

CITY COUNCIL MEETING
October 12, 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 October 12, 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 Councilwoman Celia Davis. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff. Councilwoman Laura Moore was absent.

Councilwoman Davis gave the invocation.

Mayor Archibald introduced Olivia Southerland, a 4th grade student from Thomas Elementary School, who led the Pledge of Allegiance. Olivia's mother was also in attendance.

Mayor Archibald stated Regular Agenda item 4.1, *appealed item Z-2006-25, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at 2582 Waldrop Drive*, has been removed from today's agenda at the request of the respective parties and will be considered at the Council's next regular Council meeting which has been moved from October 26, 2006 to October 19, 2006.

The Mayor noted Councilwoman Moore's absence from today's meeting is due to her serving on jury duty.

EMPLOYEE SERVICE AWARDS

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

30 Years	Bobby Baugus	Firefighter Fire Department
25 Years	Michael Hardesty	Equipment Operator II Street Services
25 Years	Thomas Valdez	Police Officer Police Department

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- "Domestic Violence Awareness Month" for the month of October
- "National Physical Therapy Month" for the month of October

PRESENTATION / RECEPTION

Mayor Archibald introduced Marianne Wood, Curator of Education for the Center for Contemporary Arts. Ms. Wood explained the function of the Art Reach program that serves students in the City's recreation program during the summer and encouraged those in attendance to view the students' art work that is on display in City Hall.

Mayor Archibald recessed Council at 9:00 a.m. and invited those in attendance to attend a reception in honor of the Art Reach Program students and their families.

Mayor Archibald reconvened Council at 9:10 a.m.

DISPOSITION OF MINUTES

2.0 There being no corrections, additions or deletions to the minutes of the September 25, 2006 Regular Council Meeting Councilman Higgins made a motion to approve the minutes as presented. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Councilwoman Davis made a motion to approve consent agenda items 3.1 through 3.3, and first reading of item 3.4, as recommended by staff. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

- 3.1 Oral Resolution authorizing the creation of a Regional Air Service Advisory Council.
- 3.2 Oral Resolution approving an Agreement, effective September 21, 2006, between the City of Abilene and the Board of Managers for the 9-1-1 Emergency Communication District, for the City to administer the 9-1-1 Program and designating the City Manager or his designee as the 9-1-1 Program Administrator.
- 3.3 Resolution requesting state support for increased funding for the Texas Recreation & Parks Account Local Park Grant Program and the Texas State Park System.

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The Resolution is numbered **34-2006** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS REQUESTING THE MEMBERS OF THE 80TH LEGISLATIVE SESSION OF THE STATE OF TEXAS SUPPORT INCREASED FUNDING FOR THE TEXAS RECREATION & PARKS ACCOUNT LOCAL PARK GRANT PROGRAM AND THE TEXAS STATE PARK SYSTEM.

Ordinance:

- 3.4 Ordinance adopting the Texas Municipal Retirement System (TMRS) 20 year at Any Age Service Retirement Eligibility Provision; and set a public hearing for October 19, 2006 at 8:30 a.m.

AN ORDINANCE AFFECTING PARTICIPATION OF CITY EMPLOYEES IN THE TEXAS MUNICIPAL RETIREMENT SYSTEM GRANTING THE ADDITIONAL RIGHTS AUTHORIZED BY SECTION 854.202(g) OF TITLE 8, TEXAS GOVERNMENT CODE, AS AMENDED, AND PRESCRIBING THE EFFECTIVE DATE FOR THE ORDINANCE.

REGULAR AGENDA

- 4.1 Mayor Archibald reiterated that *appealed item Z-2006-25, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at 2582 Waldrop Drive*, has been removed from today's agenda and will be considered at the October 19th Council meeting.

- 4.2 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-24**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at the southeast corner of Jennings Drive and Dub Wright Boulevard.

Mr. James stated the property is located directly southeast of Dyess Air Force Base along the east side of Dub Wright Boulevard, which is a roadway designated as a Visual Pathway by the Thoroughfare Plan. The applicant is requesting to develop the majority of the property with Self-Storage units with possible commercial uses along frontage of Dub Wright Boulevard. The property's proximity to Dyess Air Force Base heightens the need for a quality development with an attractive appearance. With this in mind, staff felt that a PDD (Planned Development District) would be appropriate to ensure the long-term quality of the development and to allow enhanced appearance standards for the structures that will be visible from the right-of-way. The aesthetic provisions in the proposed ordinance are consistent with the recently approved PDD (Planned Development District) located north of the parcel across Jennings Drive (Z-2006-23). It offers reduced setbacks to increase the buildable area of the tract if parking is not located between the structures and the right-of-way and 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 Future Land Use portion of the Comprehensive Plan designates a large area around the request as a

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location for low-density residential development. However, non-residential uses are generally considered appropriate when located at the intersection of an arterial and a collector. 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. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussed the possibility of storage units being placed anywhere on the property with some screening and building requirements.

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

- David Todd, representing the applicant, Glen Weatherbee – Mr. Todd stated the proposed self-storage units would be utilized for commercial use but would have the same screening as the storage units to the north of the property. Mr. Todd further stated Mr. Weatherbee is in agreement with the proposed ordinance.

Councilman Chase stated that although he is in favor of the proposed ordinance, that does not mean he is in favor of all that is in the proposed PDD (Planned Development District) being in all PDD's (Planned Development District). Council Chase further stated he is very interested in input from the community (i.e. developers, builders, architects, etc.) and that he sees the need for a committee to be appointed to review such issues as landscaping and signage. Councilman Chase asked Mr. Todd if he would be willing to provide constructive comments to a committee created for that purpose. Mr. Todd stated he would be willing to do that.

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

Councilman Williams made a motion to approve item **Z-2006-24**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, property located at the southeast corner of Jennings Drive and Dub Wright Boulevard. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **51-2006** 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-106** 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-2006-34**, an ordinance considered on second and final reading to amend PDD-75 (Planned Development District) zoning regarding outdoor storage and display, property located at 4450 & 4590 Southwest Drive.

Mr. James stated PDD-75 (Planned Development District) was created primarily for Home Depot, however Tractor Supply was also a likely use in the PDD (Planned Development District). The ordinance prohibits outdoor display in parking and landscaped areas. Tractor Supply has made a practice of displaying items in both. Staff received a complaint concerning the business's outdoor display and upon investigation staff determined that there are many items stored or displayed on the Tractor Supply property in violation of the PDD (Planned Development District) ordinance, both in the parking area and landscaped area. The Home Depot has a small number of items displayed in landscaped areas, in violation of the PDD (Planned Development District) ordinance. Tractor Supply submitted a request to allow outdoor display in a number of locations on the property, including landscaped areas and on 46 parking spaces, 35 of which are required spaces. The approved site plan for the site shows a 17,000 square feet outdoor display area on the east side of the building which has been utilized since the building was constructed and conforms with the PDD (Planned Development District) ordinance. The applicant has accommodated much of the storage under the existing ordinance. However, Tractor Supply wishes to utilize the large landscape island in the middle of the parking area for outdoor display, in which they are willing to limit the display to one item of each product. In staff's opinion the area is intended to be landscaped and outdoor displays should not be approved. Staff does not support the proposed amendment. The Planning and Zoning Commission tabled the item on August 7, 2006 and later recommended approval of the request at their September 5, 2006 board meeting.

Council and staff discussion included: 1) how the Wal-Mart PDD (Planned Development District) compares to the Tractor Supply PDD; 2) the compliance process; 3) enforcement concerns and the possibility of lack of enforcement leading to more violations; 4) minimum parking space requirements; 5) staff noting the consultants for the Land Development Code will be reviewing parking studies, and; 6) standards criteria (i.e., based on the size of the building not the population of the city).

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

- Joel Cox, manager of Tractor Supply – Mr. Cox stated he anticipates having no issues with the proper display of products in the front of the store and desires to comply with the conditions set forth. Mr. Cox noted he is in agreement with no more than ten (10) different products being displayed and that he wants to comply with the amended PDD as approved by the Planning & Zoning Commission.

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

Councilwoman Davis made a motion to approve **Z-2006-34**, an ordinance considered on second and final reading to amend PDD-75 (Planned Development District) regarding outdoor storage and display, as recommended by the Planning & Zoning Commission, property located at 4450 & 4590 Southwest Drive. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **52-2006** 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-75 AND ORDINANCE NO. 16-2002 A PLANNED DEVELOPMENT DISTRICT; 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-2006-35**, an ordinance considered on second and final reading to rezone property from SC (Shopping Center) to PDD (Planned Development District) zoning, property located 1500 feet northeast of the intersection of Hwy 351 and East Lake Road.

Mr. James stated the applicant wishes to develop this general area with shopping center uses and self-storage units, including climate controlled storage units and recreational vehicle storage in the PDD (Planned Development District). The intensity of this type of land use is very low. The PDD (Planned Development District) has been written to allow this use but will also protect the aesthetics of the area. The subject area is northeast of a major Commercial Business Activity Center that has been designated in the Comprehensive Plan. 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". The applicable objectives have been addressed by the proposed PDD (Planned Development District). Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) requirements regarding structural heights (up to 35' allowed) and screening of recreational vehicles; 2) the area having been zoned SC (Shopping Center) for a long period of time and the proposed PDD also allows shopping centers but adds storage units as an allowed use, and; 3) staff noting their approval of removing from the Site Development requirements, the wording "or a residential area" from the building material requirement that limits the visible façade to glass, EIFS, stucco, stucco like finishes, decorative block, or other similar materials.

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

- Andy Stanton, developer of proposed storage units – Mr. Stanton stated he is in agreement with the Planning and Zoning Commission's proposed ordinance but would request: 1) due to being cost prohibitive, that the screening of recreational vehicles and facades facing the residential areas not be required to be glass, EIFS, stucco, stucco like finishes, decorative block, or similar materials. Mr. Stanton further stated screening that would be provided by landscaping and metal would be appropriate, and; 2) concerning signage, in preparation for future development, that a 30 foot pole sign be approved, to be located closer to the highway for the purpose of the business being visible to traffic.

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

Discussion continued: 1) staff reiterated their approval of removing from the Site Development requirements, the wording “or a residential area” from the building material requirement that limits the visible façade to glass, EIFS, stucco, stucco like finishes, decorative block, or other similar materials; 2) the buffer provided by metal screening and landscaping; 3) the purpose of pole signs versus monument signs; 4) staff noted shopping centers are designed as a unit and a large number of pole signs are undesirable; 5) Council noted a 35 foot (or taller) pole sign would be needed to be seen over a 35 foot structure; 6) Council noted the possibility of waiting for a decision on the pole sign request until a committee is formed to review and recommend on these issues; 7) Council noted the need to consider and make a decision on the request under the current ordinance; 8) Mr. Stanton clarified his request is for a pole sign in addition to the monument sign and addressed the benefits of, and need for, both signs. Mr. Stanton stated in light of the fact that 35 foot structure is allowed he is changing his request from a 30’ pole sign to a 35’ pole sign; 9) staff noted if the property were subdivided a monument sign could be placed on each tract but Council could approve only one 35’ pole sign, and; 10) staff recommended a reduction of the maximum height of a monument sign to 6’ and a maximum area of 60 square feet, if a 35’ pole sign is approved.

Councilwoman Davis made a motion to approve **Z-2006-35**, an ordinance considered on second and final reading to rezone property from SC (Shopping Center) to PDD (Planned Development District) zoning, removing from the Site Development requirements, the wording “**or a residential area**” from the building material requirement that limits the visible façade to glass, EIFS, stucco, stucco like finishes, decorative block, or other similar materials, allowing one 35’ pole sign in the PDD and reducing the monument sign size requirement to a maximum height of 6’ and a maximum area of 60 square feet, with sign locations to be determined by staff and the applicant, property located 1500 feet northeast of the intersection of Hwy 351 and East Lake Road. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **53-2006** 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-112 A PLANNED DEVELOPMENT DISTRICT; 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-2006-37**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to RS-6 (Residential Single-family) zoning, property located at the north end of Liberty Boulevard and Valley Forge Road.

Mr. James stated the applicant intends to develop the 9.7 acre parcel with approximately 35-40 single family residences. The proposed development is the next section of an existing residential neighborhood, in which the applicant is proposing to develop further to the north. The proposed section is a small portion of a much larger development that was originally reviewed in 1983. At that

time, the development was proposed to cover approximately 446 acres on the northeast corner of East Lake Road and Highway 351. The request to rezone the 9.7 acre portion is consistent with the long-term plans for residential use in the area. The Future Land Use section of the Comprehensive Plan calls for residential development in the area surrounding the request. The proposed portion is adjacent to developed single-family homes on two sides, which makes it undesirable for a more intensive type of development. After consideration by the Planning and Zoning Commission, the applicant requested consideration of a PDD (Planned Development District) for this area to address setback issues and eliminate the sidewalk requirement. Staff developed a draft PDD ordinance based on this request and the PDD ordinance is included in the Council's agenda packet. Staff and the Planning and Zoning Commission recommend Council approve RS-6 (Residential Single-family) zoning.

Council and staff discussion included: 1) staff clarified their support for the PDD (Planned Development District) zoning to allow the set back requirements but not eliminate the sidewalk requirements; 2) the requested PDD (Planned Development District) zoning by the applicant would require the following: building setbacks along streetside boundaries adjacent to a collector street shall be 20 feet, and sidewalks shall not be required; 3) staff noting the existing development has no sidewalks and all of the development has the 20' set back requirements, and; 4) Council noted the possibility of increasing single family homes in this part of town.

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

- Tal Fillingim, agent – Mr. Fillingim requested Council approve the PDD (Planned Development District) zoning.

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

Discussion continued: 1) staff noting an ordinance for RS-6 zoning and a PDD ordinance has been provided to Council in their Agenda packets; 2) Council viewing the request as a continuation of the existing development, and; 3) staff noting the request does allow the current standards for the area to continue.

Councilman Spano made a motion to approve **Z-2006-37**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to PDD (Planned Development District) zoning, as requested by the applicant, property located at the north end of Liberty Boulevard and Valley Forge Road. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

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The Ordinance is numbered **54-2006** 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-115 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Council recessed for a break at 10:25 a.m. and reconvened at 10:35 a.m.

4.6 Jon James, Director of Planning and Development Services briefed the Council on appealed item **Z-2006-38**, an ordinance considered on second and final reading to rezone property from RS-6 (Residential Single-family) to RM-3 (Residential Multi-family) zoning, property located at 2766 Beech Street.

Mr. James stated the property is a residential lot in an older established neighborhood. According to Building Inspection division records, a single-family residential structure was permitted for the property in 1950. In 1975 a permit was issued to construct a 14' x 24' building that had a listed use of "detached storage". Since that time, the storage building has been added onto and connected to the house without building permits. In addition, at some point the storage building was converted to an apartment without permits and in violation of the Zoning Ordinance. An electrical permit was applied for recently to provide a meter for electrical service to the apartment. When the electrical inspector went to the property it was discovered that the original house had two meters and the inspector did not approve the inspection. Subsequently, the inspector brought the apartment to the attention of the Planning staff to see if it was permitted and could have its own meters. The result is this request for rezoning. This area has always been zoned for single-family residential uses. There is a corner parcel a block to the north that has been rezoned RM-3 (Residential-Multi family). However, placing RM-3 (Residential-Multi family) mid-block in an RS-6 (Residential Single-family) area is not appropriate. Staff is concerned that this could be viewed as spot zoning, but that is not clear as it would be if this request were for some type of commercial zoning. The structure behind the original house was never permitted as a dwelling and cannot be permitted as such without the requested rezoning. The area has historically been single-family residential. There are no plans that recommend changing that. There has been some expansion of CU (College University) zoning in the area, which allows a variety of uses including higher density residential. This one property alone is not appropriate to rezone. However, a larger area may need to be evaluated for more comprehensive rezoning, particularly with the area around Hardin-Simmons University and Hendrick Medical Center being designated as a Special Activity Center in the Comprehensive Plan. Staff recommends denial of the request. The Planning and Zoning Commission determined that approving this case would be illegal spot zoning and therefore unanimously recommended denial.

Council and staff discussion included: 1) staff defining spot zoning as an illegal departure from the Comprehensive Plan and unique characteristics have to be shown to approve such zoning; 2) Council referred to violations as referenced in the staff report; 3) the RM-3 (Residential Multi-family) zoning does not extend farther than two lots; 4) the apartment being connected to the structure by a breezeway and the apartment not being able to be considered a separate dwelling but a single dwelling, which is allowed only one electric meter, and; 5) the possibility of considering regulations for "mother-in-law" units in the future.

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

- Quanah Parker, representing his mother, Lyna Parker – Mr. Parker distributed property appraisal information on the property at 2766 Beech St. and explained use of the house by the family. Mr. Parker stated the house has been used in this way for 56 years and the single-family zoning was discovered by the electrician when he attempted to get a permit to install the second electric meter. Mr. Parker noted the second electric meter was desired so that his mother would not have the renters' electricity charges on her bill.
- Vicki Anderson – Ms. Anderson requested Council deny the request because she feels Council will be inundated with single-family residences requesting to be rezoned to multi-family residences.

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

Discussion continued: 1) the possibility of the 1950 apartment being "grandfathered"; 2) staff clarifying the apartment possibly could be "grandfathered" but the request for two separate electric meters could not be; 3) multi-family zoning in single-family zoning is not allowed and cannot have two electric meters under current zoning; 4) Council's noting the structures roof lines and materials used appear that three different phases of construction have been done on the residence; 5) staff reviewed Council's options in considering request but reiterated that under the current regulations the city has no mechanism for dual metering; 6) this type of issue is on the consultants for the Land Development Code to review, and; 7) Council clarifying if the request is denied the residence would remain as is and the possibility of the zoning request being reconsidered under a special permit in the future after the adoption of the Land Development Code.

Councilwoman Davis made a motion to deny appealed item **Z-2006-38**, an ordinance considered on second and final reading to rezone property from RS-6 (Residential Single-family) to RM-3 (Residential Multi-family) zoning, property located at 2766 Beech Street. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

4.7 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to amend the "City of Abilene Sidewalk Master Plan" to add an appeal procedure.

Mr. James stated the City of Abilene Sidewalk Master Plan was adopted by the City Council on August 10, 2006. The adopted Sidewalk Master Plan includes a process for a waiver of the sidewalk requirements or deviations from the sidewalk standards, which must be approved by both the Planning Director and the City Engineer. At the direction of the City Council, this is a proposed

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amendment to the Sidewalk Master Plan that would provide an appeal to the City Council of a denial of a waiver or deviation and expands the circumstances under which a waiver may be requested. A minor change has been suggested by staff from the ordinance as presented on first reading that will clarify that the “unreasonable disproportionate” standard applies to any project, not just roadway improvements. Staff recommends approval of the amendment.

Mayor Archibald stated this proposed amendment allowing for the appeal process is at the request of the Council.

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.

Mayor Archibald noted a position paper opposing the adoption of the proposed amendment to the Sidewalk Master Plan was submitted at today’s meeting by Brad Carter, President of the Cedar Creek Neighborhood Association.

Councilman Chase made a motion to approve an ordinance considered on second and final reading to amend the “City of Abilene Sidewalk Master Plan” to add an appeal procedure. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **55-2006** and captioned as follows:

AN ORDINANCE AMENDING THE “CITY OF ABILENE SIDEWALK MASTER PLAN”, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

4.8 Tommy O’Brien, Director of Water Utilities briefed the Council on adjusting the Water and Sewer Rates and a Resolution revising the Schedule of Rates and Charges for the Water and Sewer Utility Services.

Mr. O’Brien stated on July 27, 2006 the City Council adopted Water and Sewer rates for all customers. The rates are presented in Resolution No. 25-2006, and in particular in the schedule of rates titled “City of Abilene, Water Utility Department, Schedule of Rates and Charges (“Schedule of Rates”), Effective October 1, 2006”. The rates shown in the “Schedule of Rates” reflect charges to be made to Residential, Commercial, and Industrial class customers. Since the adoption of the rates the Council has requested that the rates be reconsidered. Due to this request, City Administration has postponed the effective date of the adopted rates presented in Resolution No. 25-2006, pending the outcome of Council’s rate reconsideration. It is recommended that the City Council determine, by written resolution, the rates to publish in the Schedule of Rates and Charges for Water and Sewer Service, including when such rates will become effective.

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Mr. O'Brien distributed and reviewed a Comparison of Current and Proposed Water and Sewer Rate Increases and Rate Options for a Target 3 Month Fund Balance from End FY 05/06 to End FY 10/11. Mr. O'Brien briefed the Council on the Reuse Rates Cost of Service analysis including the Capital Cost Recovery, Power Cost Recovery and the Annual Operation/Maintenance Cost (less the demand charge). Mr. O'Brien stated the Proposed "E" Rate Plan has the least impact on customers and staff recommends Council approve the Proposed "E" Rate Plan.

Council and staff discussion included: 1) the current adopted rates and the options reflected under the five proposed rate plans, shown as Proposed A, B, C, D, and E with the possibility of lessening the impact of water and sewer rate increases for commercial, industrial, wholesale and effluent customers; 2) Council's voiced concerns over what is allowed contractually in the event power cost doubles; 3) Council noted need for flexibility to improve what currently exist to be able to move forward in assuring better infrastructure for the future; 4) major reuse customers having put in tremendous amount of infrastructure, having spent capital to project use of effluent and original adopted rates having been a major increase for them; 5) staff noted the downside to the options is that they don't allow room for inflation, but in staff's opinion reaching the 3 month fund balance target in 3 ½ years versus the 1 ½ years is a reasonable risk; 6) Council noted preference for the Proposed "E" Rate Plan as recommended by staff but noted need to further consider rates and implications, and; 7) Mayor Archibald recommended consideration of the rates be placed on Council's October 19, 2006 agenda.

No Council action was taken. Consideration of the Water and Sewer Rates will be on the October 19, 2006 City Council agenda. Council recessed for a break at 12:05 p.m. prior to convening in Executive Session at 12:10 p.m.

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.

Mayor Archibald noted Councilman Williams left the meeting during Executive Session.

5.4 City Attorney Sharon Hicks briefed the Council on the appointment of Trish Aldridge as an Assistant City Attorney, effective October 17, 2006. Ms. Hicks stated it is required by City Charter that the City Council approve the appointments of an Assistant City Attorney.

Councilman Chase made a motion to approve the appointment of Trish Aldridge as an Assistant City Attorney for the Legal Department, effective October 17, 2006. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

There being no further business, the meeting was adjourned at 12:35 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor