

**CITY COUNCIL MEETING
February 8, 2007, 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 February 8, 2007, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Stormy Higgins, Anthony Williams, and Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, Interim City Attorney Dan Santee, City Secretary Jo Moore, and various members of the City staff. Councilman Joe Spano was absent.

Councilman Higgins gave the invocation.

Mayor Archibald introduced Humberto Diaz, a 3rd grade student from Fannin Elementary School, who led the Pledge of Allegiance. Humberto's parents were also in attendance.

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	Thomas Smith	Supervisor II, Traffic Public Works Department
25 Years	David Gray	Police Officer Police Department
25 Years	Michael McAuliffe	Police Officer Police Department
25 Years	Michael Ricker	Police Officer Police Department

Mayor Archibald noted that he may have to leave prior to the conclusion of today's meeting due to the expected birth of his first grandchild.

DISPOSITION OF MINUTES

2.0 Mayor Archibald stated Council has been given the minutes from the January 11, 2007 and January 25, 2007 Regular Council Meetings. There being no corrections, additions, or deletions to the minutes Councilwoman Davis made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

Councilwoman Moore made a motion to approve consent agenda item 3.1, as recommended by staff. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

Resolution:

- 3.1 Oral Resolution approving a professional services contract with Thelen Reid Brown Raysman & Steiner LLP for an estimated annual amount of \$60,000.00 to cover the period Jan. 1 – Dec. 31, 07 and authorize the City Manager to execute the contract.

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 23-313.2.C(3) of the Zoning Ordinance regarding setback requirements in the RS-6 (Residential Single-family) and RS-8 (Residential Single-family) zoning districts.

Mr. James stated the current setback requirement for most properties adjacent to collector streets is 30 feet. Staff proposes to reduce this setback requirement to 20 feet in RS-6 and RS-8 (Residential Single-family) zoning districts for both front and exterior side setbacks. An existing exception for these zoning districts allows only 20 feet front and 15 feet exterior side setbacks when properties are adjacent to local or subcollector streets. Setback requirements in general are one of many things being considered for revision for the Land Development Code. However, this particular item is being proposed at this time due to the construction of a number of residential subdivisions along collector streets required by the Thoroughfare Plan. This amendment would allow a more consistent appearance throughout these neighborhoods and create additional buildable area on the lots adjacent to collector streets. Staff and the Planning and Zoning Commission recommend approval of the proposed amendment.

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 expressed appreciation to staff for working out inconsistencies and proposing an ordinance that provides greater flexibility.

Councilman Higgins made a motion to approve an ordinance considered on second and final reading to amend Section 23-313.2.C(3) of the Zoning Ordinance regarding setback requirements in the RS-6 (Residential Single-family) and RS-8 (Residential Single-family) zoning districts, as recommended by staff and the Planning & Zoning Commission. Councilwoman Moore seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered 4-2007 and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT", SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

4.2 Jon James, Director of Planning and Development Services briefed the Council on **Z-2006-44**, an ordinance considered on second and final reading to rezone property from RS-6 (Residential Single-family) to PDD (Planned Development District) zoning, property located at 2002 Jameson Street.

Mr. James stated the applicants acquired the former Anson-Jones Elementary school from the Abilene Independent School District. The applicants are proposing to open an Indian cultural center in the existing school buildings, to include a variety of uses that would allow patrons to see and in some cases purchase foods and other items that are typical in Indian culture. The applicants are also proposing to establish a Hindu Temple utilizing the existing facilities, such as the gymnasium for organized youth and children's activities. The applicants are local physicians who intend to open a free medical clinic that would be open a few days per month for those who are unable to afford health care. The PDD (Planned Development District) has been written to tie activity to the site as it exists today and any future construction or other significant physical changes to the property would require amendments to the PDD (Planned Development District). Mr. James noted one exception to the restriction of any new development on site is the area designated for future parking. If additional parking is needed beyond what is there, in order to meet the city's parking requirements, the referenced area would be available. This is an appropriate location for non-residential activities being bounded on all sides by streets including being located at the corner of I-20 and Old Anson Road (an arterial street). This proposed reuse of the property would have minimal impacts on the established residential area that bounds it on two sides. Staff recommends approval of the request. The Planning and Zoning Commission recommended approval with the following changes to the ordinance:

- Added medical office/clinic as a permitted use
- Require a Street-Use License to count existing on-street angled parking toward the parking requirement
- Modified Exhibit "B" to include all uses in the list of permitted uses and to include the term "restaurant" with "cafeteria".

Staff clarified that the ordinance being recommended for approval by Council does include the above noted changes as recommended by the Planning and Zoning Commission and that staff agrees with those changes.

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

- Paul Vasquez – Mr. Vasquez stated the applicant could not be at today's meeting and had asked him to present. Mr. Vasquez stated he is in favor of the rezoning request and the proposed project and that he supports cultural diversity.

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

Councilman Williams made a motion to approve **Z-2006-44**, an ordinance considered on second and final reading to rezone property from RS-6 (Residential Single-family) to PDD (Planned Development District) zoning, property located at 2002 Jameson Street. Councilman Chase seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **5-2007** 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-116 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-2007-02**, 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 6165 Hartford Street.

Mr. James stated the applicant is proposing to construct a convenience store with a separate car wash facility. The property is across Dub Wright Boulevard from the main gate to Dyess Air Force Base. The Dyess Area Study and the Thoroughfare Plan both recommend the use of PDD's (Planned Development District) along the Arnold Boulevard/Dub Wright Boulevard to help ensure high quality development, particularly in terms of aesthetics in the area of the main gate. Other properties in this area have been rezoned to PDD (Planned Development District) in recent years and the proposed PDD (Planned Development District) ordinance is consistent with the most recent PDD's in the area. Dyess Air Force Base representatives spoke at the Planning and Zoning Commission meeting and expressed a desire that the building be constructed of stone materials similar to buildings near the main gate at Dyess. The Planning and Zoning Commission did not make this part of their motion. However, the recommended ordinance does include some requirements for building materials, consistent with other PDD's recently approved in the area. The proposed ordinance includes modifications as requested by DAFB and as approved by Council during first reading of the ordinance on January 25, 2007 regarding building materials. Mr. James distributed a corrected page 3 to Exhibit "A" of the proposed ordinance and noted under **B. SITE DEVELOPMENT, 3. Building Materials**: the words "does not apply to the gasoline canopy" had inadvertently been left in the proposed ordinance and the corrected page

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reflects those words having been removed. Staff and the Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) staff clarified the “Driveway Access” provisions portion of the PDD ordinance that applies to driveway access regulations by the Texas Department of Transportation (TxDot); 2) driveways along Dub Wright Boulevard being regulated by TxDot; 3) the numbers and locations of potential driveways; 4) the developer being responsible for the improvement of Inwood Lane; 5) distance of property line on Dub Wright Blvd. and city taking over access management control, and; 6) pro’s and con’s to closing Inwood Lane.

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

- Randy Brooks, Managing Director of Town & Country Food Stores – Mr. Brooks noted problems that are created when restricted to one driveway and their preference to have options for other driveways. Mr. Brooks stated there are no current plans to develop Inwood Lane and noted the driveway controls that will be in place. Mr. Brooks further noted that they have spoken with TxDot and will continue to discuss options.
- Greg Blair, Military Affairs Committee member – Mr. Blair stated support for the proposed PDD and noted the need to assure the entry ways to Dyess are attractive. Mr. Blair thanked Town & Country for adhering to higher standards with greater restrictions.
- Samuel F. Gregory, Commander of VFW Post 6873 - Commander Gregory stated concerns that Veterans Drive runs right in front of this property but its traffic problems have not been addressed. Mr. Gregory stated his objections to a convenience store being built on this corner due to two other stores already being in the area and to the traffic congestion that will occur.
- Mike McMahan, COC President – Mr. McMahan addressed the possibility of abandoning Inwood Lane and putting a driveway there. Mr. McMahan noted the need for safety consideration in the area.

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

Discussion continued and included: 1) PDD requirements regarding the development of Inwood Lane if there were one southern driveway access. Staff noted the PDD would not regulate that but the city’s sub-division regulations would then require Inwood Lane to be improved; 2) various options with issues to be discussed between TxDot and the developer to determine what can be accomplished, and; 3) the actual location of Veterans Drive, and: 4) Council noting the critical need for the City to take over access management control from TxDot in order to provide flexibility and be pro-business.

Councilman Chase made a motion to approve **Z-2007-02**, 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 6165 Hartford Street, as recommended by staff and the Planning and Zoning Commission and consented to by the applicant. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **6-2007** 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-118 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-2007-03**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) and GC (General Commercial) to GC (General Commercial), LC (Limited Commercial), and O (Office) zoning, property located on the west side of US 83-84 approximately 580 feet north of FM 707.

Mr. James stated the applicant desires to develop the area with a combination of retail and office uses. However, much of it is speculative, including the layout of the development. The applicant would prefer zoning that is GC (General Commercial) for the south 300 feet, LC (Limited Commercial) north from the GC (General Commercial) for 234 feet and O (Office) for the northern 288 feet. Another option would be to rezone the parcel to PDD (Planned Development District) and allow GC (General Commercial) or SC (Shopping Center) uses on the southern portion of the property and LC (Limited Commercial) uses on the northern part. Depending upon how the property develops, the subdivision regulations may require an east-west street that would stub out at the western property line. Such a street would be a logical dividing line separating types of permitted uses. This property is along an entryway to the City of Abilene. The Comprehensive Plan identifies this area as an entryway and recommends development that would create a positive image of the City through appearance standards. The A.C.E. Report also supports creating a positive image of the city at its gateways. Currently, PDD (Planned Development District) zoning is the only tool that can accomplish this. However, when the City adopts comprehensive community appearance standards, there likely would be no need to do a PDD (Planned Development District), standard zoning would be sufficient. Decreasing the intensity of uses farther north on the property provides an appropriate transition from the GC (General Commercial) areas at the intersection of Hwy 83/84 and FM 707 to sparsely developed areas to the north. Staff would recommend PDD (Planned Development District) zoning, but would require a plan for the area. The request would need to be denied or tabled in order to develop a PDD (Planned Development District) ordinance. Staff recommends that if standard zoning is approved that SC (Shopping Center) zoning be used instead of GC (General

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Commercial) due to more appropriate permitted uses for this area and a little better protection for nearby residential uses. The Planning and Zoning Commission recommends approval of SC (Shopping Center) for the south 600 feet of the site and O (Office) for the remainder of the site.

Council and staff discussion included: 1) the proponent being in agreement with the Planning and Zoning recommendation of rezoning to SC (Shopping Center) and O (Office); 2) staff's preference of a PDD (Planned Development District) zoning due to a PDD offering greater protection along the entryway into the city, and; 3) staff explained the transition issues that are the basis for the opposition to GC (General Commercial) zoning when GC (General Commercial) zoning already exists on the property, noting it's not always best to extend the existing zoning.

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

- David Todd, agent – Mr. Todd explained the applicants willingness to compromise to SC (Shopping Center) and O (Office) rezoning and stated the applicants are in agreement with the P&Z recommendation of rezoning to Shopping Center and Office .

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

Councilwoman Moore made a motion to approve **Z-2007-03**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) and GC (General Commercial) to SC (Shopping Center) for the south 600 feet of the site and O (Office) zoning for the remainder of the site, as recommended by the Planning and Zoning Commission, property located on the west side of US 83-84 approximately 580 feet north of FM 707. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **7-2007** 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-2007-04**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to PDD-115 (Planned Development District) zoning, property located at the north end of Trenton Drive and Liberty Boulevard.

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Mr. James stated the applicant proposes to extend the existing residential development further to the north and that the proposed section is a small portion of a larger development that has slowly developed since 1983. The request to rezone the 10.2 acre portion for residential uses is consistent with the long-term plans for the area. The ordinance for PDD-115 (Planned Development District) reduces the setback requirement for homes adjacent to Liberty Boulevard and eliminates the sidewalk requirement. 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. Staff understands that this is a unique circumstance, since the property was part of an approved Preliminary Plat that would have allowed it to develop consistent with this PDD (Planned Development District), and that allowing this was the original intent when Council created this particular PDD (Planned Development District). The Planning and Zoning Commission recommend approval of the request.

Council and staff discussion included: 1) the proposed ordinance being entirely consistent with the previously approved PDD (Planned Development District) zoning, and; 2) staff stating the proposed ordinance is only expanding the PDD (Planned Development District) zoning area and would be consistent with the previous PDD (Planned Development District) zoning.

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

- Tal Fillingim, agent – Mr. Fillingim requested Council approve the proposed ordinance.

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

Councilman Williams made a motion to approve **Z-2007-04**, an ordinance considered on second and final reading to rezone property from AO (Agriculture Open Space) to PDD-115 (Planned Development District) zoning, property located at the north end of Trenton Drive and Liberty Boulevard. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **8-2007** 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.

4.6 Jon James, Director of Planning and Development Services briefed the Council on **Z-2007-05**, an ordinance considered on second and final reading to rezone property from AO

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(Agriculture Open Space) to RM-3 (Residential Multi-family) zoning, property located at the northwest corner of East Industrial Boulevard and Oldham Lane.

Mr. James stated the property is located across Oldham Lane from an existing single-family residential subdivision. The applicant plans to construct duplexes, which will help to provide additional residential options near Cisco Junior College and the expected non-residential development along Loop 322 in the future. The Future Land Use portion of the Comprehensive Plan designates the intersection of Loop 322 and Industrial Boulevard (approximately 1500 feet away from the request area) as a Major Commercial/Business Activity Center. This designation expects large, possibly multi-story, retail and mixed-use development that serve a larger population area than just the surrounding neighborhoods and encompass 60 or more acres. The proposed multi-family zoning would provide the first phase of transitional zoning between the established single-family neighborhood and the future high-traffic retail area. Staff and the Planning and Zoning Commission recommend approval of the request.

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

- Tal Fillingim, agent – Mr. Fillingim reviewed the anticipated use of the properties and requested Council approve the proposed ordinance.

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

Councilwoman Davis made a motion to approve **Z-2007-05**, an ordinance considered on second and final reading to rezone property from AO(Agriculture Open Space) to RM-3 (Residential Multi-family) zoning, property located at the northwest corner of East Industrial Boulevard and Oldham Lane. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

The Ordinance is numbered **9-2007** 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.

4.7 Paul Knippel, Director of Public Works briefed the Council on an ordinance considered on first reading to replace, in its entirety, Chapter 27 "Refuse", of the City of Abilene Municipal Code; and set a public hearing for February 22, 2007 at 8:30 a.m.

Mr. Knippel stated Chapter 27 of the City ordinance was written in 1965 and has undergone several revisions since then. Presently, the existing Chapter 27 does not reflect the city's current Solid Waste collection operation. The primary differences between the existing

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Chapter 27 and the proposed ordinance are related to terminology, the establishment of certain responsibilities for different parties, and the establishment of certain prohibitions related to waste disposal. Specifically, the terms defined in the existing ordinance are inapplicable and are not carried forward to the proposed ordinance. Examples of new terms include Household Hazardous Waste, Medical Waste, and Construction/Demolition Waste. Also, the proposed ordinance enumerates multiple responsibilities for the Solid Waste Division, and the occupants of both commercial and residential property. This enumeration provides clearer understanding of the how, what, and when of waste disposal and collection and the proposed ordinance includes provisions for hazardous waste, medical waste, and unacceptable placement of solid waste. Mr. Knippel stated the proposed ordinance will establish responsibilities for the City and reviewed those responsibilities as follows:

- Responsibilities of the Solid Waste Services Division
- Responsibilities of Commercial Property Occupant's
- Responsibilities of Residential Property Occupant's
- Responsibilities of the Bulky Solid Waste Services Division
- Prohibitions
- Enforcement

Mr. Knippel stated the number one goal of the Solid Waste Division is to collect and dispose of waste versus prosecuting infractions of the City Code. Mr. Knippel further stated the proposed ordinance would permit the City to address problems "together" as noted in the City's Mission statement "We work **together** to build a community of the highest quality for present and future generations".

Council and staff discussion included: 1) Council noted the benefit of these much needed revisions; 2) staff explained the collection time frame differences for alley collection (10 days) and curb collection (48 hrs.) and Council noted consistency concerns with time differences. Staff explained avenues and options available to citizens regarding the collection times and processes, and; 3) staff explained the trash trucks apparatuses that allow them to close themselves to prevent trash from blowing out.

Councilwoman Moore made a motion to approve an ordinance considered on first reading to replace, in its entirety, Chapter 27 "Refuse", of the City of Abilene Municipal Code, as recommended by staff; and set a public hearing for February 22, 2007 at 8:30 a.m. Councilwoman Davis seconded the motion, and the motion carried.

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

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.072, 551.074, and 551.087 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, to consider the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters.

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

5.5 Councilman Williams made a motion to approve Mayor Archibald's appointments and reappointments to various boards and commissions as listed below. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: Councilman Chase

Housing Authority of the City of Abilene
2 Year Terms

Reappoint:

- Valree Brailsford, term expires 11/2008

Appoint:

- Dr. Tonya Brice, term expires 11/2008

Library Board
2 Year Terms

Appoint:

- Dennis Regan, term expires 11/2008

No action was taken on the appointment for the Planning and Zoning Commission.

There being no further business, the meeting was adjourned at 11:50 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor