

CITY COUNCIL MEETING
May 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 May 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, Kris Southward (on item 1.0 only), John Hill (on item 1.0 only), Stormy Higgins, Councilwoman Laura Moore, Councilman Joe Spano (following item 1.0), and Councilwoman Celia Davis (following item 1.0). Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff. Councilman Anthony Williams was absent.

Councilman Southward gave the invocation.

Mayor Archibald introduced Jane and Ruth Hill, and Katelyn, Karaline and Karli Southward who led the Pledge of Allegiance. Jane and Ruth are the daughters of Councilman John Hill and Mrs. Molly Hill, and Katelyn, Karaline and Karli are the daughters of Councilman Southward and Mrs. Karen Southward.

SPECIAL CONSIDERATIONS

1.0 Mayor Archibald requested that City Secretary Jo Moore report the May 13, 2006 General/Joint/Special and Bond Election results.

Ms. Moore addressed the Council by stating the purpose of the City's General Election was to elect Councilmembers to Council Places 1 and 2, the purpose of the City's Special Election was to elect a Councilmember to Council Place 4 to serve in the unexpired term, and the purpose of the Bond Election was for consideration of seven (7) Propositions for capital improvements. Ms. Moore also stated the returns of the elections have been canvassed and the results show that in the General Election Sam Chase was elected to Council Place 1 having received 81.25 percent of the votes cast and Joe Spano was elected to Council Place 2 having received 50.84 percent of the votes cast, the results also show in the Special Election that Celia Davis was elected to Council Place 4 having received 62.17 percent of the votes cast. Ms. Moore further stated the results of the Bond Election show that all seven (7) propositions passed.

Total votes cast were as follows: **Council Place 1:** Sam Chase – 5,971 (81.25% of votes cast), Ron Konstantin – 1,378 (18.75% of votes cast). **Council Place 2:** Joe Spano – 3,956 (50.84% of votes cast), John L. Estes III – 2,585 (33.22% of votes cast), Vicki Anderson – 1,240 (15.94% of votes cast). **Council Place 4:** Celia Davis – 4,752 (62.17% of votes cast), Paul Johnson – 2,891 (37.83% of votes cast). **Proposition No. 1:** The issuance of \$19,165,000 Street and Traffic Improvement Bonds – 5497 (For – 69.64% of votes cast) and 2397 (Against – 30.36% of votes cast). **Proposition No. 2:** The issuance of \$2,260,000 Airport Improvement Tax Bonds – 4941 (For – 63.13% of votes cast) and 2886 (Against – 36.87% of votes cast). **Proposition No. 3:** The issuance of \$4,180,000 Stormwater and Drainage Improvement Tax Bonds – 5362 (For – 68.09% of votes cast) and 2513 (Against – 31.91% of votes cast). **Proposition No. 4:** The issuance of \$1,100,000 City Zoo Improvement Tax Bonds – 5444 (For – 68.84% of votes cast) and 2464 (Against – 31.16% of votes cast). **Proposition No. 5:** The issuance of \$1,125,000 Lake

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Fort Phantom Hill Park/Boat Ramps/Docks and Dyess Recreation Area Improvement Tax Bonds – 4200 (For – 53.54% of votes cast) and 3645 (Against – 46.46% of votes cast). **Proposition No. 6:** The issuance of \$690,000 Sidewalk Improvement Tax Bonds – 4456 (For – 56.59% of votes cast) and 3418 (Against – 43.41% of votes cast). **Proposition No. 7:** The issuance of \$1,300,000 Ballfield Lighting and Park Improvement Tax Bonds – 4369 (For – 55.51% of votes cast) and 3501 (Against – 44.49% of votes cast). Total votes cast in the May 13, 2006 General/Special and Bond Election were 8,099.

Ms. Moore noted Council has before them two resolutions, one canvassing the returns and declaring the results of the General/Special Election and the other canvasses the returns and declares the results of the Bond Election. Ms. Moore stated staff recommends Council approve both resolutions and that the two resolutions could be considered with one motion.

Councilman Southward made a motion to approve the Resolutions canvassing the returns and declaring the results of the May 13, 2006 City General/Joint/Special and Bond Election as presented. Councilman Hill seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered **17-2006** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE
GENERAL/SPECIAL/JOINT ELECTIONS HELD IN THE CITY OF ABILENE ON MAY
13, 2006.

The Bond Election Resolution is numbered **18-2006** and captioned as follows:

RESOLUTION CANVASSING ELECTION RETURNS.

Mayor Archibald recognized several members of the Bond Committee that were present at the meeting and thanked them and their fellow committee members for their work on the committee and their commitment to the community.

City Manager Larry Gilley presented to the Mayor and each member of the City Council their annual paycheck of one (\$1.00) dollar. In appreciation of their years of service Mr. Gilley then presented to outgoing Councilmembers Kris Southward and John Hill a City of Abilene logo three topaz stone lapel pin (the stones are symbolic of the City's warmth, beauty and strength). Mr. Gilley also presented a vase of Iris (the City's official flower) to Mrs. Southward and Mrs. Hill.

City Secretary Jo Moore administered the Oaths of Office to Sam Chase, Council Place 1, Joe Spano, Council Place 2 and to Celia Davis, Council Place 4.

At 9:05 a.m. Mayor Archibald announced the Council would recess for a reception honoring the newly elected and outgoing members of the Council. The Mayor stated Council would reconvene, following the reception, in the Council Chambers to consider the remaining agenda items.

Following the reception at 9:20 a.m. Mayor Archibald reconvened the Council in Regular Session.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions, or deletions to the May 11, 2006 Regular Council Meeting Minutes Councilman Higgins made a motion to approve the minutes as presented. Councilwoman Moore seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

CONSENT AGENDA

Councilman Chase requested **item 3.1**, *Oral Resolution authorizing a contract with Enprotec-Hibbs & Todd, Inc. for engineering services related to the Wastewater Collection System Evaluation, Modeling, and Master Plan*, **item 3.2**, *Oral Resolution authorizing a contract with Jacob and Martin Ltd. for engineering services related to the Water Distribution System Evaluation, Modeling, and Master Plan*, and **item 3.3**, *Oral Resolution authorizing the City Manager to execute Task Order 15 of the airside engineering contract with HNTB Corporation for construction administration and observation services for the Taxiway D Extension Phase II and North General Aviation Ramp Reconstruction project*, be removed from the Consent Agenda and considered separately.

Councilwoman Moore made a motion to approve consent agenda items 3.4 through 3.9, as recommended by staff. Councilman Spano seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

Resolutions:

3.1 *Removed from the Consent Agenda to be considered separately:* Oral Resolution authorizing a contract with Enprotec-Hibbs & Todd, Inc. for engineering services related to the Wastewater Collection System Evaluation, Modeling, and Master Plan.

3.2 *Removed from the Consent Agenda to be considered separately:* Oral Resolution authorizing a contract with Jacob and Martin Ltd. for engineering services related to the Water Distribution System Evaluation, Modeling, and Master Plan.

- 3.3 *Removed from the Consent Agenda to be considered separately:* Oral Resolution authorizing the City Manager to execute Task Order 15 of the airside engineering contract with HNTB Corporation for construction administration and observation services for the Taxiway D Extension Phase II and North General Aviation Ramp Reconstruction project.
- 3.4 Oral Resolution authorizing the Abilene/Taylor County 9-1-1 District's negotiation of a contract for the purchase of console furniture equipment for the new 9-1-1 Dispatch Communication Center and Back-up location at City Hall.

Land Acquisition:

- 3.5 Vacant lot located at 1135 South 3rd Street, Abilene, Texas (Lot 12, Block 28, Original Town Abilene), purchased from Ms. Patsy E. Cranfill for \$7,000 (funded at 80% by FTA and 20% local match).

Bid Awards:

- 3.6 **Bid #CB-6042** – Airport Security Fencing, Phase II. The bid was awarded to Construction Rent-A-Fence, Thrall, TX in the amount of \$776,630.00.
- 3.7 **Bid #CB-6043** – Terminal Area Drainage, Phase II – Detention Pond. The bid was awarded to Jay Mills Contracting, Stephenville, TX in the amount of \$929,700.00.
- 3.8 **Bid #CB-6044** – Digital video meeting acquisition system for the City Council Chambers. The bid was awarded to Rushworks Media, Highland Village, TX in the amount of \$36,342.00.
- 3.9 **Bid #CB-6048** – Mowers for various divisions. The bid was awarded to Abilene New Holland, Abilene, TX in the amount of \$124,198.00.

Removed from the Consent Agenda and considered separately:

- 3.1 Oral Resolution authorizing a contract with Enprotec-Hibbs & Todd, Inc. for engineering services related to the Wastewater Collection System Evaluation, Modeling, and Master Plan.

Council and staff discussed the feasibility of constructing a satellite wastewater treatment plant being studied and that the study will include looking at all possible locations. Staff stated that there are no pre-conceived ideas on where the satellite plant may be located.

- 3.2 Oral Resolution authorizing a contract with Jacob and Martin Ltd. for engineering services related to the Water Distribution System Evaluation, Modeling, and Master Plan.

Council and staff discussion included: 1) cost compared and related to the study; 2) the state requiring Abilene to identify and relocate sampling points to specific sites and a computer

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based hydraulic model eliminating the need for extensive and costly system sampling, and; 3) the expected long term dollar savings resulting from the Model and Master Plan through the providing of guidance for City staff when decisions need to be made on how to proceed with improvements to the City's distribution system to meet current and future needs.

3.3 Oral Resolution authorizing the City Manager to execute Task Order 15 of the airside engineering contract with HNTB Corporation for construction administration and observation services for the Taxiway D Extension Phase II and North General Aviation Ramp Reconstruction project.

Council and staff discussion included: 1) the project will enable construction of a new FAA Airport Traffic Control Tower with the existing taxiway being closed to allow room for the new tower; 2) location and cost of the tower are known, and; 3) funding for the project is budgeted through the General Fund with reimbursement to the General Fund from future Certificates of Obligations.

Councilman Chase made a motion to approve **item 3.1**, *Oral Resolution authorizing a contract with Enprotec-Hibbs & Todd, Inc. in an amount not to exceed \$337,745.00 for engineering services related to the Wastewater Collection System Evaluation, Modeling, and Master Plan*, **item 3.2**, *Oral Resolution authorizing a contract with Jacob and Martin Ltd. in an amount not to exceed \$329,633.00 for engineering services related to the Water Distribution System Evaluation, Modeling, and Master Plan*, and **item 3.3**, *Oral Resolution authorizing the City Manager to execute Task Order 15 of the airside engineering contract with HNTB Corporation for construction administration and observation services for the Taxiway D Extension Phase II and North General Aviation Ramp Reconstruction project*. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

REGULAR AGENDA

Mayor Archibald polled the audience requesting a show of hands of the individuals who were present for the public hearing concerning item 4.6, *Request to rezone 22.5 acres from AO (Agriculture Open Space), RM-3 (Residential Multi-family), and LC (Limited Commercial) to PDD (Planned Development District) zoning, property located at the southwest corner of Jennings Drive and Dub Wright Boulevard*.

Due to the number in attendance to hear Item 4.6 Mayor Archibald stated Item 4.6 will be considered before Item 4.1 on the Regular Agenda and an opportunity will be given to each individual to address the Council.

4.6 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-19**, an ordinance considered on second and final reading to rezone 22.5 acres from AO (Agriculture Open Space), RM-3 (Residential Multi-family), and LC (Limited Commercial) to

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PDD (Planned Development District) zoning, property located at the southwest corner of Jennings Drive and Dub Wright Boulevard.

Mr. James stated the property is currently vacant and adjacent to the Hampton Hills residential subdivision, with Dyess Air Force Base being located directly to the north and the majority of land to the south and west is vacant. The property's proximity to Dyess Air Force Base heightens the need for a quality development with an attractive appearance. Mr. James stated the SC (Shopping Center) zoning district does not include any aesthetic regulations or protections for adjacent residential properties and due to this staff feels that a PDD (Planned Development District) zoning would be more appropriate to ensure the long-term quality of the development and to protect the neighboring residential subdivision. Mr. James noted the proposed PDD (Planned Development District) includes almost all the uses allowed in the SC (Shopping Center) zoning district, plus a few that are compatible but not included by the Zoning Ordinance. The PDD (Planned Development District) offers reduced setbacks to increase the buildable area of the tract if parking is not located between the structures and the right-of-way. The PDD (Planned Development District) also includes provisions for landscaping, building materials, screening, sidewalks, and driveway access to enhance the appearance and accessibility along the corridor adjacent to Dyess Air Force Base. The site is served by an arterial street, two future collector streets, and a local street, which will provide ample accommodation for the amount of traffic a large commercial development will generate. Furthermore, internal and boundary sidewalks will provide safe transportation alternatives for pedestrians and bicyclists. Reduced setbacks are permitted if parking is placed to the rear or side of the structures in order to promote a more centered and pedestrian-friendly development. Group signage will allow businesses located toward the rear of the development to be visible to passing traffic on Dub Wright Boulevard. The Future Land Use portion of the Comprehensive Plan designates a large area around the request as a location for low-density residential development. However, the property's location adjacent to an arterial and two collectors make it a good candidate for a higher density of development. The PDD (Planned Development District) was designed to provide flexibility throughout the development process that would be consistent with some of the mixed-use goals mentioned in the Comprehensive Plan. Furthermore, the Thoroughfare Plan designates Dub Wright Boulevard as a Visual Pathway and addresses them specifically with the following recommendation:

- These are roadways around or into the City that give the passer-by a lasting impression of the City. Therefore, development along these highways should be carefully monitored so as to maximize positive images of the City. Concentrated efforts from both the public and private sectors to enhance and preserve the visual quality along streets can be achieved through the application of Planned Development Districts (PDD). These zoning districts are "designed to promote, through unified planning and development, more efficient land use, more sensitive treatment of natural features, harmonious integration of diverse activities, and creative design".
- Review of zoning requests, subdivision plat submittals, and public improvement projects on designated visual pathways should be considered for the following guidelines:
 - Landscaping
 - Landscaping, compatible with pedestrian safety and sight distance requirements, is recommended in the area between the street right-of-way and adjacent building lines.

➤ Design

- Screening is recommended for open storage waste disposal containers, loading areas, and outdoor storage.
- Parking should be discouraged on the street and encouraged to locate at the side or rear of buildings. (Adopted 1985)

Staff recommends approval of the PDD (Planned Development District) proposed ordinance. The Planning and Zoning Commission recommend approval of the request, with an additional driveway onto Dub Wright Boulevard being allowed.

Council and staff discussion included: 1) layout of potential shopping center(s), developers cost and responsibility for construction of streets and curb cuts in the development and when streets would have to be completed; 2) increase in costs to developers to address residents concerns (i.e. 6' masonry fences to be constructed between homes and commercial area and significant landscaping requirements); 3) staff noting PDD is consistent with Comprehensive Plan; 4) protection and control provided by PDD; 5) staff noting as a transportation system streets will be able to handle increase in traffic; 6) correspondence from homeowners addressing relationship with construction crews and traffic issues; 7) Dub Wright Blvd. being a state controlled boulevard with traffic control devices, and what triggers those, coming under state authority, and; 8) the Comp. Plan addressing amount of land needed to support a shopping center but staff noting recommendation is based on staff's opinion that the PDD is an appropriate use for the location.

Mayor Archibald opened a public hearing on the item and stated individuals would be allowed four minutes for comments. The following individuals addressed Council:

- Paul Johnson, agent – Mr. Johnson noted the efforts that had been made to get to this zone request. Mr. Johnson then addressed items of concerns that had been noted by the residents in the area including traffic, property values and noise. Mr. Johnson stated commercial use is the highest and best use of this property.
- Jill Fortson, resident – Ms. Fortson stated she was told by the property owner Glen Weatherbee that the surrounding property would strictly be single-family residences and that she would not have built in the area if she had known the area might be developed into a shopping center.
- Lisa Rooney – Ms. Rooney requested that Corridor Overlay be in place first if rezoning is approved in order to assure completion of requirements (i.e. landscaping). Ms. Rooney also requested that no reduced set backs be allowed and to guarantee sidewalks will be installed to Code.
- Tim Pleimann, resident – Mr. Pleimann addressed traffic issues noting a traffic study is not required but can be done by the developer. Mr. Pleimann stated the Urban Traffic Study required in 2006 by the city doesn't guarantee this area will be in the study and that traffic incidents are on the increase.

- Alesha Morris, resident – Ms. Morris stated she was at the P&Z Commission meeting where this item was discussed and following that meeting she held a meeting of the area residents to discuss how they could go about making their case. Ms. Morris further stated she was told the area would be residential and she asked the Council to deny the request or table the item until a consensus could be reached.
- Carol and John Waggoner – Ms. Waggoner stated she and her husband have been residents in Hampton Hills since 1985 and that they were told by the original developers that the area would be residential. Ms. Waggoner further stated they would not be able to sale their home if a shopping center is developed in the area.
- Janet Ardoyno – Ms. Ardoyno stated she is a 17 year resident of the area and that she and her family own the largest number of acres in the area. Ms. Ardoyno addressed the fact that when traffic occurs it is a massive amount and dangerous to children in the area. Ms. Ardoyno noted that a Neighborhood Association is being considered and that she and her husband believe the concerns that are being stated by the residents are true.
- Ulrike Quinn – Ms. Quinn stated she was told by Glen Weatherbee that only single-family homes would be built in the area, with no commercial coming in but that Mr. Weatherbee is now saying it is his land and he will do what he wants with the land. Ms. Quinn pointed out that a petition signed by over 100 people in opposition to the request had been submitted for the Council's information and consideration.
- Tracy Bosquez, resident – Ms. Bosquez stated she was also told the property would only be residential and that she is concerned with the traffic and who will frequent the shopping centers.
- Cari Rountree, resident – Ms. Rountree addressed security issues stating that her husband has been deployed and that she has to children to care for. Ms. Rountree stated her concerns about not knowing what will be developed and that she would like the facts and feels she deserves an answer.
- Vicki Anderson – Ms. Anderson stated she believes the P&Z studies the facts but that the City Council cannot ignore the number of citizens opposed to this request. Ms. Anderson further stated that regardless of the best use of the land a traffic study is needed, specifically on Jennings Dr.
- David Todd – Mr. Todd addressed, as the designer, the street layout, subdivision plans, lot sizes, drainage plans and traffic issues.
- Betty Davis – Ms. Davis stated she is representing her and her husband Alton and that they own rental property on Jennings Dr. Ms. Davis noted that their property will be directly affected by this rezone and that the property will not be enhanced. Ms. Davis further stated their investment could be compromised depending on what is built in the area. Ms. Davis

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requested the Council compromise and table the issue in order to allow the investors and developers to work together in developing an agreement with the best answer for all involved.

- Tim Pleimann, resident – Mr. Pleimann requested with integrity issues being addressed and with the large number of people that had voiced concerns that Council consider tabling the issue instead of simply reacting to the request.

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

Further Council and staff discussion included: 1) the requests for Council to table the item to allow dialogue between the residents and developer for a possible compromise to be reached; 2) the developing of a Homeowners Association seen as a positive; 3) Council recognizing the importance of citizen input but not setting precedence to table issues every time protests by citizens are made; 4) in meetings concerning future developments include discussion on growth and traffic issues, and; 5) the City Manager noted if Council tables the item staff can facilitate a meeting between the developer and residents.

Councilwoman Moore made a motion to table **Z-2006-19**, an ordinance considered on second and final reading to rezone 22.5 acres from AO (Agriculture Open Space), RM-3 (Residential Multi-family), and LC (Limited Commercial) to PDD (Planned Development District) zoning, property located at the southwest corner of Jennings Drive and Dub Wright Boulevard, to allow a meeting for further discussions between the residents and the developer, with the meeting being facilitated by city staff. Councilwoman Davis seconded the motion, and the motion carried.

AYES: Councilmen Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: Councilman Chase

Mr. James requested staff be provided with a neighborhood contact person and Mayor Archibald encouraged the residents of the area to let others, that may be out of the 200' notification area but interested in the issue, know of the meeting. The item could be on the Council's agenda for consideration at the June 22, 2006 meeting.

At 11:05 a.m. Mayor Archibald stated if the Council is still in session at 12:00 noon they would recess for lunch and return at 1:00 p.m.

4.1 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-12**, an ordinance considered on second and final reading to rezone property from O (Office), SC (Shopping Center), and RM- 1 (Residential Multi-family) to PDD (Planned Development District) zoning, property located at 1290 S. Willis Street.

The site has been developed with an office building since 1977 and there is little space available on the site for any additional improvements. Much of the site is comprised of the 50,000 square feet building and 148 parking spaces. North of the building is a drainage channel. Paved areas connect with and continue to the south to properties developed with a bank, multi-story office building and a fast lube business that are under separate ownerships from the subject parcel. The

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south part of the parcel is zoned SC (Shopping Center) and a small portion on the west side is zoned RM-1 (Residential Multi-family), with the majority being zoned O (Office). Mr. James stated the applicant originally requested rezoning of the property to LC (Limited Commercial) to have greater flexibility in permitted land uses and signage. However, LC (Limited Commercial) districts are restricted to a maximum area of 2 ½ acres and the site was too large to be considered for LC (Limited Commercial) zoning. Staff suggested a PDD (Planned Development District) that would permit some of the opportunities and flexibility allowed in the LC (Limited Commercial) district. Due to the site having already been developed, the PDD (Planned Development District) ordinance is tied directly to the existing site plan, any changes to the site layout would require amendments to the PDD (Planned Development District) ordinance. A significant development issue for this site is the limited parking spaces and the ratio of parking to building area is approximately one parking space per 340 square feet of building. Many uses permitted in the O (Office) and LC (Limited Commercial) districts require one space per 200 or 300 square feet of building area. Others have lower rates such as 1:400 or 1:500. In developing the permitted use list for the proposed PDD (Planned Development District) the LC (Limited Commercial) district was used as a base, but uses with the highest parking requirements and higher expected traffic generation were deleted from the list. This would still allow a number of retail and service uses not permitted in the existing O (Office) zoning and it does not eliminate any of the uses currently permitted. This area is in the vicinity of commercial activity center that is centered at the intersection of South 14th and Barrow Streets. The extent of permitted uses and development standards are limited in the ordinance partly due to the proximity of the property to residential uses to the north and west. The proposed PDD (Planned Development District) provides a transition from the more intensive commercial zoning at the intersection of South 14th and Willis and the nearby residential uses. Staff recommends approval of the request. The Planning and Zoning Commission recommends approval of the request to include maximum sign height of 18 feet.

Council and staff discussion included: 1) the requirement that any exterior remodeling or new construction to be completed with materials and construction similar to the existing building; 2) Council stating preference for materials and construction to be similar to or of higher quality than the existing building; 3) the advantage of PDD (Planned Development District) zoning, and; 4) the applicants request for an 18 feet maximum sign height.

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 **Z-2006-12**, an ordinance considered on second and final reading to rezone property from O (Office), SC (Shopping Center), and RM- 1 (Residential Multi-family) to PDD (Planned Development District) zoning to include a maximum sign height of 18 feet, and to revise the wording in Section B. SITE DEVELOPMENT, 2.a. Building materials to read *“Any extension remodeling or new construction must be completed with materials and construction similar to or of higher quality than the existing building”*, property located at 1290 S. Willis Street. Councilman Spano seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **18-2006** 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-108 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.2 Prior to the presentation of this item Councilman Chase stated he would be abstaining due to his having been consulted as a private attorney by the applicant on construction documents related to this project and Councilman Spano stated he would be abstaining due to his being a tenant of the property to be discussed.

Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-14**, an ordinance considered on second and final reading to amend Lone Star Ranch PDD #82, property located at Lone Star Drive and Loop 322.

Mr. James stated the subject parcel was rezoned from AO (Agriculture Open Space) to a commercial PDD (Planned Development District) in January 2005. This PDD (Planned Development District) text amendment is to add two additional uses and change a height limitation. The applicant is proposing to develop the property into a family entertainment center to include a bowling center, billiards, climbing wall, arcade, bumper cars, miniature golf, outdoor electric go-carts, indoor water park, a four-story hotel/motel, and others. All of these uses are currently allowed in the PDD (Planned Development District) zoning except electric go-carts and an indoor water park. The PDD (Planned Development District) zoning also has a height restriction of 35', which will not allow for a four-story hotel/motel. Staff feels that the height increase and the two additional uses are suitable in this area, if the hotel/motel and electric go-carts have a setback of 100' from the east property line that is adjacent to the residential portion of the PDD (Planned Development District). Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) Council's concerns that the wording on Exhibit "A" of the Ordinance referencing residentially "zoned" property is confusing and stated instead of "zoned" a more appropriate word would be "use"; 2) staff explained the basis for the importance of the "zoned" wording.

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

- Randy Voorhees – applicant, stating appreciation for the reinforcement from all involved. Mr. Voorhees noted the go-carts are electric; that he wants the project to be family friendly, nice in appearance and to be known as a destination site for Abilene. If approved he plans to break ground for the project in August 2006.
- Terry Franklin, stated he sold the land to Mr. Voorhees and that this is a nice project and requested Council approval.

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- Ken Barbian – area resident, in favor of project. Mr. Barbian addressed an odor nuisance in the area that he stated is being created by Chevron Pipeline and a Trucking Company. Mr. Barbian requested Council address this issue with staff to resolve the problem.

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

Councilman Higgins made a motion to approve **Z-2006-14**, an ordinance considered on second and final reading to amend Lone Star Ranch PDD #82, property located at Lone Star Drive and Loop 322. Councilwoman Moore seconded the motion, and the motion carried.

AYES: Councilman Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

ABSTAIN: Councilmen Chase and Spano.

The Ordinance is numbered **19-2006** 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-82 AND ORDINANCE NO. 40-2003 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.3 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-16**, an ordinance considered on second and final reading to apply Historic Overlay zoning to the base commercial zoning of LI (Light Industrial), property located at 2074 North 1st Street.

Mr. James stated the property has several buildings on it including the vacated Coca Cola office building, built in 1951. The other buildings were used to make Coca Cola or used in the various functions of a bottling operation. At the southeast corner is a retail building that was used to sell paint products before it was vacated. The applicant, Higginbotham Bros. & Co., will use it again for selling paint and utilizing the property for a hardware business. The northwestern portion of the property is in the 100 and 500 flood plain from Cat Claw Creek. The historic zoning will not affect the use of the property. The Comprehensive Plan recommends the reuse of historic properties and retail uses close to neighborhoods and a hardware store at this central location serves a number of inner city neighborhoods. Staff, the Landmarks Commission, and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussed the HO (Historic Overlay) designation not requiring the applicant to seek Council approval if buildings needed to be destroyed.

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

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- Gary Penn, Manager of Higginbotham Bros. & Co., - Mr. Penn gave an explanation of what changes would be made to the existing building, noting no major changes are planned for the building.

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

Councilman Chase made a motion to approve **Z-2006-16**, an ordinance considered on second and final reading to apply Historic Overlay zoning to the base commercial zoning of LI (Light Industrial), property located at 2074 North 1st Street. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **20-2006** 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.

4.4 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-17**, an ordinance considered on second and final reading to rezone property from HC (Heavy Commercial), GC (General Commercial), and RM-3 (Residential Multi-family), to CB (Central Business District) zoning, property located between South 4th and South 7th Streets from a north-south alley located 140 feet west of Butternut Street to Chestnut Street.

Mr. James stated the applicant, Bruce Bixby owns a number of parcels in the subject area and he requested rezoning of all of his parcels to CB (Central Business), and suggested that a larger area be considered for rezoning to CB (Central Business) as well. Staff considered various options and determined that it would be appropriate to propose all of the area under consideration for rezoning to CB (Central Business). The area is a mix of residential and commercial uses with most of the commercial uses being along Butternut and Chestnut Streets, also, some of the RM-3 (Residential-Multi family) zoning along Sycamore is developed with parking lots that serve the Enterprise Building. Mr. James noted that staff is unaware of any specific development plans that the applicant may have, but the zoning would allow for a variety of retail, office and residential uses. All of the residential uses permitted in the RM-3 (Residential Multi-family) district would continue to be allowed in CB (Central Business) district. The most significant impact of the proposed changes would be along Butternut Street where the zoning is currently HC (Heavy Commercial). The HC (Heavy Commercial) district permits a large number of uses including warehousing and trucking, all types of auto repair and sales, and many other uses on addition to many retail and office uses. Although this zoning change would reduce the permitted uses available to property owners along Butternut, the rezoning would allow for development that is currently not possible. Currently, the HC (Heavy Commercial) district has a 50-foot setback requirement in the rear where adjacent to residential zoning. That requirement along with a front setback of 30 feet from front property lines

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on lots that are only 140 feet deep, make it very difficult for any new construction to take place, particularly additions to existing buildings, unless the Board of Adjustment can approve a variance. The CB (Central Business) district has no setback requirement except where adjacent to residential zoning in which case the rear setback is 25 feet. This would give the businesses along Butternut much more flexibility to develop or redevelop their property. This rezoning will create a few non-conforming uses and along Butternut only one business would become legally non-conforming with this zoning change. Any non-conforming use would be allowed to continue indefinitely, but would not be allowed to expand. However, a majority of the buildings along Butternut are currently non-conforming structures, incapable of being physically expanded. The rezoning would bring into compliance twelve (12) parcels that currently have non-conforming uses and many parcels that currently have non-conforming structures located on them. The rezoning would create only one non-conforming use and no non-conforming structures. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) clarification on area that would become CB (Central Business District) if request is approved; 2) property that would be "legal" but non-conforming, and; 3) staff noting the Corridor Plan and remaining portion of Butternut would be back to Council for consideration in the next few months.

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 Spano made a motion to approve **Z-2006-17**, an ordinance considered on second and final reading to rezone property from HC (Heavy Commercial), GC (General Commercial), and RM-3 (Residential Multi-family), to CB (Central Business District) zoning, property located between South 4th and South 7th Streets from a north-south alley located 140 feet west of Butternut Street to Chestnut Street. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **21-2006** 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.

Mayor Archibald recessed the Council for a lunch break at 11:45 a.m. and reconvened the Council meeting at 1:20 p.m.

4.5 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-18**, an ordinance considered on second and final reading to rezone 3.3 acres from O (Office) and SC (Shopping Center) to PDD #103 (Planned Development District) zoning, property located at 1665 Antilley Road.

PDD #103 (Planned Development District) was designed to accommodate development of a mix of medical and retail uses. There are three existing PDD's (Planned Development Districts) in the immediate area of the request, and the ordinance for PDD #103 (Planned Development District) was modeled after the regulations governing the neighboring properties. The proposed ordinance includes standards for building materials, signage, landscaping, sidewalks, and access management. The applicant, Abilene Diagnostic Clinic, PLLC, plans to develop a primary parcel with medical uses in support of the Abilene Regional Medical Center, but there will be additional acreage available for retail or other mixed-use development. After beginning the design process following the approval of their rezoning request, the developers determined that the site may be more cohesive if this additional acreage were included in the same zoning district. The PDD (Planned Development District) ordinance allows a variety of uses of parcels with frontage on the State right-of-way, and a more limited list of uses for parcels with frontage only on Directors Parkway, which is a local street. This limitation, along with the internal circulation and pedestrian accommodations required by the ordinance, should aide in concentrating most of the traffic on the State right-of-way where there is greater capacity. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussed the minor, applicant driven changes from the previously approved PDD (Planned Development District) in the area.

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 Davis made a motion to approve **Z-2006-18**, an ordinance considered on second and final reading to rezone 3.3 acres from O (Office) and SC (Shopping Center) to PDD #103 (Planned Development District) zoning, property located at 1665 Antilley Road. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **22-2006** 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-103 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Item 4.6, *Request to rezone 22.5 acres from AO (Agriculture Open Space), RM-3 (Residential Multi-family), and LC (Limited Commercial) to PDD (Planned Development District) zoning, property located at the southwest corner of Jennings Drive and Dub Wright Boulevard* was considered before Item 4.1.

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4.7 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to amend Chapter 23, Subpart D, Subdivision Regulations of the City of Abilene Code, regarding application requirements, procedural requirements, and vested rights.

Mr. James stated Dunkin, Sefko, & Associates, the consulting firm hired to assist with the creation of a new Land Development Code, examined the Subdivision Regulations as part of a comprehensive review of all of the City's zoning and land development policies. As a result, they compiled a list of changes they felt should be completed by City staff prior to the adoption of the full Code. Included on the list were a few items that need to be addressed immediately in order to bring the City's regulations into compliance with recent changes in state law. The proposed amendments are designed merely to address deficiencies in our regulations, and will be followed by another set of amendments in the near future. The later amendments will focus on some of the conceptual shortfalls of the City's current regulations, including development standards on the extra-territorial jurisdiction (ETJ) and proportionality of infrastructure requirements. The proposed amendments include the addition of an "Applications and Procedures" section that will supercede the regulations listed with each individual process. The new section reflects the necessity for a "complete application" prior to staff review of any plans or proposed plats. The new policy requires developers to submit corrected copies of Preliminary Development Plans and Preliminary Utility Plans prior to platting and sets firm deadlines for each step in the subdivision process. The amendments also designate expiration dates for projects currently under review and any future applications submitted after the adoption dated of the new policy. Mr. James noted staff has also included some text that should be deleted to be consistent with the new policies, or to reflect necessary changes in the review process that were not addressed through the new "Applications and Procedures" section. Staff and the Planning and Zoning Commission recommend approval of the amendments.

Council and staff discussion included: 1) staff noting the state now requires submission requests to be submitted electronically and in hard copy; 2) timelines as reflected on the subdivision process chart; 3) staff explained requirements noted in the "30-day Action" section of the proposed ordinance, and; 4) no concern on the proposed changes having been voiced by groups that staff has met with.

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

Councilwoman Moore made a motion to approve an ordinance considered on second and final reading to amend Chapter 23, Subpart D, Subdivision Regulations of the City of Abilene Code, regarding application requirements, procedural requirements, and vested rights. Councilman Spano seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

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The Ordinance is numbered 23-2006 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.

4.8 Jon James, Director of Planning and Development Services briefed the Council on the 2006-2010 Capital Improvements Program (CIP) and proposed projects for the 2006 Certificate of Obligation Sale.

Mr. James stated the City of Abilene's Capital Improvements Program (CIP) is a 5-year plan used to identify needed capital projects and to coordinate the financing and timing of these projects. The CIP is a method of planning for the effective and efficient provision of public facilities, infrastructure improvements, major maintenance requirements, and acquisition of property and equipment. The first year of the CIP represents the City Manager's recommendations to the City Council as the Capital Improvements Program budget. Capital improvements are major construction or acquisition efforts, which are non-recurring in nature. Generally, capital improvement projects are defined as follows:

- Construction of buildings or facilities; including design, engineering, and other preconstruction costs with an estimated cost in excess of \$25,000;
- Purchase of major equipment and vehicles, other than office and data processing equipment, valued in excess of \$25,000 with a life expectancy of fifteen years or more;
- Major equipment or furnishings required for the utilization of new or renovated buildings, or;
- Major acquisition of land or other property;
- Studies pertaining to capital improvements that require the employment of outside professional consultants at a cost in excess of \$25,000.

The principal benefit of Capital Improvements programming is that it requires the City to balance needed capital improvements with available financing. This process contributes to a responsible fiscal policy. Additionally, the CIP is an important tool for implementing the recommendations of the Comprehensive Plan over time. The process begins with the distribution of instructions to Department Heads requesting projects for consideration for the next five-year CIP period. Each Department Head is responsible for reviewing the most recent CIP to determine the funding necessary for projects that are currently programmed in the CIP and the Strategies identified in the Comprehensive Plan. Based on this review of new requirements for capital improvements for the next five-year period, the Department Head completes a Project Sheet. Once the Project Sheets are completed and prioritized, the 5-Year Plan is submitted to the Planning & Zoning Commission for review and recommendation to the City Manager. During this process, appropriate funding is determined for each of the first year projects, and a proposed capital budget and 5-year plan is submitted by the City Manager to the City Council for their consideration and approval. The Finance Department conducts an analysis of the capital project requests to assure that sufficient data has been provided and that cost estimates are reasonable. Upon Council adoption, the final CIP document is produced and distributed to the Departments for implementation of the program. At the May 1, 2006 Planning and Zoning Commission meeting the proposed 2006-2010 Capital Improvements Program

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was reviewed and recommended to the City Manager by a vote of 5 in favor (Harkins, Boykin, McClarty, Campos, and Miller) and 2 opposed (Luther and Long). The proposed projects for the Certificates of Obligation Sale amount to approximately \$5.8 million and can be funded within the current certificate debt tax rate policy of 10.7 cents; therefore, in keeping with City Council policy, no increase in the debt tax rate will occur as a result of the certificates.

Council and staff discussion included: 1) staff noting slight changes in some of the information submitted to Council in the CIP notebook; 2) status of Maple Street reconstruction and E.N. 10th Street; 3) the financing process of CIP projects; 4) analyzing various aspects of covered parking at the Airport; 5) percentages reflected in the 2006 Distribution by Category (projects); 6) staff noted reasons for two Planning and Zoning Commission members opposing the CIP; 7) Council suggested the City Manager provide new Councilmembers with last year's CIP projects so they can compare what was unfunded then and what is being recommended to not be funded this year, and; 8) staff to provide corrected information on discrepancies noted between summary and worksheet.

Mayor Archibald stated no action is required on this item today. The Mayor encouraged the Council to further study the Capital Improvements Program (CIP) and proposed projects and to contact the City Manager with any questions they may have.

No Council action required.

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 A. Councilman Chase made a motion to approve Mayor Archibald's re-appointments of Joe Canon and Gary McCaleb, and appointment of Mike Waters to the position previously held by Syd Niblo on the West Central Texas Municipal Water District, terms expiring May 2008. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

5.4 B. No action was taken on the appointment to the Planning and Zoning Commission.

5.5 Councilman Spano made a motion to elect Councilwoman Moore as Mayor Pro Tempore and Councilman Higgins as Deputy Mayor Pro Tempore. Councilman Chase seconded the motion and the motion carried.

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AYES: Councilmen Chase, Spano, Higgins, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

There being no further business, the meeting was adjourned at 3:15 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor