES", ARTICLE V., "BURGLAR ALARMS", OF THE ABILENE MUNICIPAL CODE, BY REPLACING THE CURRENT ARTICLE V., BURGLAR ALARMS OF THE ABILENE MUNICIPAL CODE AND COMBINING PROPOSED CHAPTER 20, ARTICLE VI., FIRE ALARMS INTO ONE NEW ARTICLE V., ALARM SYSTEMS; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING A PUBLIC HEARING.

4.2 Jon James, Director of Planning and Development Services briefed the Council on **TC-2005-6**, a thoroughfare closure of the entire north-south portion of a 15 feet alley in Block 31, Sears Park Addition, located between Park and Forrest Avenues, extending north from North 20th.

Mr. James stated the applicant, Templo Gethsemani Assembly of God attempted to obtain a building permit for an extension of classroom space for their current facility. Mr. James further stated the addition was proposed to be even with the existing structure, which does not comply with the current rear setback requirement. Mr. James noted the applicant also owns two parcels on the east side of the 15 foot alley dedication. Mr. James further noted the abandonment of the alley would allow the applicant to replat the parcels to unify the development and eliminate the rear setback

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requirement. The Planning and Zoning Commission recommend approval of the request. Staff recommends approval, with the condition that the full 15 feet of right-of-way be retained as a utility and drainage easement.

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 Williams made a motion to approve **TC-2005-6**, a thoroughfare closure of the entire north-south portion of a 15 feet alley in Block 31, Sears Park Addition, located between Park and Forrest Avenues, extending north from North 20th, as recommended by staff. Councilman Southward 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 **51-2005** 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.

4.3 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-27**, an ordinance considered on second and final reading to add HO (Historic Overlay) zoning to the existing RM-3 (Residential Multi-family) zoning district, property located at 650 Meander Street.

Mr. James stated the applicant, Connie Jennings has requested HO (Historic Overlay) zoning for the property, which will not change the existing zoning, it will simply add an additional layer of zoning that would protect the historic nature of the property. Mr. James noted permitted uses and other similar zoning regulations would not change. The subject parcel is 7200 square feet in area and is occupied by a two story brick, prairie style, single-family residence built in 1925. Mr. James further stated the residence has a distinctive red tile roof and there is a swimming pool in the back yard and a brick accessory building to match the home. Mr. James noted for several years this property was the home of the Abilene Women's Club and was rated a High Priority by the 1989 survey conducted by the City of Abilene and the Abilene Preservation League. The Planning and Zoning Commission, Landmarks Commission, and staff recommend approval of the request.

Council and staff discussion included: 1) the advantage or benefits of having Historic Overlay zoning on property; 2) looking beyond the zoning of individual property to zoning areas on a larger scale, and; 3) Historic District possibilities being studied by some neighborhoods.

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-2005-27**, an ordinance considered on second and final reading to add HO (Historic Overlay) zoning to the existing RM-3 (Residential

Multi-family) zoning district, property located at 650 Meander Street. 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 52-2005 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 City Manager Larry Gilley stated today's discussion item is a follow up from previous Council discussion concerning policies and issues on code enforcement and/or violations Mr. Gilley further stated that although the item is for discussion only staff will be looking to Council for direction on these issues. Mr. Gilley then asked Jon James, Director of Planning and Development Services to brief the Council on those issues.

Mr. James presented and the Council discussed the following topics on the City's possible approach to code enforcement:

- **Topic 1: Unresolved Violations:**
 - What should be our approach when there is no progress on cleanup after written notice and appropriate time frame?
 - ✓ Continue to work with property owner?
 - ✓ Citation issued immediately?
 - ✓ Multiple citations for egregious cases?
 - ✓ Abatement (we clean it up and bill the property owner)?
 - What should be our goal for the timeliness of cleanup?
 - ✓ Is our goal to make the property owner clean up the property or to get the property clean?
 - ✓ If we want to get them to do it, we rely on our enforcement measures (notices, citations, etc.).
 - *Can be slow and not always effective; can simply pay the citation.*
 - *What if there isn't anyone to cite?*
 - ✓ If we want to get the property cleaned up, we can do it ourselves and bill the property owner.
 - *Cost money, particularly when a portion of people won't pay.*
- **Topic 2: Ordinance Issues:**
 - Staff is reviewing other cities' ordinances and will be making a recommendation in the coming months. Some questions:

- ✓ Are we concerned only with nuisances (health and safety issues) OR are we also concerned with aesthetic/appearance issues?
 - *Example: couches or appliances on front porches or in front yard; other “indoor” household items stored in yard.*
- Should we consider adopting the “International Property Maintenance Code”?
 - ✓ Addresses minimum maintenance requirements for homes and businesses, such as peeling paint, broken windows, and fences.
- **Topic 3: Other Issues:**
 - Junked Vehicles
 - ✓ New policy to haul off and crush, rather than impound.
 - ✓ How to define “inoperable”?
 - Alleys
 - ✓ Property owner is responsible to the center of the adjacent alley.
 - ✓ What about illegal dumping in an alley – always hold the property owner responsible?
 - ✓ What about shared dumpsters – should only one household be responsible?
 - ✓ More consistent timing of bulky pickup and/or street-side pickup of bulky items?

Council and staff discussion also included: 1) the City following a progression process for violations to include: a) issue citations; b) multiple citations; c) violations going to municipal court; d) lien hold; e) liquidate lien; f) sale of house; g) property back on the market and into the possession of owners who will properly care for the property; 2) benefits and liabilities of the International Property Maintenance Code; 3) value in a “drop off” center for junk plus better scheduling of bulky pick up items; 4) impact of street-side pickup of bulky items; 5) establishing a 3 day informal notice period before citations are issued; 6) time frames that are established by state law; 7) weed mowing (abatement) program; 8) other cities processes; 9) staff clarifying abatement bills are handled through the finance department versus citations issued for violations being processed through the municipal court system; 10) staff seeking Council’s direction on whether to become significantly more aggressive in the citation process; 11) citizens wanting the abuse to be addressed and the community cleaned up; 12) junk cars being crushed instead of impounded; 13) defining inoperable vehicle; 14) differentiate between first time offenders and repeat offenders (habitual junked property); 15) fines versus liens and potential ramifications; 16) staff’s focus on standard of care of property versus citizens claiming inability to clean property; 17) requesting public input and community involvement on code enforcement issues; 18) staff bringing to Council options and ordinance recommendations; 19) staff explaining how citation tool process may be utilized more; 20) the Office of Neighborhood Services providing opportunities for more coordinated efforts; 21) the number of condemned properties being a blight on the community; 22) being flexible in enforcement, proactive, offering options and solutions to help people, and being compassionate in appropriate situations all requires time and is viewed as more realistic than cookie cutter approach to code enforcement; 23) Council requested a copy of today’s power point presentation and the International Property Maintenance Code; 24) concerns for citizens who are not able to afford or have the ability to clean their properties, and; 25) the possibility of the Mayor appointing a couple of councilmembers to further review code enforcement issues with staff.

Following discussion Mayor Archibald stated he will meet with the City Manager and discuss the best approach for Council and staff to further review the code enforcement issues in order to move enforcement issues forward and on informing, and receiving input from, citizens on code enforcement priorities.

Mr. James stated staff can immediately become more aggressive in handling violations (i.e., illegal dumping, junked vehicles, and high weeds), since these enforcement processes are in place and do not require separate Council action.

No Council action was required.

Council recessed for a break from 10:50 a.m. to 11:00 a.m. 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.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

There being no further business, the meeting was adjourned at 12:30 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor