CITY COUNCIL MEETING January 10, 2008, 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 January 10, 2008, 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, Joe Spano, Anthony Williams, Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Williams gave the Invocation.

Mayor Archibald introduced Tamara Koen a 5th grader from Ortiz Elementary School; she led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

Mayor Archibald announced Gloria Espinosa as the new Assistant City Secretary. Gloria comes from the City of Ralls.

Mayor Archibald assisted by City Secretary Danette Dunlap, presented the Employee Service Awards to the following City Employees:

20 Years	Donny Dabney	Program manager,
		Water Treatment
25 Years	Larry Bell	Fire Battalion Chief
25 Years	Philip Chapman	Firefighter
25 Years	Larry Ross	Firefighter
25 Years	Paul Slabaugh	Fire Lieutenant
25 Years	Guy Turner	Fire Lieutenant
25 Years	J. Dennis Woodward	Firefighter
30 Years	Gary Heslep	Police Officer
30 Years	Terry Odom	Police Officer
30 Years	Lee Reed	Police Officer

PROCLAMATIONS

Mayor Archibald presented the following proclamation:

• "National Mentoring Month" January 2008 to Tim Yandell, Regional Director Big Brothers Big Sisters Abilene Agency

Mayor Archibald introduced Katherine Trotter, with the Center for Contemporary Arts. Ms. Trotter 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.

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

Mayor Archibald reconvened the Council Meeting.

DISPOSITION OF MINUTES

2.0 Mayor Archibald stated Council has been given the minutes from the December 20, 2007 Regular Council Meeting, There being no deletions, no corrections, and no additions to the minutes Councilwoman Moore made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

CONSENT AGENDA

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

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

Mayor Archibald. NAYS: None

Bid Awards:

3.1 Award of Bid – CB #8013 Civic Center stacking Banquet chairs and carts. Bid was awarded to Palmer Snyder of Waterford, WI in the amount of \$55,268.16.

REGULAR AGENDA

Mayor Archibald announced that **Item 4.7** would be moved to the first part of the regular agenda.

4.7 Paul Knippel, Director of Public Works, briefed the city council on the application for Oil and Gas Permit. Chapter 21, Oil and Gas, the City Code requires a permit for drilling and operating oil/gas wells within the City limits. As part of the process, a public hearing is required and the City Council must vote to approve or disapprove of the permit application.

An application has been received from Cholla Petroleum, Inc. for a permit to drill and operate two oil/gas wells on Hardin-Simmons University property. The proposed drill sites are located on a 56 acre tract.

Cholla Petroleum, Inc. has met the requirements for a drilling permit as set out in the City Code. The original application and supporting documentation are on file with the City Secretary.

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

Councilwoman Davis made the motion to approve by Oral Resolution the application and authorize the Mayor to execute permits #644177 and #644178 for Cholla Petroleum, Inc. Councilwoman Moore seconded the motion and the motion carried.

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

NAYS: None

4.1 Jon James Director of Planning and Development Services briefed the city council on the final reading and public hearing on an Ordinance amending the "City of Abilene Sidewalk Master Plan."

Sidewalk Ordinance

- Current Sidewalk Ordinance adopted by City Council on August 10, 2006 and amended on October 12, 2006.
- During the course of implementing the new requirements of the Ordinance, a number of questions have arisen.
- City Council asked a Committee to review the requirements of the Ordinance and to make recommendations for changes, if necessary.
- The Committee met on September 19th and made recommendations.
- The Planning & Zoning Commission met on November 5th, reviewed the Committee's recommendations, and made a recommendation on changes to the Sidewalk Ordinance. They formally recommended the revised draft Ordinance on December 3rd.

Public Support

■ In Abilene, <u>85%</u> of respondents 'support' or 'strongly support' requiring "new development to construct sidewalks"

City of Abilene Comprehensive Plan Survey, 2003 (2,454 respondents)

• In Abilene, <u>55%</u> said that they "would be willing to contribute money towards the installation of sidewalks in their neighborhood"?

City of Abilene Community Appearance Survey, 2006

■ In a 2000 national survey, <u>77%</u> of respondents supported policies to improve the walking environment, even if it meant less money for roads and highways. (47% strongly support & 30% somewhat support)

Belden, Russonello & Stewart 2000

Other Cities

- Texas Cities over 100,000 population:
 - All 24 cities in Texas with over 100,000 population require sidewalks in new development (including Abilene)
 - Only 1 of these cities exempts most local SF residential streets (Waco)
- Peer Cities:
 - 9 of our 10 peer cities require sidewalks (San Angelo is the exception)
 - 6 exempt local <u>industrial</u> streets
 - 2 exempt low-density (1 acre or larger)
 - 2 exempt <u>existing</u> neighborhoods*

Summary of Recommendations

- Clarify "disproportionate cost" waiver
 - For subdivision, project costs only include required infrastructure
 - For site plan, project costs include all development costs.
- Revised definition of "unreasonably disproportionate"
- > Added definition for "project cost"
- ➤ Clarified Exceptions & Waivers section to allow partial waivers
- Simplified construction requirement to require sidewalk to be constructed at time of road construction for collectors or larger
- ➤ Amended D.2, page 2
- Clarified language in E.3, page 3 (no substantive change in policy)
- Exempt local streets in a single-family subdivision
- Amended D.1, page 2

Council discussion included: 1) the key issue is the exemption of sidewalks on local residential streets in new developments. This is issue #5 that is coming from the sidewalk review committee and the Planning and Zoning Commission; 2) committee discussion varied on the sidewalks. A developer will submit a subdivision plat or site plan that will show sidewalks, the developer would have to request a waiver, the waiver would be either approved or denied, the developer can accept the denial or appeal to city council. The City Council makes the final decision; and 3) the waiver process was the reason the city council sent this item back to committee to be reviewed and to get a better definition of existing neighborhoods and how they would be affected if the developer had developed 60% how was the remaining40% of the development to be treated in regards to sidewalks being installed. The sidewalk question would depend on prior approval through the site plan, if no formal approval of a plan then sidewalks are treated as new subdivisions, if the site plan is already approved then they fall under the current regulations already in place.

Mayor Archibald opened a public hearing on the item and advised there would be four minutes allowed per speaker, the city council heard from:

- Mary Kendrick Ms Kendrick attends CJC and is totally blind. Ms Kendrick made several points; 1) she stated that city streets are designed for cars and sidewalks are designed for people; 2) second sidewalks are a safe and efficient way to travel for the young and elderly.
- Dr. Jonathan Camp Assistant Professor of Communication at Abilene Christian University. Dr. Camp stated that he grew up in Amarillo and has lived in various cities including, Memphis and Kato Ecuador as a missionary and even there they had sidewalks. The one thing he noticed the most in Abilene was the absence of sidewalks. He requested that the city not exempt local streets from sidewalks.
- Robert Prevost lives at 4425 Capitol Ave, he stated in his opinion safety of the citizens of Abilene should be the only concern. Mr. Prevost believes that the city should install sidewalks just like the city installs streets and curbs. Mr. Prevost urges the City to keep sidewalks in the ordinance.
- Petty Hunter 725 Mesquite, Executive Director for Abilene Neighborhoods in Progress Inc., Mr. Hunter discussed the fact that sidewalks were a way for neighbors to get to know each other. Sidewalks encourage people to walk and to stay out of cars. A large number of people depend on public transit and we need to rethink sidewalks.
- Terri Burke Ms. Burke stated that she wants sidewalks on every street in Abilene. Ms. Burke said she concurred with everything that has been said up to this point.
- Tommie Harendt with the Home Builders Association. Mr. Harendt feels that the consumer should have a choice in whether they have sidewalks or not and he feels that the Market needs to dictate dedicate the issue of sidewalks.
- Robert Lillian Mr. Lillian believes that the city needs to look at what is a collection street and review the definition. He stated that he was here today to represent the silent majority, the children and young people. Children are a part of the single family makeup. Abilene is attempting to grow and become a vibrant city, what about the children playing in the streets.
- Ovelia Campos member of the Planning & Zoning Commission, Ms. Campos encouraged the city to look at what the people are wanting. Ms. Campos stated that citizens are telling her that we need sidewalks and she voted for sidewalks.
- Jan Myers Ms. Myers stated lets do this; we support the addition of sidewalks. Ms. Myers lives in the Canterbury Trails Addition that doesn't have sidewalks.
- Lydia Long member of the Planning & Zoning Commission. Ms. Long voted for sidewalks. We need sidewalks; we have a comprehensive plan calling for sidewalks.

• Brad Carter – lives on Cedar Crest and is a president of the Cedar Creek Neighborhood Association. Sidewalks promote health and Abilene is the worst city for obesity and for quality of life issue and safety issue we should be talking about going forward not backwards. We should be encouraging people to get out and walk. This is not a market issue but a health issue.

There being no one else present and desiring to be heard Mayor Archibald closed the public hearing and took a 5 minute break.

Council and staff discussion included: 1) the bond election in 2006 citizens voted to approve the expenditure of \$690,000 for sidewalks for areas around schools and to be able to leverage money for grants; 2) there are two issues one is sidewalks in new developments, this is a first step, then in older additions; 3) the city has set aside \$180,000 to promote infill and to put in sidewalks in existing neighborhoods; 4) a question on definitions of streets in the zoning ordinance; 5) a network of sidewalks may require a bond election; and 6) the desire of the city council is to come up with a plan to place sidewalks in areas that don't have them.

Councilwoman Moore made the motion to approve staff recommendation, an ordinance adopting amendments to the "City of Abilene Sidewalk Master Plan" considered on second and final reading approving revisions to the ordinance, with the exception of amendment to section D: 1 providing an exemption for all local streets in a single-family residential subdivision. D: 1 will read: Sidewalks shall be required on both sides of all new streets except local streets in a single-family residential subdivision, where all lots are 1 acre or greater or expressways where frontage roads are not provided. Councilman Williams seconded the motion and the motion carried.

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

NAYS: None

Councilman Chase made an amendment to the motion to amend F:1 to read: The waiver must be approved by <u>both</u> the Planning Director and the City Engineer to be granted and their decision shall be documented with supporting data that states the basis for the decision. However, in the event of a split decision, the City Manager or designee shall also make a determination as to whether or not the waiver should be granted, and document that determination with supporting data that states the basis for the decision. Councilman Higgins seconded the motion and the motion carried.

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

NAYS: None

Councilman Chase made a motion to amend the motion to add the committee's recommendation of clarifying C: which would Revise G:24 "Unreasonably Disproportionate" means exceeding twenty percent of the project costs or exceeding three times the cost of a standard sidewalk with no topographic constraints or other unique issues that would raise the cost of a sidewalk. For transportation projects, right-of-way acquisition costs shall not be included in the calculation. Councilman Williams seconded the motion and the motion carried.

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

Mayor Archibald. NAYS: None

The Ordinance is numbered #1-2008 and captioned as follows:

AN ORDINANCE ADOPTING AMENDMENTS TO THE "CITY OF ABILENE SIDEWALK MASTER PLAN;" **PROVIDING** A **SEVERABILITY** CLAUSE: DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

4.2 Jon James Director of Planning and Development Services briefed the city council on the Case No. **Z-007-22**, a request from Hendrick Medical Center; to rezone property from LC (Limited Commercial) and RM-3 (Multi-Family Residential) to SC (Shopping Center), located at 2901, 3001 S. Danville Dr. and all adjacent properties.

The applicant plans to develop the property for future commercial use. The applicant's original request was brought before the Planning and Zoning Commission on November 5, 2007, and was tabled so staff, the applicant, and members of the surrounding neighborhood could write a PDD (Planned Development District). The requested PDD (Planned Development District) zoning is to ensure an adequate buffering between the proposed commercial use of the site and the surrounding residential properties.

Major PDD Requirements

- Access
 - No drive access onto High Meadows Dr.
 - Limit of 1 drive onto Wisteria Way and 2 drives onto Danville
- Traffic Impacts:
 - Proponent shall be responsible for 2 speed humps along High
 - If speed hump criteria met per City's Traffic & Transportation Division
 - Capped at \$6,000; City responsible for any excess
- - Tract 1: uses allowed in SC (Shopping Center) district
 - Tract 2: will be regulated by RS-6 (Single-Family Residential), must be replatted as a single lot fronting on Wisteria Way, and must remain undeveloped, with the exception of open space/passive recreational uses.

Major PDD Requirements

- · Landscaping/Screening:
 - Normal City Landscaping/Screening, plus
 - Solid 8' hedge along the northern and eastern boundaries of Tract 1.
- Signs:
 - One pole sign (43' & 225 sf) + must avoid excessive lighting
 - Animated/scrolling message signs allowed if message does not change for a minimum of 15 seconds
- Other:
 - Outside speakers limited to front of building (facing S. Danville Dr.)
 - High-quality building materials
 - Shielded lighting directed away from residential areas
 - No sidewalk required along High Meadows.

Mayor Archibald opened a public hearing on the item and the city council heard from:

- Paul Johnson, 22 Augusta Drive. One of the major concerns was traffic and after sitting down with the neighborhood, things were worked out.
- David Orr, proposed developer. Mr. Orr commends staff for working through the issues.

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

Councilwoman Davis made the motion to approve **Z-2007-22**, an ordinance considered on second and final reading to rezone property from LC (Limited Commercial) and RM-3 (Multi-Family Residential) to <u>PDD-122</u> (Planned Development District), located at 2901, 3001 S. Danville Dr. and all adjacent properties. Councilman Chase seconded the motion and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwoman Davis.

NAYS: None

ABSTAIN: Mayor Archibald and Councilwoman Moore, Hendrick Medical Center is their employer.

The Ordinance is numbered #2-2008 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING <u>PDD-122</u> 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 city council on the Case No. **Z-2007-24**, a request from Valarie Kennedy, to rezone property from AO (Agricultural

Open Space), GC (General Commercial), and MH (Mobile Home) to PDD (Planned Development District) located at 401 Loop 322 and 2901 Newman Rd.

The subject parcel is 122.5 acres and is currently zoned GC (General Commercial), AO (Agricultural Open Space), and MH (Mobile Home). The property is mostly undeveloped with the exception of a few agricultural type structures. The property has AO (Agricultural Open Space) to the North and East, with HC (Heavy Commercial) to the West along Loop 322, and LI (Light Industrial) to the South across E HWY 80.

The requested PDD (Planned Development District) zoning is to encompass the variety of uses the applicant plans to have on the site because the city does not currently have a zoning classification that would allow such a development to take place.

Staff and P&Z Recommendation:

Tract 1

- General office space.
- Hotel/Motel
- Restaurant Standard and Fast-Food
- Variety Store
- Amusement facility (temporary)
- Arcade, for games
- Single Family Detached Dwelling

Tract 2

- Vacation travel trailer parks.
- Camp, for groups or organizations
- Drive-in movies
- Indoor/Outdoor shooting range (with Special Exception)

Mayor Archibald opened a public hearing on the item and the city council heard from:

• Valarie & Forest Kennedy, owners. The Kennedy's addressed the council about their plans for the property. Mrs. Kennedy showed the council a printout of the proposed plans. The Kennedy's wanted to move the boundary of the Tract 1 to the East boundary line of the property and to add to Tract 2 the following uses: General office space, Hotel/Motel and restaurant standard and fast-food.

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

Councilwoman Davis made the motion to approve **Z-2007-24**, amend the uses under Tract 2 to included General Office Space, Hotel/Motel and Restaurant Standard and Fast-Food, an ordinance considered on second and final reading to rezone property from AO (Agricultural Open Space), GC (General Commercial), and MH (Mobile Home) to PDD (Planned Development District), located at 401 Loop 322 and 2901 Newman Rd. Councilman Spano seconded the motion and the motion carried.

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

NAYS: None

The Ordinance is numbered #3-2008 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING <u>PDD-123</u> 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 city council on the Case No. **Z-2007-25**, a request from Harley Burnett; to rezone property from AO (Agricultural Open Space) to HI (Heavy Industrial) located at E Hwy 80 and Newman Rd.

The subject parcel is 3.628 acres and is currently zoned agricultural open spaces (AO), but is currently undeveloped. There is AO (Agricultural Open Space) to the north of the property, GC (General Commercial) directly adjacent to the west, with LI (Light Industrial) to the majority of the east, west and south.

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

Councilman Williams made the motion to approve **Z-2007-25**, an ordinance considered on second and final reading to rezone property from AO (Agricultural Open Space) to LI (Light Industrial), located at E Hwy 80 and Newman Road. Councilwoman Moore seconded the motion and the motion carried.

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

NAYS: None

The Ordinance is numbered #4-2008 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 city council on the Case No. **Z-2007-26**, a request from St. James United Methodist Church; to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential, located at 3100 Barrow.

The subject parcel is 4.0 acres ad is currently zoned AO (Agricultural Open Space), but has been developed as a church/daycare center. There is single-family residential zoning (RS-8) to the North and East of the property with single-family zoning (RS-6) to the West. There is also

property zoned agricultural open space (AO) to the South, which is being used as public park (Red Bud).

The property is currently used as a church and a daycare. The surrounding area is primarily zoned for single-family residences with a city park (Redbud) to the South, which is zoned AO (Agricultural Open Space). The applicant plans to construct another sign on its property and its current zoning of AO (Agricultural Open Space) does not allow more than one (1) sign per site.

Mayor Archibald opened a public hearing on the item and the city council heard from:

- Natalie Hermes, member of St. John United Methodist Church. Ms. Hermes explained that the intent of the church is to be able to install another sign.
- John Sanders, Pastor of St. John United Methodist Church. Mr. Sanders explained that in order for the Church to be able to have another sign advertising their church that they needed to change the zone from AO to RS-6.

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

Councilwoman Davis made the motion to approve **Z-2007-26**, an ordinance considered on second and final reading to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential), located at 3100 Barrow. Councilman Higgins seconded the motion and the motion carried.

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

NAYS: None

The Ordinance is numbered #5-2008 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.

4.6 Jon James Director of Planning and Development Services briefed the city council on the Case No. **Z-2007-27**, a request from Atlantis Realty; to rezone property from AO (Agricultural Open Space) to O (Office), located at 7601 Buffalo Gap Rd.

The subject parcel is 0.79 acres and is currently zoned agricultural open space, but is currently undeveloped. There is single-family residential zoning (RS-6) to the South of the property with multi-family zoning (RM-2) to the West and most of the North, with the exception of the lot directly to the North is zoned O (Office). The property across Buffalo Gap Rd. is zoned agricultural open space (AO), and is developed with single-family homes. The property also lies within the Buffalo Gap Corridor Overlay district.

The applicant plans to develop this site for future office type uses. The property is currently undeveloped. The property abuts residential properties to the East and South, with O (Office) zoning district to the North.

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

Councilman Williams made the motion to approve **Z-2007-27**, an ordinance considered on second and final reading to rezone property from AO (Agricultural Open Space) to O (Office), located at 7601 Buffalo Gap Rd. Councilman Higgins seconded the motion and the motion carried.

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

NAYS: None

The Ordinance is numbered #6-2008 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 *Item pulled to the front of the Regular Agenda.*

EXECUTIVE SESSION

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 taken on Board Appointme	ents.		
There being no further business the meeting was adjourned at 1:15 p.m.				
	e Dunlap	Norm Archibald		