

CITY COUNCIL MEETING

April 27, 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 April 27, 2006, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Kris Southward, Anthony Williams, John Hill (arrived at 8:50 a.m.), 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 Williams gave the invocation.

Mayor Archibald introduced Luke Dyer who led the Pledge of Allegiance. Luke is a 5th grade student from Reagan Elementary School. Luke's principle Mr. Hall was also present.

PRESENTATION

Mayor Archibald introduced Ronnie Kidd, Director of Administrative Services who briefed the audience and Council on the City University program. Mr. Kidd gave special recognition to the graduates of the City University Program and the graduates in attendance introduced themselves. The Mayor stated the education of citizens is one objective of the City University Program.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the March 30, 2006 Bond Issues Workshop and the April 13, 2006 Regular Council Meeting Minutes Councilman Southward made a motion to approve the minutes as presented. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Hill

CONSENT AGENDA

Councilman Chase requested item 3.4, ***Bid #CB-6015 – Four (4) 30 foot heavy duty low-floor buses***, be removed from the Consent Agenda and considered separately.

Councilman Southward made a motion to approve consent agenda items 3.1 and 3.2, and first reading of item 3.3, as recommended by staff. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Hill

Resolutions:

- 3.1 Oral Resolution approving an Interlocal Agreement between the City of Abilene and Taylor County providing for subdivision regulation within the extraterritorial jurisdiction of the City of Abilene.
- 3.2 Oral Resolution ratifying approval of the change orders on Health Facility Project.

Ordinance:

- 3.3 Ordinance adopting the 2005 National Electrical Code, with amendments; and set a public hearing for May 11, 2006 at 8:30 a.m.

AN ORDINANCE AMENDING CHAPTER 8, "CONSTRUCTION REGULATIONS", ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 3, "ELECTRICAL CODE", 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 Award:

- 3.4 *Removed from the Consent Agenda to be considered separately: **Bid #CB-6015** – Four (4) 30 foot heavy duty low-floor buses.*

Removed from the Consent Agenda and considered separately:

- 3.4 **Bid #CB-6015** – Four (4) 30 foot heavy duty low-floor buses.

Council and staff discussion included: 1) the City's 20% match of the Federal grant; 2) there being a timeline on the grant, but no impact to the City's operation budget for the current fiscal year because the expenditure has been budgeted; 3) invitation for bids having been mailed to sixteen (16) bus manufacturers, and two (2) bids having been received; 4) staff noting other manufacturers responded but were unable to meet engine specifications (Cummins 1SL), and; 5) staff's explanation of the benefits of the Cummins engine.

Councilman Chase made a motion to approve Bid #CB-6015 – Four (4) 30 foot heavy duty low-floor buses to be awarded to Lasseter Bus & Mobility, Lewisville, TX in the amount of \$1,016,856.00, with option to purchase up to eleven (11) additional units. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Hill

REGULAR AGENDA

4.1 City Manager Larry Gilley introduced the Abilene Convention & Visitors Bureau's funding request item.

The Year End General Fund (Revenue and Expenditures) ended up with a fund balance of \$793,250 and the Hotel/Motel Tax difference of \$74,545 is part of that balance. Council allocated at the March 23, 2006 Council meeting \$64,630 to be utilized for unfunded needs for the Civic Center. Mr. Gilley noted the Abilene Convention & Visitors Bureau (ACVB) requested to be allowed to present to Council more detailed information concerning reconsideration of their additional funding request for \$51,350. Mr. Gilley stated Nancy Liles of the ACVB is present to brief Council on the funding request.

Councilman Hill arrived at the meeting.

Ms. Liles stated Abilene has just been designated one of the top ten cities to visit in Texas and Ms. Liles thanked City staff for their work towards that designation. Ms. Liles briefed Council thru a power point presentation on the history and activities of the ACVB. Ms. Liles noted the ACVB's allocation and actual receipts for the period of 2001-2005 and the five-year history of the hotel tax difference. Ms. Liles further noted collections have increased and allocations have decreased. Ms. Liles also noted what the funds are invested in and why the programs are valuable: 1) for advertising; 2) public relations, and; 3) sales and services. Ms. Liles stated a public relations program has been added and due to Abilene's diverse markets there is a need for a downtown hotel. Ms. Liles discussed the ACVB's current financial obligations and stated there are certain budgetary items, such as the increase in printing and advertising, in which they have no control over. Ms. Liles reviewed the Summary Distribution of Tax and reiterated the ACVB's specific requests as follows:

1. Reconsider initial request of \$865,100 with an additional amount of \$51,350.
2. Consider at least a 50% allocation of Hotel/Motel Tax revenue to the ACVB for future years.

Council and staff discussion included: 1) the tremendous competition in tourism; 2) the ACVB 50% allocation request to be considered during budget worksessions; 3) options available to Council in considering the additional funding request; 4) the history of the percentage basis allocation to a specified annual dollar amount allotment (Ms. Liles noted ACVB would agree to the percentage versus set amount allocation); 5) Council requested during budget sessions that representatives from Cultural Affairs and the Civic Center be present to discuss the Hotel/Motel tax allocation; 6) the Hotel/Motel tax being designated for specific purposes and percentage allocations being ACVB (50%), Civic Center (35%), and Cultural Affairs (15%), and; 7) Council to further analyze, during budget sessions, staff's explanation of revenue/ expenditure breakdowns.

Councilwoman Moore made a motion to approve the Abilene Convention & Visitors Bureau additional funding request of \$51,350, with funding sources to be determined at the discretion of the City Manager. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

4.2 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.H(14) and (15) of the Zoning Ordinance of the City of Abilene regarding regulations pertaining to the 300 feet separation between liquor stores, off-premise consumption and CU (College University) zoning districts.

Mr. James stated a local business has requested that the City consider eliminating the 300 feet separation requirement for liquor stores, off-premise consumption from CU (College University) zoning districts. If approved, the proposal would not change that same separation requirement for on-premise consumption liquor establishments. Mr. James noted the City of Abilene's liquor separation regulations are more restrictive than the State of Texas regulations and the City may only amend its requirements if those changes move the City's regulations closer to the State requirements. Mr. James further noted most cities in Texas follow the State regulations entirely, and the State does not require separation of any liquor business from CU (College University) or other similar zoning. Since the time of the Planning and Zoning Commission meeting, the applicant has continued to consider various options and has worked with staff. The applicant and staff are supportive of an optional amendment that would eliminate the separation requirement for beer and wine sales only. The Planning and Zoning Commission has not reviewed the optional ordinance. Mr. James stated that it is staff's opinion that the sale of liquor for off-premise consumption does not need to be separated from CU (College University) zoning from the perspective of land use regulation. The beverages are prohibited under State law from being consumed on the premises of businesses licensed for off-premise consumption areas. Therefore, selling packaged liquor is a similar land use to selling any other packaged beverage. Mr. James stated due to this being an amendment to the zoning ordinance, any approved changes would not only apply to the applicant involved, but also the owner or occupant of any other property where such liquor stores would otherwise be permitted. Staff recommends approval of either the original ordinance recommended by the Planning and Zoning Commission or the optional ordinance making the changes applicable to beer and wine sales only. The Planning and Zoning Commission recommend approval of the original request.

Council and staff discussion included: 1) the compromise made between the universities and Lawrence Brothers representatives to allow the sale of packaged beer and wine, but not liquor, within the 300 foot buffer that surrounds the colleges and universities; 2) the City's regulation being more restrictive than the State regulations, and; 3) staff's agenda memo having stated "most cities in Texas follow the State regulations entirely", but staff noted they did not ask every city in the State about their requirements, but the ones they did ask most stated that they followed State guidelines. Council requested staff in the future to clarify their statements.

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

- Paul Canon, attorney representing Lawrence Brothers – Mr. Canon noted his client's request is that the 300 foot separation requirement be eliminated for off-premise beer and wine sales only. Mr. Canon stated the reason for the rezoning request is due to the competition in the area. Mr. Canon requested Council approve the request.

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

Councilman Hill made a motion to approve an ordinance considered on second and final reading to amend Sections 23-306.5.H(14) and (15) of the Zoning Ordinance of the City of Abilene regarding regulations that would eliminate the 300 feet separation requirement for beer and wine sales only, off-premise consumption from CU (College University) zoning districts. Councilwoman Moore 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 **11-2006** 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.

It was noted that Mayor Archibald and Councilwoman Moore would be abstaining from **item 4.3**, *TC-2006-04, an ordinance to abandon the north 300 feet of Cedar Street, south of North 18th Street*, and **item 4.4**, *Z-2006-10, an ordinance considered on second and final reading to rezone property from RM-3 (Residential Multi-family) to MU (Medical Use) zoning district, property located at 1765 Cedar Street*, due to their employment with Hendrick Medical Center.

4.3 Jon James, Director of Planning and Development Services briefed the Council on **TC-2006-04**, an ordinance to abandon the north 300 feet of Cedar Street, south of North 18th Street.

Mr. James stated the thoroughfare closure request is in conjunction with zoning case Z-2006-10. Both of these zoning cases are at the request of Hendrick Medical Center for the purpose of developing the area with a medical office. Staff and the Plat Review Committee recommend approval, with the following conditions:

- 1) The dedication of a pedestrian easement connecting North 18th Street to the remaining portion of Cedar Street; where the applicant shall construct a sidewalk at least 5 feet in width that ensures pedestrian accessibility through the site.
- 2) All abandoned right-of-way and lots adjacent to abandoned right-of-way must be replatted.
- 3) The dedication and construction of a cul-de-sac at the north end of the remaining portion of Cedar Street, adjacent to Lots 17-20, Block A, Nisbett Addition.

The Planning and Zoning Commission recommend approval of the request, with the following amendment:

- The Planning and Zoning Commission changed the pedestrian sidewalk requirement from 5 feet to 4 feet.

Council and staff discussion included: 1) pedestrian easement (sidewalks) possibly hampering development in the area; 2) easement thru private property being limiting to property owners; 3)

location of buildings, entrance onto property and drive/parking areas, and; 4) optional locations for sidewalks.

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

- Duane Martin, representative of Hendrick Medical Center – Mr. Martin stated the majority of the property is owned by Hendrick Medical Center and all of the property will be sold to a physician's group. Mr. Martin requested and received clarification from staff on the literal easement requirement for the property. Mr. Martin stated he was unaware of the easement and that there will be no hindrance of movement of people. Mr. Martin requested the deletion of the easement due to the property being accessible.

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

Councilman Higgins made a motion to approve TC-2006-04, an ordinance considered on second and final reading to abandon the north 300 feet of Cedar Street, south of North 18th Street, with an amendment to Exhibit "A" of the Ordinance deleting the following condition: *1) the dedication of a pedestrian easement connecting N. 18th Street to the remaining portion of Cedar Street; where the applicant shall construct a sidewalk at least 4' in width that ensures pedestrian accessibility through the site.* Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

ABSTAIN: Councilwoman Moore and Mayor Archibald.

The Ordinance is numbered **12-2006** and captioned as follows:

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

4.4 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-10**, an ordinance considered on second and final reading to rezone .16 acres from RM-3 (Residential Multi-family) to MU (Medical Use) zoning district, property located at 1765 Cedar Street, at the southeast corner of North 18th Street and Cedar Street.

Mr. James stated the applicant, Hendrick Medical Center, is proposing to develop the area property with an additional medical building. The existing building on site, the Abilene Baptist Association, will be demolished for this project. The applicant is also proposing the closure of Cedar Street, TC-2006-04, in conjunction with this development. Mr. James noted this parcel is surrounded on all sides by MU (Medical Use). Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included Council noting information provided in the agenda packet showed an amendment made by the Planning and Zoning Commission, but the amendment information was not provided. Staff clarified there was no amendment and that it was a mistake on the information provided.

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 **Z-2006-10**, an ordinance considered on second and final reading to rezone .16 acres from RM-3 (Residential Multi-family) to MU (Medical Use) zoning district, property located at 1765 Cedar Street, at the southeast corner of North 18th Street and Cedar Street. Councilman Southward seconded the motion, and the motion carried.

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

NAYS: None

ABSTAIN: Councilwoman Moore and Mayor Archibald.

The Ordinance is numbered **13-2006** 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-2006-06**, an ordinance considered on second and final reading to rezone 84.29 acres from AO (Agriculture Open Space) to PDD (Planned Development District) zoning district, property located on the west side of Oldham Lane between South 27th Street and Loop 322.

Mr. James stated this is a proposal to rezone 84+ acres for a variety of commercial and residential uses. The PDD (Planned Development District) ordinance has been drafted to be consistent with other PDDs (Planned Development Districts) recently approved along the Loop 322 corridor. It includes provisions for landscaping, sidewalks, signage, screening and a variety of uses, some designated to certain areas. The development is entirely speculative and the applicant, Weatherbee Construction has stated only that commercial uses and possibly multi-family residential uses are desired. The only specific use mentioned is the possibility of self-storage units. Mr. James noted while staff generally opposes speculative PDDs (Planned Development Districts) such as this, staff and the applicant have worked together to develop a PDD (Planned Development District) instead of moving forward with their original request for GC (General Commercial) zoning. The proposed PDD (Planned Development District) directs more intensive commercial uses to the west and south along the Loop 322 frontage and allows for limited commercial uses along Oldham Lane further north. This is due partly to the location of residential development across Oldham Lane from the north part of the proposed PDD (Planned Development District) and due to a few areas of more intensive zoning districts scattered to the

south and west of the parcel. When the applicant has more specific development plans, an amendment could be proposed that could allow for other commercial development in the PDD (Planned Development District). This area is near an activity center as designated by the Comprehensive Plan. This activity center has been addressed by the Planning and Zoning Commission during other rezoning requests in the area and the Commission determined the activity center to be a high employment and educational center (with uses in the area such as Cisco Junior College and Blue Cross Blue Shield). Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) Council's concerns over the speculative nature of this request and the large number of acres involved; 2) the area being geared toward commercial uses and the lack of compatibility to the adjacent residential area; 3) possibly postponing the request until more definitive (specific) uses are known; 4) staff noting unless Council has specific uses in mind for the area their preference would be for Council to render a decision versus tabling the item; 4) Council's opposition to broad GC (General Commercial) rezoning; 5) Council not wanting to hamstring the developers; 6) access and traffic issues concerning residential area, and; 7) possibly revising proposed commercial areas to be more compatible with residential (noting all parties would have to agree to the revisions).

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

- David Todd, representative of Weatherbee Construction – Mr. Todd stated the original request was for GC (General Commercial) zoning and was negotiated with staff and that the Planning and Zoning Commission did approve the PDD (Planned Development District) zoning. Mr. Todd noted the zoning request is similar to other property in the area of Loop 322 (i.e. Lone Star Ranch), in which Council has approved speculative PDD (Planned Development District) zoning district on large tracts of land. Mr. Todd stated the request is consistent with good planning practices and explained how the accessibility of the property will be impacted.

Discussion included: 1) the Lone Star Ranch area having been planned all at one time with everyone in the area being aware of what would be developed; 2) possibly limiting the area shown as A.2 (limited commercial uses) to residential; 3) staff providing perceived cost; 4) possibly screening of buildings for more residential type appearance; 5) Loop 322 being a corridor into the City and the visual importance of that being noted, and; 6) the area located on the map shown above A.2 being a fire station.

- Paul Johnson, realtor – Mr. Johnson stated he will market the property for Mr. Weatherbee and the parcel of property (A.2 as shown on map provided to Council) could be removed until discussions with the surrounding neighbors took place. Mr. Johnson requested Council approve the zoning request with the exception of parcel A.2, which could be tabled until discussions could be held with the neighbors. Mr. Johnson noted the desire for the project to be first class and if the PDD (Planned

Development District) zoning were designed after the Lone Star PDD (Planned Development District) zoning then those requirements would be acceptable.

- Coy Tate, Lytle Place Homeowner's Association President – Mr. Tate stated he lives across from the parcel A.2 and the traffic is a major problem now and if commercial zoning is approved the traffic problem would worsen. Mr. Tate further stated the homeowner's in the area have a lot invested in their homes and he requested Council table all of the request, and not just the A.2 area, until the situation can be discussed further.
- Charles Spicer, Lytle Place resident – Mr. Spicer stated the areas are broad and that he has concerns with the specific uses that can be placed there. Mr. Spicer further stated many uses should be excluded and noted establishments that he feels are not appropriate. Mr. Spicer stated uses of the area need to be studied and proper planning needs to be done. Mr. Spicer noted a PDD (Planned Development District) zoning would have a negative impact on property taxes and noted the negative impact concerning traffic issues. Mr. Spicer stated the need for engineers and market research to be completed and that the request is limited, general, vague, and speculative.
- Larry Mayfield, Lytle Place resident – Mr. Mayfield stated he has great concerns about the commercial aspects that have been presented to Council and further stated failed businesses have already occurred in the area. Mr. Mayfield stated he realizes Loop 322 will eventually be developed but the quality of retail businesses should be considered. Mr. Mayfield noted his concerns over the lack of consideration for the homeowner's in the area and stated this project does not enhance the area or improve on their way of life due to the unknown development of the property. Mr. Mayfield requested Council not approve the request until more definite plans are known for the property and also stated his concerns for the impact on property values.
- Glen Weatherbee, developer – Mr. Weatherbee stated he is willing to negotiate with the homeowner's in the area, but also noted the planning stages have taken four months. Mr. Weatherbee stated he is willing to discuss with the homeowner's what can be placed on the A.2 parcel. Mr. Weatherbee stated the A.2 parcel barely touches residential property and developers are controlled under a PDD (Planned Development District) zoning with strict guidelines.
- Sharon Hicks, resident – Ms. Hicks stated all of the property will eventually be developed and noted what is currently developed in the area. Ms. Hicks also stated it is unknown what businesses will be located on the property and that the whole request needs to be reviewed more closely.

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

Councilman Hill made a motion to table **Z-2006-06**, an ordinance considered on second and final reading to rezone 84.29 acres from AO (Agriculture Open Space) to PDD (Planned

Development District) zoning district, property located on the west side of Oldham Lane between South 27th Street and Loop 322, directing staff, prior to bringing the request back to Council, to set a meeting with all interested parties to discuss and negotiate the issues as reviewed today. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: Councilmen Southward and Williams.

Council recessed for a break at 11:00 a.m. and reconvened at 11:10 a.m.

Mayor Archibald noted that agenda item 4.10, *“Public Hearing Resolution concerning an amendment to the Thoroughfare Plan concerning future collector streets in the area southwest of US 83-84 and Bell Plains Road”*, will be postponed until a future Council meeting.

4.6 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-11**, an ordinance considered on second and final reading to rezone 15 acres from AO (Agriculture Open Space) to PDD (Planned Development District) zoning district, property located in the 3600 and 3700 blocks of Loop 322, approximately 1,300 feet north of Industrial Boulevard.

Mr. James stated this parcel is currently vacant land between Loop 322 and the West Central Council of Governments Building, situated just north of Blue Cross Blue Shield and surrounded by mostly vacant land. The applicant, West Central Council of Governments, is proposing to develop the property with commercial uses that are not known at this time, and they may develop property to the west in the distant future. Staff has concerns about the appearance of the commercial development because it will be visible from Loop 322, which has been designated as a visual pathway in the Thoroughfare Plan. Planning staff has worked with the applicant to design a PDD (Planned Development District) that will meet the applicant’s needs and alleviate concerns regarding the development’s appearance. The Comprehensive Plan shows that this proposal is located within a major commercial business activity center. Mixed uses, pedestrian-friendly development, and aesthetic enhancement of building facades and site design are mentioned to help create a “more livable, vibrant, and accessible community”. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) the significance of sidewalks in the area; 2) staff noting the large size of the lots and that ultimately the area will be crisscrossed with roads; 3) location of sidewalks, and; 4) why all property owned by applicant is not being requested to be rezoned (staff noted only current AO (Agriculture Open Space) zoned area is needed by applicant for their requested development).

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

- M.R. Newberry, agent Newberry Roadcap Architects, Inc. – Mr. Newberry clarified the location of the property purchased by the West Central Council of Governments and noted that the property is land locked. Mr. Newberry stated development cannot take place on the lots off of the private roads unless the streets are dedicated and that

City Council Meeting

April 27, 2006

Page 11

the COG will build their own building. Mr. Newberry noted the applicant agrees with the proposed PDD (Planned Development District) requirement but is requesting the minimum five (5) feet wide sidewalk requirement be reduced to a minimum of four (4) feet wide, and that the applicant is not opposed to sidewalks in general.

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

Councilman Chase made a motion to approve **Z-2006-11**, an ordinance considered on second and final reading to rezone 15 acres from AO (Agriculture Open Space) to PDD (Planned Development District) zoning district, property located in the 3600 and 3700 blocks of Loop 322, approximately 1,300 feet north of Industrial Boulevard, amending the sidewalk requirement from a minimum of five (5) feet wide to four (4) feet wide. 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 **14-2006** 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-107 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.7 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-13**, an ordinance considered on second and final reading to rezone 4.26 acres from AO (Agriculture Open Space) to RS-6 (Residential Single-family) zoning district, property located south of the intersection of Tulane Drive and Trinity Lane.

Mr. James stated the applicant, Bruce Bixby, Bixby Enterprises, is proposing to develop the area with residential single-family homes. The minimum allowed lot size in a RS-6 (Residential Single-family) zoning district is 6,000 square feet. The applicant, with all likelihood, could build 22 homes if this area is rezoned and subsequently re-platted. The Comprehensive Plan's Future Land Use and Development Plan Map designates this area as low density residential. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included staff clarifying the reference to utility stations noted on 4.7, page 4 of the staff report in the agenda packet.

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 **Z-2006-13**, an ordinance considered on second and final reading to rezone 4.26 acres from AO (Agriculture Open Space) to RS-6 (Residential

City Council Meeting
April 27, 2006
Page 12

Single-family) zoning district, property located south of the intersection of Tulane Drive and Trinity Lane. Councilman Williams 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 **15-2006** 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.

4.8 Councilman Hill made a motion to remove from the table **Z-2005-39**, an ordinance to rezone approximately 2.6 acres from PI (Park Industrial) and O (Office) to PDD (Planned Development District), property located in the 5200 block of South Clack Street. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

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

Mr. James stated the applicant, Leroy Walden, requested commercial zoning but has no definite plans for the subject parcel. The current PI (Park Industrial) and O (Office) zoning districts are fairly restrictive and the applicant wishes to make the property more appealing for development. Staff has determined that a PDD (Planned Development District) would be more appropriate to protect the appearance from the three major roadways that intersect near the parcel. The proposed ordinance is similar to the adjacent PDD (Planned Development District) that occupies a large tract of land to the west and south of the subject parcel. However, staff recommends some updates to reflect the goals stated in the Comprehensive Plan and to protect recent residential development to the west. The proposed ordinance includes slightly stricter landscaping, screening, and outdoor storage regulations to enhance the appearance along the U.S. 83/84 corridor. This request was tabled due to an ongoing enforcement issue on the subject parcel and the applicant's other property located along Butternut Street. The applicant has removed all of the appliances from the subject parcel and begun improving the appearance for a prospective tenant by mowing, repainting the existing structures, and planting trees along the front property line. The applicant has also provided opaque screening at his Butternut property to bring it into compliance with the outdoor storage regulations in the Zoning Ordinance. This item was tabled a second time at the March 23, 2006 Council meeting to allow the applicant and his prospective

tenant additional time to negotiate terms of the proposed PDD (Planned Development District) with staff. Staff was unable to contact the prospective tenant, but has worked with the applicant to develop alternate language for the regulations pertaining to outdoor display and off-site signage. The applicant does not wish to have any further delays with his request. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) the optional PDD (Planned Development District) language concerning the permitting of off-site signage, portable and temporary signs being prohibited, outdoor storage and display provisions; 2) staff's and applicant's discussions concerning the optional PDD (Planned Development District) language, and; 3) possible exception needed to prohibited sign provisions to allow for "grand opening" type activities.

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

- Leroy Walden, applicant – Mr. Walden asked for clarification on billboard requirements, stating he wants to meet state requirements and to work with everyone to assure he is in compliance. Mr. Walden also stated if a billboard is allowed he may lease it out. Mr. Walden noted his prospective tenant, Jerry Day, could answer Council's questions concerning outdoor display, billboard use and signs needed for a grand opening.
- Jerry Day, Day Stone of Brownwood, Texas – Mr. Day stated he would lease the billboard sign, that he would also like a sign for the grand opening only, that he is landscaping the area, that he did not know until yesterday that he could not open his business on Mr. Walden's property, that he has not read the City's requirements, that if all the stone had to be moved to the back of the property he would not be able to open his business and that a portion of the property would have to be allocated for parking and maneuvering of his equipment/trucks.

Council noted the importance of Mr. Day understanding what the requirements that he would have to comply with are and requested that this item be temporarily suspended to give Mr. Walden, Mr. Day and City staff the opportunity to meet, discuss and clarify the requirements and issues.

Mayor Archibald stated a temporary suspension of item 4.8, including the public hearing, would be granted in order to give Mr. Walden, Mr. Day and staff, time to discuss the requirements and issues. The Mayor further stated Council would now move to item 4.9 and would return to item 4.8 following consideration of item 4.9.

Councilman Hill left the meeting.

Item 4.9, *request for a rate increase from MetroCare* was considered at this time.

City Council Meeting
April 27, 2006
Page 14

4.9 Councilman Higgins made a motion to remove from the table an Oral Resolution considering a request from MetroCare for a rate increase. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilman Hill

4.9 Sharon Hicks, City Attorney, briefed the Council on the request for a rate increase from MetroCare and introduced George Knuppel, General Manager of MetroCare.

Mr. Knuppel stated MetroCare is requesting that the City permit them to increase their current base charges and patient loaded mileage rate by 20%. The current base rate is \$370.50 with a mileage rate of \$8.25 per loaded mile. The proposed increase would allow the base rate to become a \$445.00 with a mileage rate of \$9.90 per loaded mile. The result would be an effective cost increase on an average emergency ambulance bill of 13.5% above current invoice totals. Mr. Knuppel reviewed Medicare reimbursements noting that the federal government has cut back on the amount of money paid for transporting Medicare patients and that more than half of MetroCare's patients are Medicare participants.

Ms. Hicks stated at the April 13, 2006 Council meeting Council tabled this request in order for staff to gather rate information from the City's 10 comparison cities. The information was gathered and presented by Fire Chief Brad Fitzer, as follows:

EMS Survey

Fire Department								
Comparative Cities	Contact Name	Contact Phone #	Provide Transport	ALS Rate	BLS Rate	Flat Rate	Mileage Rate per Loaded Mile	
Carrollton	Chief Murphy	(972) 466-3070	Yes	N/A	N/A	*\$250 resident/ \$310 non-resident	*\$4.00	Yes
Denton	Chief Chadwick	(940) 349-8840	Yes	**\$855	**\$787	ALS/BLS rate + cost of supplies	\$15.00	
Grand Prairie	Lt. Carrie	(972) 237-8300	Yes	N/A	N/A	*\$425 resident/ \$475 non-resident	\$6.05	
Midland	Chief Balzer	(432) 685-7330	Yes	N/A	N/A	\$365	\$8.50	
San Angelo	Chief Dunn	(325) 657-4355	Yes	*\$355/ \$455	*\$220/ \$320	No	\$6.25	
Killeen	Chief Bucanann	(254) 501-7676	Yes	\$700	\$500	ALS/BLS rate + cost of supplies	\$9.00	

City Council Meeting
April 27, 2006
Page 15

Lubbock	Chief Hailey	(806) 775-2632	No	N/A	N/A	N/A	N/A	Private service
Waco	Chief Johnston	(254) 750-1740	No	N/A	NA	NA	N/A	Private service
Wichita Falls	Chief Foster	(940) 761-7901	No	N/A	N/A	N/A	N/A	Private service
Odessa	CP Glen Hogue	(432) 335-4660	Yes	*\$260/ \$360	*\$360/ \$460	No	\$5.00	
Notes:				**Beginning May 2006 *Resident/ non-resident	**Beginning May 2006 *Resident/ non-resident.	*Transport fee only. Supplies used cost extra.	*Charge for transport to non-local hospitals only.	

EMS Survey

Ambulance Service?							
Comparative Cities	Yes/No	If Yes, Contact Name	Contact Phone #	ALS Rate	BLS Rate	Mileage Rate per Loaded Mile	Other:
Carrollton		*Private					
Denton							
Grand Prairie							
Midland							
San Angelo							
Killeen							
Lubbock	Yes	Lubbock EMS	(806) 775-8725	\$823*	\$573*	\$9	*\$275
Waco	Yes	East Texas Medical Center	(254) 799-7718	\$620*	\$620*	\$10.88	*\$379 + \$9.48/Loaded Mile
Wichita Falls	Yes	American Medical Response	(940) 322-1506	\$415*	\$282*	\$6.14	
Odessa							
Notes:		*If calling 911 Fire Department responds. Can call private ambulance company directly.		*Plus cost of supplies.	*Plus Cost of supplies.		*Non-emergency Transfer fee. No extra charge for supplies.

Council and staff discussion included: 1) in comparing MetroCare rates to submitted comparison city's information, MetroCare's rate increase request was considered by Council to be reasonable; 2) approved rates would be set until changed by Council, and; 3) Council noted appreciation to MetroCare for the service they provide.

Councilman Williams left the meeting.

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 by Oral Resolution the request from MetroCare for a rate increase, allowing the base rate to become \$445.00, with a mileage rate of \$9.90 per loaded mile. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilmen Williams and Hill.

4.8 Mayor Archibald stated Council would now resume consideration of item 4.8.

Discussion included: 1) staff, Mr. Walden, and Mr. Day having discussed the 10,000 square feet outdoor display area, billboard requirements, pro's and con's of asphalt, and potential dumpster issues; 2) pro's and con's of applicant leasing property on short/long term basis; 3) PDD (Planned Development District) zoning not precluding future modern developments; 4) staff clarifying that on site businesses cannot lease the billboard to advertise their own business; 5) on premise signs not allowed to be as large as billboard, pole signs could be used, and; 6) areas where applicant is currently not in compliance.

Mayor Archibald resumed the Public Hearing and the following individual addressed the Council:

- Leroy Walden, applicant – Mr. Walden stated this is an opportunity to improve this property and that he hasn't been able to use it and doesn't understand the opposition.

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

Discussion continued and included: 1) paving of property cost and tenant noting paving would not be affordable; 2) tenant noting he expects to lease property for five years; 3) possible alternatives on paving requirements; 4) planning and aesthetics perspectives; 5) Council's concerns over non-compliance issues, and; 6) entrance to facility and parking space issues.

Councilwoman Moore made a motion to approve **Z-2005-39**, an ordinance considered on final reading to rezone approximately 2.6 acres from PI (Park Industrial) and O (Office) to PDD (Planned Development District), property located in the 5200 block of South Clack Street, as approved by the Planning and Zoning Commission with the following amendments:

- 1) not allowing off-site billboard
- 2) allowing up to 10,000 square feet for outdoor display, remaining outdoor storage area will be screened from the view of public right-of-way and located at rear of property
- 3) the following provision shall be removed "All areas for truck loading and storage shall have a surface composed of asphaltic or portland cement binder pavement and shall not be visible from a public right-of-way or residential district"

Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

ABSENT: Councilmen Williams and Hill.

The Ordinance is numbered **16-2006** 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-100 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.10 Mayor Archibald asked if anyone were present to speak on item 4.10, seeing none, the Mayor stated the *Public Hearing: Resolution concerning an amendment to the Thoroughfare Plan concerning future collector streets in the area southwest of US 83-84 and Bell Plains Road* would be postponed until a future Council meeting.

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 Oral Resolution approving appointments and or re-appointments:

- A. No action was taken on the Planning and Zoning Commission.
- B. No action was taken on the Local Redevelopment Commission.

There being no further business, the meeting was adjourned at 1:10 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor