

CITY COUNCIL MEETING
February 23, 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 February 23, 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, and Stormy Higgins. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff. Councilwoman Laura Moore was absent.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Kuanesha Joiner who led the Pledge of Allegiance. Kuanesha is a 5th grade student from Lee Elementary School. Kuanesha's parents and principle were also present.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- "Chili Day" February 25th
- "Claudie Royals Day" February 23rd
- "Great American Clean-Up" March 1st – May 31st
- "Larry Gilley Day" February 23rd (30 years in Municipal Government)

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the February 2, 2006 Budget Workshop and the February 9, 2006 Regular Council Meeting Minutes Councilman Higgins made a motion to approve the minutes as presented. Councilman Hill seconded the motion and the motion carried.

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

NAYS: None

CONSENT AGENDA

Mayor Archibald stated Consent Agenda item 3.6 (Pending Appeal), **Z-2006-04** – Ordinance approving request to rezone 3 lots from RS-6 (Residential Single-family) to HC (Heavy Commercial) zoning, property located at 1202, 1210, and 1218 Mesquite Street, north of North 12th Street has been removed from today's agenda due to it not having been appealed.

Councilman Hill made a motion to approve consent agenda item 3.1 with an amendment to the Bond Election Resolution Proposition No. 5 to revise, and include, the following wording: "*The Issuance of \$1,125,000 Lake Fort Phantom Hill Park/Boat Ramps/Docks and Dyess Recreation Area Improvement Tax Bonds*", items 3.2 through 3.4, first reading of item 3.5, and item 3.7 as recommended by staff. Councilman Williams seconded the motion, and the motion carried.

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

Resolutions:

- 3.1 Resolutions ordering the May 13, 2006 Joint City of Abilene/Abilene Independent School District/Lytle Lake Water Control and Improvement District Election and City of Abilene Bond Election to be held in conjunction with the Joint Election, and providing for a runoff Election on June 10, 2006 if needed.

The Resolution is numbered **2-2006** and captioned as follows:

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, THE BOARD OF TRUSTEES, ABILENE INDEPENDENT SCHOOL DISTRICT, AND THE BOARD OF DIRECTORS, LYTLE LAKE WATER CONTROL AND IMPROVEMENT DISTRICT, ORDERING ELECTIONS TO BE HELD IN SAID CITY, SCHOOL AND WATER DISTRICTS ON MAY 13, 2006; PROVIDING FOR THE ELECTION OF PERSONS TO SERVE IN PLACES 1 AND 2 ON THE CITY COUNCIL OF THE CITY OF ABILENE, IN PLACES 4, 5 AND 6 ON THE BOARD OF TRUSTEES OF THE ABILENE INDEPENDENT SCHOOL DISTRICT, AND TWO PERSONS TO SERVE ON THE BOARD OF DIRECTORS OF THE LYTLE LAKE WATER CONTROL AND IMPROVEMENT DISTRICT; PROVIDING METHOD OF APPLICATION FOR PLACEMENT OF CANDIDATE'S NAME ON BALLOT; PROVIDING A FILING DEADLINE FOR ALL CANDIDATES; AND PROVIDING FOR A PROCLAMATION NOTICE AND PUBLICATION OF NOTICE OF SAID ELECTIONS.

The Resolution is numbered **3-2006** and captioned as follows:

A RESOLUTION OF THE COUNCIL OF THE CITY OF ABILENE, TEXAS ORDERING A BOND ELECTION FOR CAPITAL IMPROVEMENTS TO BE HELD IN SAID CITY ON MAY 13, 2006 TO BE HELD IN CONJUNCTION WITH THE JOINT ABILENE CITY COUNCIL, ABILENE INDEPENDENT SCHOOL DISTRICT AND LYTLE LAKE WATER CONTROL AND IMPROVEMENT DISTRICT ELECTION; PROVIDING FOR THE ELECTION PRECINCTS; LOCATIONS OF POLLING PLACES; EARLY VOTING; PROVIDING FOR THE PROPOSITIONS; PROVIDING FOR A PROCLAMATION NOTICE AND PUBLICATION OF NOTICE OF SAID ELECTION.

- 3.2 Oral Resolution approving a Street Use License Agreement with First Baptist Church.
- 3.3 Oral Resolution approving Master Agreement Governing Local Transportation Project Advance Funding Agreements with Texas Department of Transportation and authorizing the Mayor or City Manager to sign all documents.

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- 3.4 Oral Resolution approving Local Project Funding Agreement with Texas Department of Transportation in regard to Military Drive Reconstruction and authorizing the City Manager to sign all documents.

Ordinances:

- 3.5 **Z-2006-05** – Ordinance approving request to rezone 5.3 acres from SC (Shopping Center) and O (Office) to PDD (Planned Development District) zoning, property located at the northwest corner of Directors Parkway and S. Clack Street; and set a public hearing for March 9, 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, CONCERNING PDD-103 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.6 *Removed from Consent Agenda due to no Appeal being filed:* Pending Appeal: **Z-2006-04** – Ordinance approving request to rezone 3 lots from RS-6 (Residential Single-family) to HC (Heavy Commercial) zoning, property located at 1202, 1210, and 1218 Mesquite Street.

Bid Award:

- 3.7 **Bid #CB-6029** – Recision of Award and New Award of soft body armor for Patrol Division. The bid was awarded to Big Country Supply, Abilene, TX at the Unit Price of \$465.00 per vest.

REGULAR AGENDA

- 4.1 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to amend Sections 23-303.2.D and 23-345 of the Abilene Municipal Code regarding regulations within the Corridor Overlay Zone.

Mr. James stated after staff researched the proposal to apply Corridor Overlay Zoning to the new area near Dyess Air Force Base, it became clear that some minor text changes would be necessary to correctly address the new corridor. In addition to these necessary changes, staff also recommends the elimination of the Land Use portion of the overlay regulations to make commercial development along the corridor more consistent with the rest of the city. Staff is proposing the following sections of the ordinance be amended:

- 23-345.1 Land Uses – proposed to be eliminated
- 23-345.3.A.7 – Provides clarification that all new signs in the Overlay must comply with the Corridor Overlay regulations
- 23-345.3.B(3) – Adds provisions for industrial uses that are the same as commercial
- 23-345.3.B(4) – Signs for land uses as allowed under 23-345.1 to be deleted

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- 23-345.4 Driveway Access – New first paragraph to clarify jurisdiction over driveways

Mr. James noted a question was raised in the Planning and Zoning Commission's public hearing on the COR (Corridor Overlay) zoning district regarding the requirement that a minimum of 10% of the area of a site be reserved for landscaping. Mr. James stated staff believes that this is not an unreasonable or excessive requirement, particularly within the Corridor Overlay Zone, which is intended to have the highest requirements in the City for community appearance and which has been in place since the Corridor Overlay District was created over 10 years ago. Mr. James further stated staff reviewed 25 cities, including Abilene's 10 peer cities and the following reflects that review:

- 18 of the 25 cities (72%), including 4 of our 10 peer cities, have a landscaping area requirement or equivalent that results in 10% or more landscape area for commercial development. Many have certain commercial districts that require greater than 10%, in some cases up to 20% or more.
- 21 of the 25 cities (84%), including 7 of our 10 peer cities, require at least 5% landscape area for commercial development.
- Note that this analysis is based on the general citywide landscaping requirements for these cities, not any special landscaping requirements for areas deemed appropriate for higher quality development, such as our Corridor Overlay.
- Only 2 cities of the 25 cities, like Abilene, have no citywide landscaping requirements (Odessa and San Angelo).

Staff and the Planning and Zoning Commission recommend approval of the proposed Ordinance.

Council and staff discussion included: 1) location of the only corridor that currently exists; 2) location of second corridor if agenda item 4.2 is approved; 3) existing businesses being grandfathered unless significant redevelopment occurs; 4) temporary signs are not grandfathered; 5) pro's and con's of a point system and a more prescriptive system for landscaping requirements; 6) effect, if approved, the new COR provisions would have on the existing corridor; 7) signage, landscaping, zoning uses, and parking issues; 8) on a point system how .025 landscape requirement is calculated; 9) driveway access spacing concerns; 10) portion of new corridor that would be under control of TX DOT; 11) when adopted the Access Management Standards will supercede other requirements; 12) current and future corridor being viewed differently; 13) billboard sign issues and the role billboards play in businesses, and; 14) concerns regarding the 10% landscaping requirement.

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

- Bob Hammond, Executive Director of the Abilene Association for Independent Business Owners - Mr. Hammond stated the Corridor Overlay proposal before

Council is very important because first impressions of an area set the attitude about the city. Mr. Hammond further stated balance and understanding for business owners are needed due to the fact that every business has different needs and/or financing for landscaping. Mr. Hammond stated he feels some of the regulations surrounding the Corridor Overlay will deter or possibly prohibit certain segments of businesses from developing. Mr. Hammond noted various statistics and aesthetic issues surrounding businesses and their needs.

- Bruce Bixby, developer – Mr. Bixby stated the idea of landscaping and signage requirements are good but doesn't feel this amendment to the Corridor Overlay zoning is ready to be brought before Council. Mr. Bixby further stated the consultants are looking at the issue and expressed his disappointment that the developers were not given the chance to work with staff prior to the amendment going before the Planning and Zoning Commission. Mr. Bixby noted he feels the consultants will develop good answers.
- Jerry Smith – Mr. Smith stated he is a long time resident and business owner in Abilene and doesn't intend to be negative, but feels this amendment is premature. Mr. Smith further stated he is in favor of beautification and noted the need for accountability, use of common sense, and a clean and safe environment.
- Laurie Coker, business owner – Ms. Coker noted her concerns surrounding screening, signage, and new requirement issues. Ms. Coker stated if the consultants are currently working on this proposal, then more time needs to be allowed for a decision.

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

Discussion continued and included: 1) issues that will be addressed through the Land Development and Community Appearance Codes (and expected time frame for completion of both codes); 2) consultants involvement, and staff working with consultants, in development of codes; 3) staff's inclusion of citizens for input in review process; 4) signage and square ft. of landscaping seen as two primary issues, and; 5) consideration to concerns addressed by Dyess AFB including the appearance of the entryways into the base.

Councilman Higgins made a motion to approve the ordinance considered on second and final reading to amend Sections 23-303.2.D and 23-345 of the Abilene Municipal Code regarding regulations within the Corridor Overlay Zone, as recommended by staff. Councilman Hill seconded the motion.

Roll call of the Council votes were as follows:

Councilman Hill (Aye), Councilman Higgins (Aye), Councilman Chase (Pass), Councilman Southward (Aye), Council Williams (Aye), and Mayor Archibald (Aye).

Following roll call and prior to Mayor Archibald announcing the results of the vote Councilman Chase stated his vote as "Aye". The motion carried.

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

The Ordinance is numbered **5-2006** 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 SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

Council recessed for a break at 10:55 a.m. and reconvened at 11:05 a.m.

4.2 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-03**, an ordinance considered on second and final reading to approve a request to apply COR (Corridor Overlay) zoning to property located within 600 feet of the centerline of Arnold Boulevard, Dub Wright Boulevard, and Rebecca Lane, extending from Buffalo Gap Road to Interstate 20.

Mr. James stated representatives from Dyess Air Force Base initiated discussions with staff regarding measures to improve the appearance of the major corridor used to access the Base due to their concerns surrounding growth along the corridor. Staff recommended the application of COR (Corridor Overlay) zoning as a means to enhance the aesthetic requirements without affecting the permitted uses in the existing zoning districts and the Base representatives agreed with the proposal. Mr. James noted any new non-residential development would be required to provide some additional landscaping, screen outdoor storage, limit the size and height of on-site signage, as well as recommending the application of the Overlay Zoning in conjunction with some minor changes to the ordinance text to make the district more appropriate for the proposed corridor. The Comprehensive Plan specifically addresses the relationship between Abilene and Dyess Air Force Base by noting that it is essential for the City to promote policies that will enable Dyess to meet current and future mission requirements. The Plan also highlights the point that open lines of communication between Dyess and the City of Abilene should be a priority at all times. The following two (2) Strategies listed in the Plan relate directly to the proposed application of Corridor Overlay zoning:

- **Strategy 18:** Prohibit urban expansion into areas that encroach upon the operation of the base. The City should ensure compliance with this effort by controlling development in an around the installation, and annexing areas on the south and west side of the installation.
- **Strategy 19:** Coordinate with Dyess Air Force Base on transportation and land use planning in the base environs to strengthen new programs and new missions at the installation.

The Plan calls attention to the economic asset that Dyess represents for the Abilene economy. The Planning staff fully supports their request to protect the appearance of the major corridor that visitors and residents use to access the Base. The Comprehensive Plan specifically addresses this issue of gateway enhancement by setting a primary objective to "establish an inviting entry along major corridors into the city". The corresponding strategies include references to the elimination of

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sign clutter and the improvement of landscaping, lighting, building materials, color, and/or materials to encourage higher levels of investment. Additionally, this is an opportune time to help shape development in this area. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) staff clarifying exact location of proposed COR; 2) reference to the letter from Dyess that addresses their request for COR to allow the construction of a new gas station; 3) Council's concerns as to what zoning would be needed for Dyess to fulfill their current needs as well as future projects; 4) staff noting COR provides protection; 5) Council noting a desire to address Dyess concerns through an avenue other than a COR (i.e. enforcement of current regulations, PDD, etc.); 6) review by staff needed in various areas (i.e. outdoor storage, signs located on top of buildings, screening); 7) Council viewing current COR area differently than proposed COR and stated the two should not be enforced the same; 8) the new COR being needed in the future after Land Development Code is completed, and; 9) the property located within "600" feet of the centerline, referencing location of the COR, is not a locked in distance and could be changed to another number (i.e. 300 feet).

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

- Mike Schultz, Deputy Base Civil Engineer, Dyess Air Force Base – Mr. Schultz noted reasons for the request and stated this is to be a 3 phase project. Mr. Schultz stated the need to improve development in the area and Dyess's desire to continue good relationships with the current business owners. Mr. Schultz further stated Dyess feels the time is right to implement restrictions. Mr. Schultz noted this is not an enforcement issue but a long-range picture of what Dub Wright and Arnold Boulevard can become. Mr. Schultz requested Council approve the proposal.
- Jerry Smith, business owner – Mr. Smith questioned staff as to the location of the proposed corridor and stated he believes his business is in the corridor, but that he was not notified of the proposed zoning. Mr. Smith further stated enforcement is needed in the area and noted Dyess does an outstanding job with limited funding. Mr. Smith stated he feels the current expansion project in the area is too advanced for Abilene and wants to be assured that this proposal is not passed prematurely.

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

Councilman Hill made a motion to approve **Z-2006-03**, an ordinance considered on second and final reading to approve a request to apply COR (Corridor Overlay) zoning to property located within 600 feet of the centerline of Arnold Boulevard, Dub Wright Boulevard, and Rebecca Lane, extending from Buffalo Gap Road to Interstate 20. Mayor Archibald seconded the motion, and the motion failed due to a tie vote.

AYES: Councilmen Williams, Hill, and Mayor Archibald.

NAYS: Councilmen Chase, Southward, and Higgins.

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Staff noted that due to the motion failing Dyess Air Force Base could not bring the zoning request back before Council for a one year period but that the issue could come back to Council as a discussion item.

Councilman Hill left the meeting.

4.3 Jon James, Director of Planning and Development Services briefed the Council on a Resolution providing CDBG funding to the Day Nursery of Abilene.

Mr. James stated this agenda item addresses Day Nursery of Abilene's mid-year amended application for \$50,000 for the construction of a gym facility as part of its day care facility located at 1442 Vine Street. The total cost of construction for the structure is \$250,000. Mr. James noted construction for the project began in January 2006 funded through an interim bank loan. This construction began prior to any contract between the City and Day Nursery for federal funding. Therefore, one of the conditions of funding would need to be verification that all requirements for CDBG funding have been met, including conducting an Environmental Assessment and verification that contractors have met wage standards. Mr. James stated while this is a worthy project, staff has concerns about the precedent that would be set by funding a mid-year request out of CDBG reserve funds for a project that was not funded in the normal funding cycle. The City's normal policy is to refer applicants to the next funding cycle. While last year's funding requests totaled \$826,646, the available funding for community programs was only \$153,770. Due to the decrease in funding for this year's CDBG program, the next funding cycle is expected to include less than \$140,000 for community programs. Day Nursery's request of \$50,000 represents over a third of this total, while substantially reducing the City's reserve funds from \$109,250 (9% of total allocation) to \$59,250 (4.7%). The staff recommendation to maintain approximately 10% of reserve funds is based on the diminishing allocation each year and the uncertainty of the cost of Section 108 debt repayment due to interest rate fluctuations. Staff does not recommend considering this application outside the normal funding cycle.

Council and staff discussion included: 1) Council noting the request came in cycle last year and that Council had requested Day Nursery review other options and report back to Council; 2) staff reviewed HUD's requirements for allocation of funds including an Environmental Assessment and confirmation that Day Nursery complied with wage standards, and; 3) the possibility of foundations providing supplemental funds to Day Nursery for the project.

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

- Cynthia Pearson, Executive Director of Day Nursery – Ms. Pearson expressed her appreciation for the opportunity to address Council and stated she did not come before Council in August 2005 to request additional funding. Ms. Pearson stated the Day Nursery Board of Directors approved the financing for the project, which began in January 2006 and foundations were involved in the project. Ms. Pearson further stated Day Nursery is in compliance with HUD requirements and they do understand if they not in compliance they would not be eligible for the funding.

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

Mr. James stated the Environmental Assessment cannot be provided by the City of Abilene and the cost of for the assessment would be approximately \$2,500 to \$3,000.

Councilman Williams made a motion to approve a Resolution providing for CDBG funding to the Day Nursery of Abilene in the amount of \$50,000 plus an additional amount not to exceed \$3,000 for an Environmental Assessment Study. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: Councilman Higgins

ABSENT: Councilman Hill

The Resolution is numbered **4-2006** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
APPROVING THE FY2005/06 AMENDED ONE-YEAR ACTION PLAN FOR THE
PROJECTED USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
FUNDS FOR DAY NURSERY OF ABILENE.

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.

5.4 Councilman Southward made a motion to approve Mayor Archibald's re-appointment of Dale Barthelemy to the Housing Authority Board, term expiring November 2007. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Hill

No action was taken on the board appointments for the Planning and Zoning Commission.

There being no further business, the meeting was adjourned at 12:26 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor

