

CITY COUNCIL MEETING
January 10, 2006, 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 January 10, 2006 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 Southward gave the invocation.

Mayor Archibald introduced Lorenzo Ellis who led the Pledge of Allegiance. Lorenzo is a 2nd grade student from Fannin Elementary School. Lorenzo's mother, Rachel Sanchez and instructional coordinator, Ms. Brooks 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:

35 Years	Floyd Jones	Custodian II Facilities Maintenance
25 Years	Gary Henry	Supervisor II Fleet Maintenance
20 Years	Kathy Bowles	Public Safety Dispatcher II Police Communications

Mayor Archibald stated following the Proclamation and Presentations Council would recess into Executive Session as noted on the posted agenda.

PROCLAMATION

Mayor Archibald presented a proclamation to Janet Ardoyno of Big Brothers and Big Sisters proclaiming January 2006 as "National Mentoring Month".

PRESENTATION

Mayor Archibald introduced Jill Flores, Assistant to the City Manager and recognized members of the Youth Advisory Council. Various activities of the Youth Advisory Council were noted.

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, for the purpose of considering the following:

City Council Meeting
January 10, 2006
Page 2

- a. Appointment and evaluation of Public Officials, Executive Session (See Personnel Section notice); possible action.
- b. Pending or Contemplated Litigation/Consultation with Attorney, Executive Session (See Litigation Section/Consultation with Attorney notice); possible action.
 1. Discussion concerning possible action to hire the firm of Denton, Navarro, Rocha and Bernal, a Professional Corporation.
- c. Deliberation regarding real property, Executive Session (See Real Property Section notice); possible action.

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

Mayor Archibald stated agenda item 5.6, "Possible action, by Oral Resolution, concerning hiring the firm of Denton, Navarro, Rocha and Bernal, a Professional Corporation", would be considered by Council at this time.

5.6 Councilman Hill made a motion to approve by oral resolution hiring the firm of Denton, Navarro, Rocha and Bernal, a Professional Corporation. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Mayor Archibald stated agenda item 4.3, "Public Hearing/Appealed Item: **Z-2005-38** – Request to rezone property from RS-12 (Residential Single-family) and RS-6 (Residential Single-family) to RS-6/PH Residential Single-family with Patio Home Overlay) zoning district, property located at 101 and 102 Sugarberry Avenue", has been removed from today's agenda.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the minutes of the December 15, 2005 Regular Council Meeting or the December 20, 2005 Special Called Council Meeting Councilman Higgins made a motion to approve the minutes as presented. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Councilman Williams made a motion to approve consent agenda items 3.1 through 3.5, first reading of items 3.6 and 3.7, and items 3.8 through 3.12 as recommended by staff. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

- 3.1 Oral Resolution authorizing the City Manager to execute a Water Transportation Contract between the City of Abilene and the City of Ballinger for the City to transport water for Ballinger from O.H. Ivie Reservoir.
- 3.2 Oral Resolution authorizing the City Manager to execute a professional services contract with Zane Travis, M.D. and designating Dr. Travis as Medical Authority for the Abilene-Taylor County Public Health District.
- 3.3 A Resolution designating names for access ways on private property for addressing purposes.

The Resolution is numbered **1-2006** and captioned as follows:

A RESOLUTION DESIGNATING NAMES OF INTERNAL ACCESS WAYS FOR 911 AND OTHER ADDRESSING PURPOSES IN THE ABILENE ESTATES MOBILE HOME PARK.

Change Order/Payment Approval:

- 3.4 Ratify emergency expenditure to Insituform Technologies, Inc. for pipeline repair at Hamby Wastewater Treatment Plant.
- 3.5 Authorizing City participation in upsizing of a water pipeline to be installed along Musgrave Boulevard and extension of East Lake Road.

Ordinances:

- 3.6 **Z-2005-37** – Request to rezone property from AO (Agriculture Open Space) to MH (Mobile Home) zoning district, located at 6834 East Lake Road; and set a public hearing for January 24, 2006 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.

- 3.7 **Z-2006-02** – Request to rezone property from O (Office) to PDD #99 (Planned Development District) zoning district, located on the west side of Director's Parkway; and set a public hearing for January 24, 2006 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:

- 3.8 **Bid #CB-6002** – Asphalt reclaimer for Street Services. The bid was awarded to Asco Equipment, Lubbock, TX in the amount of \$273,261.00.
- 3.9 **Bid #CB-6016** – Ninety-five (95) gallon residential roll-out refuse containers. The bid was awarded to REHRIG Pacific Co., Dallas, TX at a per unit price of \$50.00.
- 3.10 **Bid #CB-6017** – Dump trucks. The bid was awarded to Corley Wetsel Freightliner, Abilene, TX in the amount of \$118,882.00.
- 3.11 **Bid #CB-6018** – Repairs to rubber tired asphalt paving machine. The bid was awarded to the sole and responsive bidder Warren Cat, Abilene, TX in the amount of \$116,898.89.
- 3.12 **Bid #CB-6022** – 6 and 8 inch PVC water pipe. The bid was awarded to Morrison Supply Company, Abilene, TX in the amount of \$46,812.00.

REGULAR AGENDA

- 4.1 Larry Gilley, City Manager briefed the Council on the proposed Animal Adoption Center.

Mr. Gilley stated that an operating agreement and two potential budgets were reviewed and that it was agreed upon that the spay/neuter clinic should be funded separately and that the City and Rescue the Animals would each contribute \$25,000 annually to that program. Mr. Gilley further stated the consensus is that the spay/neuter program can sustain itself beyond the \$50,000 combined annual contribution through fees associated with that service. Due to those estimates the proposed operating budget would be reduced to \$276,450.00. Rescue the Animals has indicated the plans to provide furnishings and other start-up costs for the proposed Animal Adoption Center through Rescue the Animals fund raising efforts. Mr. Gilley noted staff has developed a proposal for increases to current fees in order to offset some of the new operating costs of the proposed Animal Adoption Center. Those fee increases, along with a reduction in overtime expenses at the existing shelter will generate approximately \$169,645.00. As a result, the net operating expenses of the

Animal Adoption Center would be approximately \$106,805.00. Adding in the \$25,000 contribution for the spay/neuter clinic would bring total annual net operating expenses to \$131,805.00. That would require a tax rate increase of .37 cents or \$2.49 per year (21 cents per month) for the average home value.

Council and staff discussion included: 1) Council's concerns of moving forward with the proposed Animal Adoption Center due to the impact on the City's future budget, the possible upcoming bond election, and the increase in taxes to fund the new police communications system; 2) the need to explore all options to ensure the proposal benefits all involved; 3) the possibility of tabling the proposal and the concerns surrounding not setting a time table and giving clear direction to staff, and; 4) Council's commitment to consider the proposal in an expedient time frame.

Mayor Archibald made a motion to table the proposal of the Animal Adoption Center. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: Councilman Southward

4.2 Jon James, Director of Planning and Development Services briefed the Council on **TC-2005-10**, an ordinance considered on second and final reading to abandon Scottish Road east from I-20 and East Lake Road south of Highway 351.

Mr. James stated this thoroughfare abandonment is a necessary step in the proposed reconstruction of East Lake Road and the development of Musgrave Boulevard. Mr. James noted the Planning and Zoning Commission and Council recently approved amendments to the Thoroughfare Plan related to the alignment of collector and arterial streets in this area, particularly a new alignment for East Lake Road and a collector street that will connect I-20 to East Lake Road. Mr. James stated only two residential properties on large parcels access these streets and there are utilities in the right-of-way that are being relocated. During construction of the new streets it will be important for the two residences to have access to the street systems and measures will be taken to assure that continues. The Plat Review Committee recommends approval of the request, with the condition that continuous access be maintained for both residential properties. 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 **TC-2005-10**, an ordinance considered on second and final reading to abandon Scottish Road east from I-20 and East Lake Road south of Highway 351 as recommended by staff, the Planning and Zoning Commission, and the Plat Review Committee. Councilman Southward seconded the motion, and the motion carried.

City Council Meeting

January 10, 2006

Page 6

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

NAYS: None

The Ordinance is numbered **1-2006** 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 *Removed from the Agenda.* Public Hearing/Appealed Item: **Z-2005-38** – Request to rezone property from RS-12 (Residential Single-family) and RS-6 (Residential Single-family) to RS-6/PH (Residential Single-family with Patio Home Overlay) zoning district, property located at 101 and 102 Sugarberry Avenue.

4.4 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-39**, an ordinance considered on second and final reading to rezone approximately 2.6 acres from PI (Park Industrial) and O (Office) to PDD (Planned Development District) zoning district, property located in the 5200 block of South Clack Street.

Mr. James stated the applicant requests commercial zoning for his property primarily to allow for speculative future development. The applicant's current plans include a secondary location for his electrical appliance repair and resale business, but there will be additional space left on the parcel that could be developed later. Mr. James noted the majority of the property to the south and west of the request is zoned PDD (Planned Development District) for aesthetic protection of the corridor, as noted in the original staff report. The easternmost 400 feet of the PDD allows most General Commercial uses, with some added restrictions for signage and outdoor storage. The remaining portion on the west side of the tract allows Heavy Commercial uses and does not include as many aesthetic restrictions. Mr. James stated staff determined that a PDD would be more appropriate than General Commercial zoning because of the parcels location along US 83/84 and the presence of neighboring PDD's. After reviewing the ordinances for the neighboring PDD's, staff recommends a new ordinance that is similar to their General Commercial portions with a few updates. Mr. James noted landscaping, lighting, and access management regulations have been added, as well as stricter regulations for outdoor storage to protect nearby residential areas. The Comprehensive Plan explains the importance of enhancing Gateway Districts because they are "the area where visitors will form their first impression of the city and as such, should reflect the highest quality and provide a glimpse of Abilene's local identity". Mr. James further noted the proposed PDD ordinance addresses strategies that are designed to provide an aesthetically pleasing transition from the residential development on the west side of the subject parcel to the expressway on the east side. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) Council's concerns surrounding screening issues; 2) the possibility of reverting the zoning back, if not utilized, to its current zoning after a one year period if the PDD (Planned Development District) zoning is created; 3) staff clarifying the proposed PDD zoning is specified as reverting back, if not utilized, to current zoning after a period of 36 months

City Council Meeting

January 10, 2006

Page 7

possibly to not place too many constraints due to his not having specific plans for the property, and; 4) the proponent currently not being in compliance with the City Code.

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

- Lydia Long – Ms. Long stated her concerns with appearance issues in Abilene and further stated she feels this will only move the existing problem to another location. Ms. Long noted the proponent is currently in violation of the City Code and stated she disagrees with appliances being stored outdoors.
- Don Whitehead – Mr. Whitehead stated he is developing residential land in the area and would have supported change of use but that was not what was requested by the proponent. Mr. Whitehead further stated he is concerned with the clutter that is currently there and the fact that the proponent is not in compliance at the present time. Mr. Whitehead requested the proponent be required to comply with the City Code and further requested Council table the zoning request until the proponent comes into compliance.

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

Discussion included: 1) Council's role in considering zoning requests versus code enforcement issues; 2) issues surrounding outdoor storage being utilized for the storage of appliances; 3) the possibility of tabling the proposed zoning request until the proponent is in compliance with the City Code; 4) staff clarifying the zoning request process; 5) compliance enforcement actions to be taken by staff; 6) the proponents responsibility to clean the property and properly store items; 7) the property being cleaned up before the proposed re-zoning request is considered for approval; 8) staff stating the possibility that if the proposed re-zoning request were approved the property could become more marketable and explained possible uses for the property; 9) staff's concerns of tying zoning to code enforcement issues, and; 10) Council noting a motion to table an item is not debatable or subject to conditions.

Councilwoman Moore made a motion to table **Z-2005-39**, an ordinance considered on second and final reading to rezone approximately 2.6 acres from PI (Park Industrial) and O (Office) to PDD (Planned Development District) zoning district, property located in the 5200 block of South Clack Street. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: Councilmen Williams and Higgins.

City Manager Larry Gilley stated staff is clear on actions needed to move forward on the concerns addressed on item 4.4.

City Council Meeting

January 10, 2006

Page 8

4.5 Jon James, Director of Planning and Development Services briefed the Council on **Z-2005-40**, an ordinance considered on second and final reading to rezone property from O (Office) to PDD (Planned Development District) zoning district, property located at 4901 Buffalo Gap Road.

In 2002 the applicant placed a monument sign at the site of his insurance office building, and in 2005 the applicant placed an electronic message center on top of the monument sign. A variance was obtained for the original sign, but the variance did not include the message center. Mr. James noted staff informed the applicant of this which resulted in the applicant making a request for a

variance to the Board of Adjustment, the request was denied. The motion was to approve the request. Four affirmative votes are required for the Board of Adjustment to approve a variance. The vote was three in favor, one opposed, and one abstaining. Mr. James stated the same request for a variance could not go back to the Board of Adjustment for a minimum of 12 months following the denial. This prompted the applicant to seek other remedies to allow the sign. Staff indicated to the applicant that he could request a PDD (Planned Development District) to address the sign, which he did. Mr. James noted the PDD ordinance is designed to allow development just as the existing O (Office) district does with the exception of the sign provisions and the PDD allows the sign to be placed closer to the right-of-way than the office district would otherwise allow. This parcel is in the COR (Corridor Overlay) zoning district and this request would not remove the overlay zoning. Mr. James noted staff's opinion is that this is not a proper use of PDD zoning and the applicant attempted the most appropriate process for variations of signage requirements and the request was denied by the Board of Adjustment. Staff recommends denial of the request. The Planning and Zoning Commission recommend approval of the PDD ordinance, specifying that development of the property will be regulated by the O (Office) district and COR (Corridor Overlay) district as they exist at the time any permit or development application is submitted.

Council and staff discussion included: 1) staff recommending denial of the request when the applicant presented it to the Board of Adjustment due the hardship criteria having not been met, and; 2) the applicant's request being denied by the Board of Adjustment due to the lack of the required four affirmative votes.

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.

Council and staff discussion continued and included: 1) the same request for a variance not going back to the Board of Adjustment for a minimum of 12 months following denial being governed by State Law, and; 2) staff noting the issue will be revisited if future complaints are brought forward.

Councilman Williams made a motion to approve **Z-2005-40**, an ordinance considered on second and final reading to rezone property from O (Office) to PDD (Planned Development District) zoning district, property located at 4901 Buffalo Gap Road. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **2-2006** 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-102 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.6 Richard Burdine, Assistant City Manager for Economic Development briefed the Council on an amendment to the Development Agreement for extension of East Lake Road to provide for additional cost reimbursement.

Mr. Burdine stated the construction of a Wal-Mart Supercenter and Cracker Barrel restaurant at the intersection of SH 351 and IH 20 has been completed and other commercial projects are underway. Mr. Burdine further stated proper planning at this early stage will aide in the following:

- Avoid some of the access problems that are evident in areas of intense development
- Create an attractive entrance off of I-20 into an Activity Center to be consistent with the Comprehensive Plan
- Implement a portion of the Thoroughfare Plan for this area
- Demonstrate a commitment to the growth of North Abilene
- Encourage residential development within the Abilene Independent School District

Council previously authorized an agreement with Kenneth L. Musgrave to construct an extension of East Lake Road in advance of development with an estimated project cost of \$1,200,000, and on June 9, 2005, approved an increase in total project cost of \$600,000 to provide for IH-20 ramp relocation. The current request is necessitated by substantial increases in actual paving cost from the estimate prepared in 2004. The paving costs exceeded estimates by 70%, leading to the proposed increase in the project of \$500,000. Mr. Burdine stated under the agreement, Mr. Musgrave will bear all of the initial expense of extending East Lake Road as a thoroughfare from SH 351 east and south to IH-20. The City of Abilene will reimburse half of the cost of the project from no more than 50% of property taxes generated by new development in an area bound by the new thoroughfare, IH-20 and Lowden Street. The City's responsibility would end after ten years regardless of whether or not full reimbursement was achieved. In meetings with the Texas Department of Transportation (TxDOT), the district engineer and staff determined that the proposed intersection of East Lake Road with the I-20 access road cannot be permitted with the current I-20 access ramp configuration due to the intersection being too close to the current off-ramp. TxDOT's long-term plan is to reverse the current ramps in accordance with statewide policy, converting the current off-ramp to an on-ramp and moving it closer to SH 351 and converting the current on-ramp to an off-ramp and moving it farther east. The estimated cost of each ramp conversion is \$300,000 for a total additional cost of \$600,000. TxDOT does not expect to have funding for ramp conversions for five to ten years. Mr. Burdine further stated Mr. Musgrave is willing to front the cost of one ramp conversion, to be reimbursed from 50% of new property tax revenues from the area as provided in the current agreement. Staff proposes that Council consider loaning funds for the other ramp conversion from the General Fund undesignated fund balance, to be reimbursed from 100% of new property tax revenues from the area before Mr. Musgrave would receive any reimbursement on the project. The ramp conversion will be

City Council Meeting

January 10, 2006

Page 10

accomplished through two agreements. The first will be between the City of Abilene and TxDOT to cover TxDOT's costs, as work on IH-20 can only be done through a TxDOT construction contract. The second is an amendment to the previous agreement between the City of Abilene and Mr. Musgrave to revise the cost-sharing arrangement. The revised estimated cost of the project is \$2,300,000 with the City of Abilene reimbursing Mr. Musgrave the lesser of 50% of actual project cost or \$1,150,000. Staff recommends the Council approve by Oral Resolution authorizing the City Manager to amend the Development Agreement for extension of East Lake Road to provide for additional cost reimbursement.

Council and staff discussion included: 1) this project being a good investment for the City of Abilene, and; 2) Council expressing their appreciation to Richard Burdine and Kenneth Musgrave for their working relationship.

Councilwoman Moore made a motion to approve by Oral Resolution authorizing the City Manager to amend the Development Agreement for extension of East Lake Road to provide for additional cost reimbursement. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.072, and 551.074, of the Open Meetings Act, to consult with our City Attorney, to discuss the potential acquisition or real property, and to consider the appointment and evaluation of public officials.

Councilman Williams left the meeting following the Executive Session.

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

5.4 Discussion and possible action related to annual performance evaluations of the City Manager, City Attorney, City Secretary, and Municipal Judge.

Councilman Hill made a motion to approve, as reviewed, salary increases for the City Manager, City Attorney, City Secretary, and Municipal Judge beginning with the October 1, 2005 FY, and appropriate compensation packages as discussed. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Williams

City Council Meeting
January 10, 2006
Page 11

5.5 Councilwoman Moore made a motion to approve Mayor Archibald's appointment of Mr. Moses Hall to the Parks and Recreation Board, term expiring May 2008. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Williams

5.6 *Considered after the first Executive Session:* Possible action, by Oral Resolution, concerning hiring the firm of Denton, Navarro, Rocha and Bernal, a Professional Corporation.

There being no further business, the meeting was adjourned at 12:00 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor