

CITY COUNCIL MEETING
November 2, 2006, 5:30 p.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 November 2, 2006, at 5:30 p.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Joe Spano, Anthony Williams, 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 Stormy Higgins was absent.

Councilman Williams gave the invocation.

Mayor Archibald introduced Edjuanna Cooper, who as winner of the Friendship House pumpkin carving contest was named "Mayor for the Day". The Mayor stated as "Mayor for the Day" Edjuanna would be assisting him with presentations at today's meeting.

Mayor Archibald then introduced Caleb Cranford, a 5th grade student from Austin Elementary School, who led the Pledge of Allegiance. Caleb's mother and sister were also in attendance.

Mayor Archibald noted Councilman Higgins absence from today's meeting is due to his being out of town.

EMPLOYEE SERVICE AWARDS

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

25 Years	Anna Montoya	Development & Permit Technician I Planning and Development Services
25 Years	Jesus Lozano	Park Worker Parks
25 Years	Gregory Bristow	Firefighter Fire Department
25 Years	Don Estes	Fire Lieutenant Fire Department
25 Years	Daniel Jacobs	Firefighter Fire Department
25 Years	Richard Lovelace	Firefighter Fire Department
25 Years	Douglas Reno	Firefighter Fire Department
25 Years	Delmar Sessums	Firefighter Fire Department

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25 Years	Larry Swonger	Firefighter Fire Department
25 Years	Robin Talley	Fire Lieutenant Fire Department
25 Years	Lewis Washburn	Firefighter Fire Department
25 Years	Robert Wimberly	Firefighter Fire Department

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

- “Youth Appreciation Week” November 12th-18th, presented to the Breakfast Optimist Club
- “Honorary Citizens of Abilene” presented to Meiqi Zhang of Shandong China and Gvavalin Mahakunkitchareon of Bangkok Thailand. Meiqi and Gvavalin are foreign exchange students attending Cooper High School as 11th graders.

DISPOSITION OF MINUTES

2.0 Mayor Archibald stated Council has been given the minutes from the October 12, 2006 Regular Council meeting. The minutes from the October 19, 2006 Regular Council meeting and Council Workshop will be submitted for consideration at the November 16, 2006 Council meeting. There being no corrections, additions, or deletions to the October 12, 2006 Regular Council Meeting Minutes Councilman Spano made a motion to approve the minutes as presented. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Councilwoman Davis made a motion to approve consent agenda items 3.1 and 3.2, first reading of item 3.3, and items 3.4 through 3.6, as recommended by staff. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

Resolutions:

- 3.1 Oral Resolution ratifying Change Order 1 of the Jay Mills Contracting, Inc. contract for the Terminal Area Drainage – Phase II (Detention Pond).

- 3.2 Resolution relating to a public hearing and approving financing by the Stamford Higher Education Facilities Corporation for the benefit of Abilene Christian University and related matters.

The Resolution is numbered **36-2006** and captioned as follows:

RESOLUTION RELATING TO A PUBLIC HEARING AND APPROVING FINANCING BY THE STAMFORD HIGHER EDUCATION FACILITIES CORPORATION FOR THE BENEFIT OF ABILENE CHRISTIAN UNIVERSITY AND RELATED MATTERS.

Ordinance:

- 3.3 An ordinance extending a Temporary Suspension on the issuance of permits for certain off-premise signs; and set a public hearing for November 16, 2006 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS EXTENDING A TEMPORARY SUSPENSION ON THE ACCEPTANCE OF APPLICATIONS AND THE ISSUANCE OF PERMITS FOR CERTAIN OFF-PREMISE SIGNS.

Bid Awards:

- 3.4 **Bid #CB-7001** – Sears concession building. The bid was awarded to Bulldog Constructors of Texas, Inc., Abilene, TX in the amount of \$131,660.00.
- 3.5 **Bid #CB-7004** – Commercial metal refuse containers for FY-07. The bid was awarded to Fuqua Industries, Inc., Rio Vista, TX as follows:
- Quantity of 44: 2 cubic yard heavy duty front load container with plastic lids, as per specifications. Unit Price of \$385.00; Total Price of \$16,940.00
 - Quantity of 32: 6 cubic yard heavy duty front load container with plastic lids, as per specifications. Unit Price of \$647.00; Total Price of \$20,704.00
 - Quantity of 27: 8 cubic yard heavy duty front load container with plastic lids, as per specifications. Unit Price of \$779.00; Total Price of \$21,033.00
- 3.6 Asphalt melter/applicator crack sealing machine for Street Services. The unit was purchased through the Houston-Galveston Area Council (HGAC) in the amount of \$34,026.33.

REGULAR AGENDA

- 4.1 Jon James, Director of Planning and Development Services briefed the Council on **TC-2006-05**, an ordinance considered on second and final reading to abandon Curry Lane between Sharon Road and Southwest Drive.

Mr. James stated the property owners have concurrently requested rezoning of the surrounding land to prepare for the construction of Kohl's department store and additional commercial space. The street is paved, however the width is substandard for a typical city street and it has no curb and gutter. Although the pavement extends almost to the Southwest Drive right-of-way, the dedication terminates just west of an older home that takes access off of Curry Lane. The proposed commercial development will have driveway access to both Southwest Drive and Sharon Road, which reduces the need for an additional street in this area. Also, additional right-of-way must be dedicated along Sharon Road to provide the necessary width for the future north-south collector street. Staff and the Plat Review Committee recommend approval of the request with the following conditions:

- 1) All abandoned right-of-way and lots with sole access onto abandoned right-of-way must be replatted.
- 2) Easements must be dedicated to accommodate existing utilities unless they are relocated.

The Planning and Zoning Commission recommend approval of the request.

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

- Michael Clark, representing the developer – Mr. Clark stated this item is a prelude to the next item on the agenda, **Z-2006-39**, *a request to rezone property from AO (Agriculture Open Space) and GC (General Commercial) to PDD (Planned Development District) zoning, property located on the south side of Southwest Drive, approximately 300 feet west of Sharon Road*. Mr. Clark noted a plat will be completed in the near future and the utilities will have easements dedicated.

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

Councilwoman Moore made a motion to approve **TC-2006-05**, an ordinance considered on second and final reading to abandon Curry Lane between Sharon Road and Southwest Drive. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **58-2006** and captioned as follows:

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

4.2 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-39**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) and GC (General Commercial) to PDD (Planned Development District) zoning, property located on the south side of Southwest Drive, approximately 300 feet west of Sharon Road.

Mr. James stated the applicant proposes to develop the site in preparation for the construction of a Kohl's department store and several smaller retail establishments. The proposal is similar in appearance to the nearby Shops at Abilene development and will occupy approximately the same amount of acreage. The proposed PDD (Planned Development District) ordinance allows the structures to be placed closer to the right-of-way to enhance pedestrian access and visual interest from the adjacent streets. The landscaping requirements include trees and shrubs around the perimeter, as well as scattered throughout the parking lot in the islands to further enhance the appearance of the development. The western portion of the site, which is located in the floodway, is currently proposed to remain undeveloped with existing native vegetation remaining to provide a natural barrier from Elm Creek. Although the Comprehensive Plan does not designate this area as an Enhancement Corridor or Activity Center, many people from Abilene and surrounding areas visit to enjoy the abundant retail shops and restaurants. This area should represent the best that Abilene has to offer, due to it being heavily traveled, by providing an attractive appearance and logical transportation framework to facilitate vehicular and pedestrian circulation. A PDD (Planned Development District) allows several of the community enhancement goals mentioned in the Comprehensive Plan to be fulfilled, including landscaping, signage, building materials, and architectural variation for big-box retail structures. Staff recommends approval of the proposed PDD (Planned Development District) ordinance. The Planning & Zoning Commission recommends approval of the proposed PDD (Planned Development District) with an amendment to the landscaping requirements.

Council and staff discussion included: 1) future plans for Sharon Road, and; 2) staff clarified the amendment to the landscaping requirements as recommended by the P&Z is a minor amendment and is incorporated into the ordinance being considered today.

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

- Michael Clark, representing the developer – Mr. Clark stated a representative from Kohl's is present at this evening's meeting. Mr. Clark addressed the amendment to the landscaping requirements and stated he is in agreement with the amendment and the sign requirements and that he is aware of what the Site Plan requires. Mr. Clark further stated that Sharon Road will be improved and plans are under review with the Public Works Department. Mr. Clark requested Council's approval of the request.
- Bob Doren, Site Development Manager for Kohl's – Mr. Doren stated his appreciation to City staff for their pro-active approach in working with the developers. Mr. Doren noted Kohl's will be opening in the fall of 2007 and expressed, on behalf of Kohl's, delight in being able to come to Abilene.

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

Councilman Williams made a motion to approve **Z-2006-39**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) and GC (General Commercial) to PDD (Planned Development District) zoning, property located on the south side of

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Southwest Drive, approximately 300 feet west of Sharon Road, as recommended by staff and the Planning & Zoning Commission. Councilman Spano seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **59-2006** 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-114 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 appealed item **Z-2006-41**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to RS-12 Residential Single-family) zoning, property located at 3710 E. Lake Road.

Mr. James distributed, and reviewed, revised page 4 of the staff report. Mr. James stated the applicant desires to build a modular home on the site for his children that attend college in Abilene. The applicant purchased the one acre of land because he understood one acre was the minimum lot size to allow a septic system. However, parcels in AO (Agriculture Open Space) must be a minimum of two (2) acres in size and the applicant had purchased the one acre parcel before coming to that realization. The applicant has stated that purchasing an additional acre of land would be too time consuming. The applicant has applied to the Board of Adjustment for a one acre variance to the two acre minimum lot size. The applicant has applied for both the variance and the rezoning to maximize the possibility of an approval that will allow him to build a home on the subject property. Staff will be recommending denial of the variance due to the situation being a self created hardship. The subject area is just north of a major Commercial Business Activity Center that has been designated in the Comprehensive Plan. The Future Land Use map designates the subject parcel as low-density residential, which is consistent with the request. Staff recommends approval of RS-12 (Residential Single-family) zoning. The Planning & Zoning Commission recommends denial of RS-12 (Residential Single-family) zoning.

Council and staff discussion included: 1) various issues considered by P&Z concerning this case including zoning, timing and non-compliance with sub-division regulations; 2) a question concerning if the owner of the road approves or objects to the request; 3) staff noting RS-12 is appropriate long term zoning for this area, and; 4) permitted uses in RS-12 and AO.

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

- John Slaughter, owner of road in question – Mr. Slaughter stated he is opposed to the request. Mr. Slaughter addressed several issues and stated deed restrictions should be abided by, that there is no easement off of his road, and that modular homes are not wanted. Mr. Slaughter questioned plans for the development.

- Dickie Hill, land owner in the area, opposed – Mr. Hill addressed water run off and drainage issues and noted his preference for a 2 acre buffer.
- Max King, resident in the area since 1963, opposed – Mr. King stated this is an excellent area for development but questioned whether or not this request is a step in the right direction. Mr. King further stated approval of this request would decrease the quality of the whole development.

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

Discussion continued and included: 1) staff noting TxDot would not give driveway access on to E. Lake Road due to their having strengthened the Access Management Plan; 2) Council noted the city has been discussing the Access Management Plan with TxDot; 3) Council noted disappointment in lack of attendance by applicant at today's meeting, and; 4) staff noting if request is denied applicant has 12 months to re-apply or if he purchases an additional acre he would be in compliance under the current zoning.

Councilwoman Moore made a motion to deny appealed item **Z-2006-41**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to RS-12 Residential Single-family) zoning, property located at 3710 E. Lake Road, as recommended by the Planning & Zoning Commission. Councilwoman Davis seconded the motion, and the motion carried.

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

NAYS: None

4.4 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-42**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to GC (General Commercial) zoning, property located at 3002 & 3102 West Lake Road.

Mr. James stated the applicant desires to utilize the site to divide into four (4) lots, with one of the lots being developed into a hotel. The applicant is considering building a public street to access the newly created lots. This subject area is just east of a major Commercial Business Activity Center that has been designated in the Comprehensive Plan and is located near the intersection of an arterial and the interstate highway. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) staff stated approval of this request would have no impact on the two businesses north of the area; 2) the applicant owning all the property but only requesting one change, and; 3) Council clarifying the three existing hotels in the area are zoned as GC (General Commercial).

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

- David Bourland, representing the owner – Mr. Bourland briefed the Council on the plans to develop the property, restrictions on and access to the property, location of the future hotel and stated the property has been surveyed and is ready to be platted if approved.

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

Councilman Chase made a motion to approve **Z-2006-42**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to GC (General Commercial) zoning, property located at 3002 & 3102 West Lake Road, as recommended by staff and the Planning & Zoning Commission. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **60-2006** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.5 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-43**, an ordinance considered on second and final reading to rezone property from RS-6 (Residential Single-family) to MU (Medical Use) zoning, property located at 1802 Walnut Street.

Mr. James stated applicants have purchased the proposed residential lot that is adjacent to their existing dental building and have stated their desire to use the residential lot for excess parking for their existing office building. The zoning designation of the parking lot must permit the use for which the parking is being provided and during early conversations with the applicants, staff recommended they apply for MU (Medical Use) zoning as this would be the more appropriate zoning for their proposed use. MU (Medical Use) zoning has a few requirements for screening parking lots from residential areas and staff believes the proposed zoning district is more appropriate than other zoning districts that allow this use. However, staff also believes that the proposed zoning district is not compatible with the residential neighborhood in which it is located. Staff was informed by the applicant that the accessory building on the subject property could possibly be demolished prior to the Planning and Zoning Commission meeting. Staff explained to the applicant that it would be in their best interest to not demolish the structure until after an affirmative decision was made by the Planning and Zoning Commission due to the fact that if a new zoning designation was not approved and the structure had been demolished their options for property uses would be limited. All of the structures were demolished in the middle of September. An objective in the Neighborhoods chapter of the Comprehensive Plan is to "protect and enhance the quality, character, and integrity of established and stable neighborhoods". Several strategies are listed to help achieve this objective with number 8 being most applicable to this rezoning case. "Evaluate land use proposals in established stable SNA's

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(Super Neighborhood Areas) on the basis of projected changes in scale, traffic patterns, intensity of use, pedestrian orientation, and relationship of the site to adjacent development”. Although some of this residential area backs up to commercial uses, Walnut Street itself is developed with only single-family homes in this area. Staff believes for this reason the proposed rezoning is not compatible with the surrounding homes. Staff recommends denial of the request. The Planning and Zoning Commission recommend approval of the request because many commissioners believe that this area will be enveloped by medical uses.

Council and staff discussion included: 1) staff’s basis for recommending the request be denied; 2) staff noted there is evidence that suggests the street is still a stable neighborhood and if Council believes it is a stable neighborhood, the request should be denied but if Council believes that this area will be developed with medical uses in the near future the request should be approved; 3) staff noting the long term effect of approving MU now could result in transitioning the whole area to Office/MU; 4) Council noting the whole area may be effected if long term transitioning is defined as 15-20 years but perhaps not if 5 years defines long term; 5) landscaping, buffering and drainage requirements in MU zoned areas (staff noted under the current ordinance there are no requirements for off site drainage), and; 6) Councilman Williams noted the request has the appearance of spot zoning.

Mayor Archibald opened a public hearing on the item and requested the proponents to speak first. The following individuals addressed the Council:

- Jane Tindol, D.D.S. – applicant. Dr. Tindol briefed the Council on the history of the property, her medical office staff and functions, the need for the additional parking spaces, and the process followed in bringing the request to Council including the steps taken in requesting and receiving the neighborhoods approval of the request. Dr. Tindol requested Council’s approval of the rezoning request.
- Lydia Goodman, property owner in the area, in favor – Ms. Goodman stated she is speaking not only on her own behalf but also for two other property owners in the area who are in favor of the request. Ms. Goodman stated the area will become commercial in the future and that she and the neighbors are willing to sale their property.
- Edwin Walker, property owner in the area, in favor – Mr. Walker stated he agrees with Ms. Goodman and has no objections to the request.

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

Councilman Spano made a motion to approve **Z-2006-43**, an ordinance considered on second and final reading to rezone property from RS-6 (Residential Single-family) to MU (Medical Use) zoning, property located at 1802 Walnut Street, as recommended by the Planning & Zoning Commission. Councilwoman Davis seconded the motion, and the motion carried.

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

NAYS: Councilman Williams

The Ordinance is numbered **61-2006** 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.

Councilwoman Davis expressed her appreciation to Councilman Williams for his foresight in recommending that Council periodically hold evening meetings. Councilman Williams stated his appreciation for Mayor Archibald's leadership and for a more inclusive community.

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.

Councilman Higgins arrived during Executive Session.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

Mayor Archibald noted the Fall Board appointments and re-appointments will be considered at the December 7, 2006 Council meeting.

There being no further business, the meeting was adjourned at 8:20 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor