

CITY COUNCIL MEETING
September 14, 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 September 14, 2006, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Joe Spano, Anthony Williams, Stormy Higgins, and Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff.

Councilman Spano gave the invocation.

Mayor Archibald introduced Anthony Drayton, a 5th grade student from Reagan Elementary School, who led the Pledge of Allegiance. Anthony's principal Moses Hall was also in attendance.

EMPLOYEE SERVICE AWARD

Mayor Archibald, assisted by City Secretary Jo Moore, presented Employee Service Awards to the following individuals for their years of service:

25 Years	Pete Beretta	Fire Lieutenant Fire Department
25 Years	Josue Flores	Body & Fender Repairer II Fleet Maintenance
25 Years	George Hollingsworth	Firefighter Fire Department
25 Years	William Myers	Firefighter Fire Department
25 Years	Alan Plumlee	Assistant Fire Chief Fire Department
20 Years	Mary Anne Sides	Supervisor II Call-For-Help / Community Services

PROCLAMATION

Mayor Archibald presented a proclamation to Billy Enriquez of the Access Learning Center proclaiming September 18th – 24th as "National Employ Older Workers Week".

DISPOSITION OF MINUTES

2.0 There being no corrections, additions or deletions to the minutes of the August 24, 2006 Regular Council Meeting or the August 28, 2006 Special Council Meeting Councilman Higgins made a motion to approve the minutes as presented. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Councilman Chase requested that agenda item 3.9, "*Bid #CB-6074 – Animal transport bodies for the Animal Services Division*", be removed from the Consent Agenda and considered separately.

Councilwoman Moore made a motion to approve consent agenda items 3.1 through 3.3, first reading of items 3.4 through 3.6, and items 3.7 and 3.8, as recommended by staff. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

- 3.1 Oral Resolution approving a Street Use License Agreement with Hardin Simmons University to control vehicular access on Simmons Avenue and authorizing the Mayor to execute the agreement.
- 3.2 Resolution authorizing the name change of the Animal Control Advisory Committee to the Animal Services Advisory Board.

The Resolution is numbered **31-2006** and captioned as follows:

RESOLUTION OF THE CITY OF ABILENE (CITY) AUTHORIZING THE NAME CHANGE OF THE ANIMAL CONTROL ADVISORY COMMITTEE TO THE ANIMAL SERVICES ADVISORY BOARD.

- 3.3 Resolution replacing Resolution No. 17-2005 concerning the City of Abilene Youth Advisory Council.

The Resolution is numbered **32-2006** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS REPLACING RESOLUTION 17-2005 CONCERNING THE CITY OF ABILENE YOUTH ADVISORY COUNCIL OF ABILENE, TEXAS.

Ordinances:

- 3.4 **Pending Appeal: Z-2006-25** – Request to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at 2582 Waldrop Drive; and set a public hearing for September 25, 2006 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, “ZONING”, OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-109 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.5 **Z-2006-36** – Request to rezone property from HC (Heavy Commercial), LI (Light Industrial), GC (General Commercial), and AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at the northwest corner of I-20 and Musgrave Boulevard, approximately 1,700 feet southeast and northeast of the Highway 351 I-20 intersection; and set a public hearing for September 25, 2006 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, “ZONING”, OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-113 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 3.6 Ordinance amending Section 18-285 (Increased Speed Limits), Section 18-286 (Decreased Speed Limits-School Zones), and Section 18-299 (Parking Time Limited) of Chapter 18 “Motor Vehicles and Traffic” of the Abilene Municipal Code.

AN ORDINANCE AMENDING CHAPTER 18, “MOTOR VEHICLES AND TRAFFIC” OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

Bid Awards:

- 3.7 **Bid #CB-6067** – Law Enforcement Center Boiler Replacement Project. The bid was awarded to Batjer and Associates, Abilene, TX in the amount of \$74,000.00. Funds in the amount of \$46,000.00 will come from Certificates of Obligation with Taylor County paying the remaining \$28,000.00.
- 3.8 **Bid #CB-6072** – Platform dump truck for Parks Maintenance. The bid was awarded to R.L. Anderson International, Inc., Abilene, TX in the amount of \$51,800.00.
- 3.9 **Removed from the Consent Agenda and considered separately: Bid #CB-6074** – Animal transport bodies for the Animal Services Division.

Item 3.9 removed from the Consent Agenda and considered separately:

3.9 Bid #CB-6074 – Animal transport bodies for the Animal Services Division.

Councilman Chase questioned: 1) why the City is considering this bid with only one vendor having bid; 2) whether Jones Trailer bid, and; 3) why the specs requested fiberglass bodies.

Staff noted the City has three animal transport bodies and that the two (2) units being purchased are to replace units that are worn out and are no longer cost-effective to maintain. The units will be attached to City-owned pickup trucks and utilized primarily to transport abandoned and stray dogs to the City's animal shelter. Each unit is designed to safely and securely carry up to six (6) animals, with each in a separate cage. Six (6) bid invitations were requested with two (2) vendors submitting bids. The bodies are specialized units, which limits the number of potential bidders. Air conditioning capability for the cages was requested by specifications to minimize trauma to transported animals during the hot summer months. The bid submitted by Shor-Line did not provide air conditioning. Staff explained the benefits of the fiberglass versus metal bodies and noted that Jones Trailer is on the city's bid list and they did receive an invitation to bid. Staff recommends the bid be awarded to SWAB Wagon Co., the sole responsive bidder, in the amount of \$29,050.00.

Following Council and staff discussion Councilman Chase made a motion to approve **Bid #CB-6074 – Animal transport bodies for the Animal Services Division** and to award the bid to SWAB Wagon Co., Inc., Elizabethtown, PA in the amount of \$29,050.00, as recommended by staff. Councilwoman Davis seconded the motion, and the motion carried.

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

NAYS: None

REGULAR AGENDA

4.1 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to amend Section 23-260 of Chapter 23, Subpart D of the Abilene Municipal Code, Subdivision Regulations regarding adequate Public Facilities and Proportionality.

Mr. James stated the proposed subdivision ordinance changes are based on the recommendation of Dunkin, Sefko and Associates, the consulting firm working on the City's Land Development Code project. These are additional changes that they recommended to be accomplished as soon as possible in order to comply with state law requirements and recent court decisions. The City's Subdivision Ordinance currently has a basic requirement that properties being subdivided must show that they have adequate public facilities and infrastructure to support the new subdivision. The City's current ordinance does not clearly specify what this means and the proposed ordinance change would remedy that by clearly specifying the adequate public facilities standards for the City.

The proposed amendment also includes an appeal process whereby an applicant can claim that an infrastructure requirement being imposed through the subdivision process is disproportionate to the subdivision's impact on the system. Staff and the Planning and Zoning Commission recommend approval of the proposed amendments.

Council and staff discussion included: 1) the time and cost involved in the appeal process; 2) developers being aware of issues prior to the appeal process starting, and; 3) staff having no concerns with possibly extending the time the study in support of the petition is filed.

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

- Eddie Chase – Mr. Chase suggested Council consider increasing the recommended time the study in support of the petition is filed from 30 days to 60 days which would increase the total extension time to 90 days.

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

Councilman Williams made a motion to approve an ordinance considered on second and final reading to amend Section 23-260 of Chapter 23, Subpart D of the Abilene Municipal Code, Subdivision Regulations regarding the Adequate Public Facilities and Proportionality with an amendment to "Section (2) Petition Requirements (d) Time for Filing Petition and Study" increasing the time the study in support of the petition is filed from 30 days to 60 days, which increases the potential total extension time to 90 days. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **45-2006** and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT", SUBPART D, "SUBDIVISION REGULATIONS", 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.

4.2 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-32**, an ordinance considered on second and final reading to rezone property from RS-8/COR (Residential Single-family with Corridor Overlay) to LC/COR (Limited Commercial with Corridor Overlay), property located at 5909 Buffalo Gap Road.

Mr. James stated the applicant plans to construct an office or low-density multi-family development on the parcel. The property is surrounded by an established neighborhood of single-family homes. A non-residential use would cause a greater amount of traffic on the adjacent local

City Council Meeting

September 14, 2006

Page 6

street since it may become the only access to the parcel and the nearest non-residential zoning is over one-third of a mile away from the subject parcel. The adjacent arterial makes the location appropriate for slightly denser residential development, but staff is concerned that non-residential development may cause an undesirable amount of additional traffic along the local street due to the Texas Department of Transportation (TxDOT) and Corridor Overlay driveway limitations. RM-3 zoning would allow a maximum of three (3) units on the parcel. The Comprehensive Plan does not provide any specific recommendations for this property, although the Future Land Use Plan shows low density residential development around the general area of the request. The Proposed Land Use section of the Buffalo Gap Road Corridor Study, adopted in June 1994, calls for low density residential development on and around the subject parcel. Staff and the Planning and Zoning Commission recommend Council approve RM-3/COR (Residential Multi-family with Corridor Overlay) zoning instead of RS-8/COR (Residential Single-family with Corridor Overlay) zoning. This item requires a super-majority (six affirmative) vote of Council for approval.

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

- Yi-Chien (Jenny) Lien, proponent – Ms. Lien distributed to Council information concerning new development facts on Buffalo Gap Road since 1981 (4 miles between south 25th and Antilley Road). Ms. Lien reviewed the submitted information and stated that people don't want to live on busy streets like Buffalo Gap Rd. Ms. Lien further stated the lot is perfect for an office building and the requested limited commercial rezone would be the best type of development for the future and would be an improvement to the current poor condition of the area. Ms. Lien noted other commercial offices on Buffalo Gap have not affected residential property values. Ms. Lien requested if Council cannot approve the LC zoning to consider rezoning the lot to Office. Ms. Lien stated she would not build single family homes on the lot and reiterated that no one would want to live there.
- Von Sossamon – Mr. Sossamon stated he is opposed to the request and feels that the rezone would affect all property values. Mr. Sossamon further stated that he is concerned with the safety of the children in the area that would be affected by traffic issues (speed and number of vehicles) if the rezone were approved.
- Fred Lee Hughes, resident – Mr. Hughes reminded Council that the area had been zoned residential/single family for many years and that the owner bought the property knowing it had that zone designation. Mr. Hughes noted his resentment to the implication that his neighborhood is in a run down condition and to the fact that there will be more traffic if commercial zoning is approved. Mr. Hughes asked the Council to consider the neighbors in the area and to allow the proponent to build one duplex on the lot.
- Rebecca Rampy, resident – Ms. Rampy stated she is opposed to the request and is concerned with the future of the area and the people in the area and with the increase in traffic that might occur. Ms. Rampy further stated the property should be maintained now by the property owner.

- Mishi Mathur – Ms. Mathur stated the area cannot afford to have more traffic and she asked Council to consider the issues as presented by Mr. Fred Lee Hughes.
- Vicki Anderson – Ms. Anderson suggested the area remain as single family because it is surrounded by residential and Ms. Anderson stated that renters don't take as good as care of property as property owners do.

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

Discussion included: 1) issues concerning the TxDot driveway limitations; 2) RM-3 zoning limitations/flexibility and what could be built under the current zoning; 3) staffs response to comments that it is evident that no homes will be built on Buffalo Gap Road; 4) uses allowed in LC zoning districts; 5) City Council's authority to approve LC or more restrictive zoning; 6) a duplex could be built under RM-3 zoning; 7) many of the homes on Buffalo Gap Rd. were pre-existing; 8) the Buffalo Gap Corridor Plan having been adopted by Council in June 1994; 9) no single family homes have been built in the area in 25 years; 10) Council questioned if this is the appropriate time to begin Office/Commercial zoning in the area; 11) the intention of the Corridor Overlay study; 12) the issues created when residents don't want land buffered but developers do, and; 13) Council's concerns with potential PDD zoning.

Councilman Spano made a motion to deny LC (Limited Commercial) and O (Office) zoning and to approve RM-3/COR (Residential Multi-family with Corridor Overlay) zoning, as recommended by staff and the Planning and Zoning Commission, concerning **Z-2006-32**, a request to rezone property from RS-8/COR (Residential Single-family with Corridor Overlay) to LC/COR (Limited Commercial with Corridor Overlay), property located at 5909 Buffalo Gap Road. Councilman Williams seconded the motion, and the motion failed.

AYES: Councilmen Chase, Spano and Williams.

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

Council recessed for a break at 10:30 a.m. and reconvened at 10:35 a.m.

4.3 Jon James, Director of Planning and Development Services briefed the Council on **Appealed Item Z-2006-33**, an ordinance considered on second and final reading to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) zoning, property located at 2549 Shirley Road.

The current commercial building was originally built before the property was annexed into the City in 1984 and uses of the site have included an auto repair business and the house on the property has been used as an office and a security residence for the businesses. The property has been vacant for approximately four months. The property could be used for the last commercial uses as long as it is not closed for a period of time greater than 6 months. This is currently a rural area with no other commercial activities surrounding it. The applicant is proposing to sell or lease the property to a construction company that builds steel buildings and who is in need of a new satellite

City Council Meeting

September 14, 2006

Page 8

location in Abilene. The company does some steel assembly at their shop and also leases cranes for general requests. This use would fit most closely into building construction or manufacturing category of the City's permitted use chart. If the applicant utilizes the site as an office and a storage site, the use could be placed into HI (Heavy Industrial), LI (Light Industrial), HC (Heavy Commercial), or GC (General Commercial) zoning with conditions. If the applicant uses the site for manufacturing materials, it would only be allowed in HI (Heavy Industrial) or possibly LI (Light Industrial) if a Special Exception were obtained from the Board of Adjustment. The Comprehensive Plan has designated this area as a sensitive development area due to the majority of it being in the flood zone, its close proximity to Elm Creek and the fact that it is part of the busiest gateway into the City. Staff believes that rezoning the property to HC (Heavy Commercial) is not in the best interest of the public and that the area has great potential to develop as a low density residential area. Staff and the Planning and Zoning Commission recommend denial of the request.

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

- Eddie Chase, representing agent Burl McAllister – Mr. Chase stated the site has been used as a construction yard for many years. Mr. Chase presented information on other property in the area and noted reasons that this is a good site for heavy commercial zoning. On behalf of the property owners Mr. Chase stated the applicant has determined rezoning a portion of the land to heavy commercial and another portion to general commercial would meet his needs and Mr. Chase requested Council approve the front portion (4.77 acre tract) for heavy commercial zoning and the back portion (5.68 acre tract) for general commercial zoning.
- Albert Pitman – Mr. Pitman stated he is in agreement with rezoning the property to heavy commercial and feels it is the best use of the land. Mr. Pitman submitted photos of the area that showed the access to I 20, Elm Creek and tree buffers, and Shirley Road.

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

Council and staff discussion included: 1) staff stated if commercial zoning is considered that general commercial would be more appropriate than heavy commercial; 2) Council noting that heavy commercial zoning already exists in the area; 3) the remapping of areas throughout the city that will be done by city consultants, and; 4) the importance of the trees on the property remaining for buffer purposes.

Councilwoman Davis made a motion to approve **Appealed Item Z-2006-33**, an ordinance considered on second and final reading as amended, to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) on the southern 4.77 acre tract and to GC (General Commercial) zoning district on the northern 5.68 acre tract, property located at 2549 Shirley Road. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **46-2006** 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 **SNC-2006-01**, an ordinance considered on second and final reading to change the name of "AISD Drive" to "Prof Bynum Way", street located south of Luzon Street between S. Judge Ely Boulevard and Sunrise Avenue.

Mr. James stated the property was recently platted to allow development of a new middle school, which is currently under construction. The process that was used to choose the name of the street and the middle school was not complete at the time the plat was reviewed. In order to begin construction to have the school available for use in Fall 2007, the school district assigned the street a neutral temporary name. The voting is now complete and the name has been chosen, the applicant, Abilene Independent School District, is now requesting that the name be officially changed. The same surname is being used in two other areas: Bynum Street is located within the city limits and Bynum Lane is located in the ETJ near Potosi. Although they are similar, the addition of the word "Prof" at the beginning sufficiently differentiates the new street. Staff, the Plat Review Committee and the Planning and Zoning Commission recommend approval of the request.

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

Councilman Williams made a motion to approve **SNC-2006-01**, an ordinance considered on second and final reading to change the name of "AISD Drive" to "Prof Bynum Way", street located south of Luzon Street between S. Judge Ely Boulevard and Sunrise Avenue. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **47-2006** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, FOR A STREET NAME CHANGE OF AISD DRIVE TO PROF BYNUM WAY, AS DESCRIBED BELOW AND CALLING A PUBLIC HEARING.

City Council Meeting

September 14, 2006

Page 10

4.5 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to amend Sections 23-303, 23-332, 23-344, 23-356, and 23-363 of the Zoning Ordinance regarding Historic Zoning Districts and the Landmarks Commission.

Mr. James stated the proposed changes have been a matter of informal discussion between staff and the Landmarks Commission for a number of years. One of the problems include making an applicant wait on a building permit because the property is on a list of historic properties. One of the proposed changes would allow the Landmarks Commission to review a building's status and not involve delaying a permit. Under the current ordinance the Landmarks Commission has to wait for a permit application before it can consider a property's designation. The proposed changes would allow a review of a property at any time. A summary of the major changes are listed as follows:

- District Standards and a District Standards Committee in the place of District Design Guidelines and District Design Committee
- The removal of historic districts a planned developments; all historic zoning will be an overlay zoning on individual properties or districts. Each district would be governed by its own unique standards, including land use
- Super majority (6 votes) not needed by Landmarks Commission
- Appointment of the District Standards Committee by the Landmarks Chairperson and change in the structure of that committee
- The explanation of contributing and noncontributing properties in districts
- Change in the 12 month demolition delay to more of direct response or appeal of the Landmarks decisions on demolition
- The Commission can review a property's historic status and start the zoning process
- Definition changes to match the proposed ordinance changes

Staff, the Planning and Zoning Commission and the Landmarks Commission recommend approval of the amendments.

Council and staff discussion included: 1) staff noting Council ultimately decides if a property is designated historic; 2) the intensity of historic zoning and issues concerning distinguishing between a remodel and a demolish; 3) staff explained historic districts don't exist in Abilene (depending on how historic district is defined); 4) historic zoning/historic significance; 5) time frame involved in historic designation process; 6) Council's concerns of removing property owners options; 7) Landmarks Commissions powers and limitations; 8) time frame involving demolition process; 9) Council's concerns of balance needed between homeowners and the City; 10) Council stating a better understanding of the process is needed; 11) Council requested staff provide information concerning the process (i.e. chart format) and stated a desire to dialogue with the Landmarks Commission concerning pro's and con's to the issue, and; 12) staff noted that no property would be placed in jeopardy if Council were to table this item today.

City Attorney Sharon Hicks stated that although a public hearing has been posted on this item and would need to be held at some point the Council could table the item today and hold the public hearing at a later date.

City Council Meeting
September 14, 2006
Page 11

Mayor Archibald made a motion to table for further review and clarification of processes, an ordinance considered on second and final reading to amend Sections 23-303, 23-332, 23-344, 23-356, and 23-363 of the Zoning Ordinance regarding Historic Zoning Districts and the Landmarks Commission. Councilman Chase seconded the motion.

Council discussed the possibility of the ordinance being reconsidered by November 2006. The motion carried.

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

NAYS: None

4.6 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to amend Sections 23-306.4 and 23-306.5 of the Zoning Ordinance regarding tattoo parlors as a permitted use.

The proposed amendment is the result of the recent issue with the tattoo parlor at South 7th Street and Ruidosa Drive. Although the Planning and Zoning Commission has already recommended approval to the City Council on that particular case, the Planning and Zoning Commission requested that staff research and propose amendments to the Zoning Ordinance regarding tattoo parlors. The permitted use chart in the Zoning Ordinance currently does not list "Tattoo Parlors" or any similar use. The interpretation made by the Planning and Zoning Commission over twelve (12) years ago was that tattoo parlors would be permitted in SC (Shopping Center), GC (General Commercial), HC (Heavy Commercial), LI (Light Industrial), and HI (Heavy Industrial) zoning districts. Since that time this interpretation has been used consistently. Staff has researched and reviewed a number of ordinances to assist with this amendment. Two (2) cities were found that had separation requirements. Typically cities make the need for such separations to protect the general public in some way, such as sexually oriented businesses. There does not appear to be any similar studies for tattoo parlors, however, the research that does exist for tattoo parlors is related to health issues not land use. Therefore, staff does not recommend any separation requirements for tattoo parlors. Staff recommends that tattoo parlors be specifically listed in the Zoning Ordinance as a permitted use in GC (General Commercial), HC (Heavy Commercial), LI (Light Industrial), and HI (Heavy Industrial) zoning districts and permitted by Special Exception in LC (Limited Commercial) and SC (Shopping Center) zoning districts. The Special Exception process would allow each specific location to be reviewed for compatibility within an area and the Board of Adjustment may place conditions on their approval that could help make a tattoo parlor more appropriate for a given location. The Board of Adjustment may also approve a request with no conditions or deny the request entirely. The consultants for the Land Development Code and staff will be recommending that the current "Special Exception" process be eliminated and that a "Conditional Use" permit process be created. The Conditional Use process would be considered by the Planning and Zoning Commission instead of the Board of Adjustment. Therefore, it is staff's intention that in the LC (Limited Commercial) and SC (Shopping Center) districts (or similar new districts) that tattoo parlors would be permitted by conditional use permit in the Land Development Code when the document is complete. Staff also proposes a definition for tattoo parlors that specifically exempts permanent make-up and would allow that where it is incidental to a beauty parlor in any district that permits beauty parlors. Tattooing (including permanent make-up) is under the regulation of the Texas Department of Health Services. Staff and the Planning and Commission recommend approval of the proposed amendment.

City Council Meeting
September 14, 2006
Page 12

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

Council and staff discussed the “Special Exception” process that will be eliminated (or will become very narrow), and the “Conditional Use” permit process that will be created.

Councilwoman Davis made a motion to approve an ordinance considered on second and final reading to amend Sections 23-306.4 and 23-306.5 of the Zoning Ordinance regarding tattoo parlors as a permitted use. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **48-2006** 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.

Mayor Archibald stated that Agenda Item 5.4 an “Oral Resolution approving Texas Local Government Code, Chapter 142 Subchapter B, Meet and Confer Agreement with Local 1044 of the International Association of Firefighter’s” has been postponed.

5.0 Executive Session was not held.

5.4 No action was taken on an Oral Resolution approving Texas Local Government Code, Chapter 142 Subchapter B, Meet and Confer Agreement with Local 1044 of the International Association of Firefighter’s.

There being no further business, the meeting was adjourned at 11:45 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor