

**CITY COUNCIL MEETING
November 1, 2007, 8:30 a.m.**

**CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL
&
BASEMENT CONFERENCE ROOM**

The City Council of the City of Abilene, Texas, met in Regular Session on November 01, 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, Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, City Attorney Dan Santee, Interim City Secretary Danette Dunlap, and various members of the City staff. Councilman Spano was absent.

Councilwoman Moore gave the invocation.

Mayor Archibald introduced Mark Pearson and Angel Ramos who led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas. Mark and Angel are 5th graders at Thomas Elementary.

PROCLAMATION

Mayor Archibald presented the following proclamation:

 **Youth Appreciation Week
November 11-17, 2007**

Mayor Archibald announced that on Tuesday of this week a ground breaking ceremony took place for the Veterans Cemetery. The City has partnered with the Veterans Land Board to bring this cemetery to the Abilene area. Construction will start now and the projected completion date will be spring of 2009. This Cemetery will be one of only three in the entire State of Texas. Architectural photo renderings will be on display at City Hall and for more information there will be a link to the Veterans website on the City's website.

Mayor Archibald announced that **Item 4.5** has been postponed until another meeting.

CONSENT AGENDA

Councilwoman Moore made a motion to approve consent agenda items 3.1 through 3.5, 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

Resolutions:

- 3.1 Oral Resolution extending the master agreement with Enprotec-Hibbs & Todd for Landside Engineering Services.

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- 3.2 Oral Resolution authorizing the City Manager to execute URS Corp Task Order 9, to design Air Carrier Ramp Reconstruction Area C.
- 3.3 Oral Resolution authorizing the City Manager to execute Task Order 11 with Enprotec-Hibbs & Todd.
- 3.4 Oral Resolution authorizing the City Manager to execute a municipal court collection contract with McCreary, Veselka, Bragg & Allen P.C.

Bid Award:

- 3.5 Parking lot reconstruction project to the recommended bidder and authorizing the City Manager to execute a contract with Epic Construction Co., Abilene Texas \$5,702,575.00.

REGULAR AGENDA

4.1 Jon James Director of Planning and Development Services briefed the council on Zone Case No. **Z-2007-19**, a request from Dr. and Amanda Bourland; Agent Chris Westbrook to rezone property from Office (Office) to PDD (Planned Development District), located at 2902 S. 27th Street.

The subject parcel is 1.74 acres and is currently zoned office, but is currently undeveloped. There is single-family residential zoning to the West and South of the property with multi-family zoning to the North, as well as office zoning immediately to the East and single family zoning to the east of that. An electrical substation is also located on the lot directly to the East.

The area was annexed in 1951 and zoned to RM3 (Residential Multi-Family) in 1981 and was later zoned to O (Office) in 1992.

Given the location within a residential neighborhood, the intensity of allowable uses should be consistent with the adjacent residential zoning. The proposed PDD prohibits some uses normally allowed within the LC (Limited Commercial) district; gasoline sales, restaurants, and any use with a drive-thru. It also provides minimum standards for building materials, landscaping, and signage to ensure aesthetic compatibility with the neighborhood. The recommended PDD also places a limit on the hours of operation of any business to ensure compatibility with the residential neighborhood.

The proposed PDD references the regulations within the Limited Commercial district, while providing some additional restrictions for aesthetics and to ensure minimal negative impacts to the surrounding residential properties.

Z-2007-19

PDD Summary:

- Limited Commercial uses, except: gasoline, restaurants, and drive-thru facilities
- Max building size: 10,000 sf

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- Building materials limited to masonry, EIFS, etc.
- One shared driveway
- One monument sign: 8' height, 100 sf area
- Normal landscaping plus parking lot screening
- Fencing standards; no outdoor storage or display; lighting directed away from residential
- Limited hours of operation

Council and staff discussion included: 1) provision in the PDD that if this development doesn't happen the city or the developer can request that the district revert back to the original zone after 18 months, approval would be by the City Council; and 2) discussion of the landscaping requirements and parking lot screening. Planning and Zoning recommendation is the approval of the PDD with the exception that landscaping only be required to current City regulations.

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

Chris Westbrook – representative for the owners. Mr. Westbrook stated that the owners wanted to preserve and respect the neighborhood where the new building will be located. The buyers have taken upon themselves to add landscaping to enhance the area. The PDD has worked out the zoning issues along South 27th Street. Mr. Westbrook asked that the council approve the Ordinance.

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

Councilman Higgins made a motion to approve **Z-2007-19**, an ordinance as recommended by the Planning and Zoning, considered on second and final reading to rezone property from O (Office) to PDD-121, property located at 2902 South 27th 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 **#46 -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-121 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

4.2 Jon James Director of Planning and Development Services briefed the council on a proposal to amend **Section 23-306.4 and 23-306.5** of the Zoning Ordinance regarding Recycling Collection Points being permitted as a Special Exception subject to approval by the Board of Adjustment.

**Ordinance Amendment:
Recycling Collection Points**

Currently a Recycling Collection Point is allowed “by right” in the following districts:
SC, GC, HC, LI, HI, PDD

Proposal would additionally allow this use by Special Exception (which requires Board of Adjustment approval, with conditions, on a case-by-case basis) in the following districts:
AO, RS, RM, CU, O, LC, PI, CB

The Planning and Zoning Commission recommended additional language to ensure that:

- These facilities are generally considered inappropriate in these districts.

A Special Exception should only be granted in special circumstances and where negative impacts can be adequately mitigated through appropriate conditions.

Staff and Planning and Zoning Commission recommend approval of this request to assist with efforts to make recycling more convenient and accessible throughout the City, while recognizing that the Board of Adjustment may add conditions to such approval in these districts to minimize or mitigate the potential negative impacts to neighboring properties. Request that ordinance language to be included to emphasize that in residential areas a Special Exception should only be granted in rare circumstances with adequate mitigation of negative impacts.

Council and staff discussion included: 1) an appeal from the Board of Adjustment goes to the court level and will not go the Planning and Zoning or the City Council.

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

Councilwoman Moore made a motion to approve amending **Section 23-306.4 and 23-306.5** of the Zoning Ordinance regarding Recycling Collection Points being permitted as a Special Exception subject to approval by the Board of Adjustment. 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 # **47 -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 SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

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4.3 Jon James Director of Planning and Development Services briefed the council on a proposal to amend Section 23-129 of the City of Abilene Sign Regulations regarding exceptions to the prohibition of signs in the public right-of-way.

The City is working on a Wayfinding Signage Program to improve directions to major venues. Another type of sign, the banner also needs language clarification. City staff and TXDOT will review the locations of Wayfinding Signage and Economic Development will be developing guidelines pertaining to banners. The language in the proposed ordinance amendment will help clarify permissibility of these signs under the Sign Ordinance.

**Ordinance Amendment:
Wayfinding Signs & Banners**

Clarifies Sign Ordinance to ensure that City's proposed wayfinding sign program and banner sign program are allowable under the sign ordinance restrictions on signs in the public right-of-way.

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

Councilwoman Davis made a motion to approve amending **Section 23-129** of the City of Abilene Sign Regulations regarding exceptions to the prohibition of signs in the public right-of-way. 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 # **48-2007** and captioned as follows:

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

4.4 Jon James Director of Planning and Development Services briefed the council on a resolution approving an amendment to the Thoroughfare Plan in an area proximate to the intersection of Buffalo Gap Road (FM89) and Beltway South (FM707).

On 06/18/07 David Todd – EHT provided the City with a Preliminary Development Plan (PDP) for a potential residential development, to be called the Dessa Carmen Estates, along the west side of Buffalo Gap Road south of Beltway South (FM707). City Staff reviewed the PDP and determined that a future collector street shown on the Thoroughfare Plan passing through the site would be required. On 07/03/07 the applicant requested that the City consider an amendment to the Thoroughfare Plan to remove this requirement.

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City staff forwarded the applicant's proposal to the P&Z on 9/4/07. Staff recommended denial of the request. The P&Z tabled action at the time and broadened the scope of the case requesting City staff evaluate alternate locations for the collector road and other projected area thoroughfares. Staff completed this evaluation and on 10/01/07 provided the P&Z with a number of proposed modifications. The P&Z considered these proposals and then narrowed its focus back to the original request.

To date, the developer of this site has rejected every adjustment or compromise proposed by City Staff to resolve this matter. Private streets in this proposed development will use county standards. Abilene has traditionally approved private street developments on much smaller sites and these sites often have physical constraints isolating them. Staff continues to find that ordinance standards, plan recommendations, site conditions, and sound transportation and land use principles support a collector road connection through the Dessa Carmen site. Alternatively, staff supports as a minimum, the provision of a public local street connection to the north from the most northwesterly cul-de-sac shown on the Dessa Carmen preliminary development plan. Additionally, staff supports the other area modifications presented to P&Z on 10/01/07.

Thoroughfare Plan Amendment- Buffalo Gap Rd. to Beltway S.

Public Hearing and consideration of a resolution approving an amendment to the Thoroughfare Plan in an area proximate to the intersection of Buffalo Gap Road (FM89) and Beltway South (FM 707).

Current Summary

- **Request :**
Eliminate collector road across the subject property.

- **Staff Recommendation:**
Continued provision of a collector road through the subject property (Dessa Carmen Estates) to provide long-term street connectivity in this area. In addition, staff has recommended other changes to Thoroughfares in this general area that we continue to support.

- **Commission Recommendation:**
Elimination of a collector road across the subject property. The commission did not make a recommendation on other Thoroughfare Plan amendments.

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Council and staff discussion included: 1) the location of the development is located outside the City limits and located in the ETJ; 2) zoning of this property is not in question; 3) the developer would be responsible for building the collector street through the development; 4) this development will contain large lots, with low density area; 5) the current Thoroughfare Plan was developed in 1984; 6) the MPE board will not be involved; 7) question about the collector roads west of Buffalo Gap Road; and 8) discussion of Sierra Sunset Road a collector street to the east of Buffalo Gap Road.

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

- David Todd Engineer with Enprotec Hibbs/Todd and agent for Jim Watson. Mr. Todd explained that these lots are in the 3 acre range size and there are approximately 70 lots in the development. This development is meant to be a gated community. Mr. Todd discussed the location of Sierra Sunset Road that meets up with Buffalo Gap Road on the east side and this road could carry on to the west side of Buffalo Gap Road and operate as a collector road.
- Bruce Bixby, member of the Planning and Zoning Commission. Mr. Bixby explained that the development will encompass a very large area and due to the low density area it doesn't appear to be a hardship on the transportation system.
- Jack Perkins, member of the Planning and Zoning Commission. Mr. Perkins stated that the Planning and Zoning Commission had looked at the connection of the Sierra Sunset Road. Mr. Perkins also addressed the fact that the development will be a low density area with barriers of Elm Creek on the west side and city water lagoons on the north side. Mr. Perkins came to the meeting to be sure that the Planning and Zoning was fairly represented on their position as a board.

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

Councilwoman Davis made a motion to approve the Resolution approving an amendment to the Thoroughfare Plan, as recommended by the Planning and Zoning Commission, in an area proximate to the intersection of Buffalo Gap Road (FM89) and Beltway South (FM707). Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

The Resolution is numbered # 38 -2007 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE TO AMEND THE CITY'S THOROUGHFARE PLAN MAP.

4.5 Item 4.5 Pulled prior to meeting to be heard at a later time. Presentation of Report prepared by The Perryman Group on the Economic Impact Assessment of varying Lake levels at Fort Phantom Hill Reservoir.

Mayor Archibald recessed the City Council and the City Council reconvened in the Basement Conference Room to participate in a Workshop with the Housing Authority Board.

Mayor Archibald reconvened the City Council back to order at 10:30 a.m. to meet with the City of Abilene Housing Authority Board.

The Housing Authority Board was called to order with the following members present: Dale Barthelemy, V. E. Brailsford, and Dr. Tanya Brice. Mary Island was absent.

4.6 Larry Gilley City Manager gave the background into the City of Abilene Housing Authority. The Housing Authority was created to provide affordable housing to the residents of our community. The Housing Authority is currently seeking proposals from firms that can assist them in separating from the City. The contract between the City of Abilene and the Housing Authority was to essentially provide for the internal services of Accounting, Legal, Human Resources and the day to day operation of the Housing Authority for cost savings to them.

The Housing Authority Board will continue, even after separation, to be appointed by the Mayor and approved by City Council.

There is a provision in the contract that with a 60 day notice either party can ask out of the contract. The City would like to handle this jointly with the Housing Authority Board.

Mayor Archibald turned the meeting over to Mr. Brailsford. Mr. Brailsford believes that the separation will be a benefit to the Housing Authority. The Housing Authority will still operate under the rules and guidelines of HUD. Mr. Brailsford believes that the conflicts in the past have hurt the City and the Housing Authority.

Council, Housing Authority and staff discussion included: 1) having a plan in place for the transition; 2) the need of a Strategic plan that will guide the Housing Authority through the transition; 3) the need for a Director that would be there through the transition phase; 4) current city employees that work for the Housing Authority and a concern for their Retirement; 5) not being limited to 60 days for separation; 6) current services the city provides per their contract with the Housing Authority. Such as legal services, accounting services; 7) to be sure that the needs of the community are being met; 8) funding from the State and Federal agencies goes directly to the Housing Authority and does not come through the city; and 9) the Housing Authority will be accountable to HUD, the city will not have any obligation to the Housing Authority with the exception of appointing Board Members.

Mayor Archibald stated that no action will be taken at this time.

Mr. Brailsford closed the meeting of the Housing Authority Board of the City of Abilene.

EXECUTIVE SESSION

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Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.074, 551.072 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.

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

5.5 No action was taken on an appointment to the Housing Authority Board of the City of Abilene.

5.6 No action was taken on the possible action related to annual performance evaluations of the City Manager, City Attorney, Municipal Judge and the position of the City Secretary.

There being no further business the meeting was adjourned at 11:56 a.m.

Danette Dunlap
Interim City Secretary

Norm Archibald
Mayor