

CITY COUNCIL MEETING
August 14, 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 August 14, 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, and Councilwoman Laura Moore. Councilman Robert O. Briley was absent and Councilman Williams came in later. Also present were City Manager Larry Gilley, Dan Santee City Attorney, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Spano gave the invocation.

Mayor Archibald introduced Anna James, daughter of Jon James Director of Planning and Development Services and Theresa James Assistant City Attorney. Anna led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

EMPLOYEE SERVICE AWARDS

4.0 Mayor Archibald assisted by City Manager Larry Gilley and City Secretary Danette Dunlap, recognized the following employees for their years of service:

Ernie Kyle Butler	Custodian I, Custodial Services	20 years
Edward Dorsey	Lead Supervisor, Water Distribution	25 years
Jessie Sarabia	Equipment II, Fleet Maintenance	30 years
David Dockter	Firefighter, Fire Tactical Operations	30 years

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the Regular Meeting held July 24, and Budget Workshops held July 22, 23, and August 5, 2008. There being no deletions, no addition, two corrections “**Mindy Whisenhunt to Mindy Patterson**” in the July 23rd and August 5th council minutes, Councilwoman Moore made a motion to approve the minutes with the two changes. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Higgins, Councilwoman Moore and Mayor Archibald
NAYS: None

CONSENT AGENDA

Councilman Higgins made a motion to approve consent agenda items 6.1 through 6.11 with the exceptions of 6.2, 6.3 and 6.7 pulled by Councilman Chase. Councilman Spano seconded the motion, the motion carried.

AYES: Councilman Chase, Spano, Higgins, Councilwoman Moore and Mayor Archibald.
NAYS: None

Oral Resolution:

6.1 Oral Resolution –Application for permit to drill and/or operate oil and/or gas well-
Bullet Development, LLC Permit # **651852**

Ordinances:

6.2 First Reading amending Chapter 29.5- Swimming Pools and Spas; adopting Title 25, Chapter 265, Subchapter L of the Texas Administrative Code “Standards for Public Pools and Spas” with local amendments; and set a Public Hearing for August 28, 2008 *(Item pulled by Councilman Chase)*

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE REPLACING CHAPTER 29.5, “SWIMMING POOLS AND SPAS”, IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

6.3 First Reading approving execution of a Developer Participation Contract with Connecting Caring Communities to provide Infill Development Funds for the North Park Development Project; and setting a Public Hearing for August 28, 2008. *(Item pulled by Councilman Chase)*

AN ORDINANCE APPROVING THE EXECUTION OF A DEVELOPER PARTICIPATION CONTRACT BETWEEN THE CITY OF ABILENE AND CONNECTING CARING COMMUNITIES FOR THE PURPOSE OF MAKING CERTAIN PUBLIC IMPROVEMENTS AS AUTHORIZED BY LAW.

Bid Awards:

6.4 **CB# 8059** – Construct Fire Training Simulator (Burn House). Bid was awarded to WHP Training Towers in the amount of \$391,036.00.

6.5 **CB# 8052** – Wheel Loader for Street Services Division. Bid was awarded to Nueces Power Equipment in the amount of \$117,725.00.

6.6 **CB# 8054** – Two (2) Pneumatic Rollers for Street Services Division. Bid awarded to Yellowhouse Machinery in the amount of \$124,000.00

6.7 **CB# 8055** – Motor Grader for Street Services Division. Bid was TABLED. *(Item pulled by Councilman Chase)*

6.8 **CB# 8056** – Backhoe Loaders for Street Services Division, Parks Division and Water Distribution. Bid was awarded to Nueces Power Equipment in the amount of \$284,314.00.

- 6.9 CB# 8061** – Hanger 1 Reskin, Relight and Repower. Bid was awarded to Harris Acoustics in the amount of \$262,946.00.
- 6.10 CB# 8063** – Construct a storm water detention pond at the southwest corner of the intersection of Pasadena and Northway. Bid awarded to Bontke Brothers Construction Co., in the amount of \$141,784.50.
- 6.11 CB# 8064** – Miscellaneous Residential street reconstruction project as part of the 2006 bond package. This project is on the south side of Hartford Street and Bowie Drive. Bid was awarded to Contract Paving Co, of Tye, Texas, in the amount of \$512,362.12.

Items Pulled from Consent Agenda

6.2 First Reading amending Chapter 29.5- Swimming Pools and Spas; adopting Title 25, Chapter 265, Subchapter L of the Texas Administrative Code “Standards for Public Pools and Spas” with local amendments; and set a Public Hearing for August 28, 2008 *(Item pulled by Councilman Chase)*

Councilman Chase had some questions in regards to the changes being made with the Swimming Pool Ordinance. He requested that the presentation from Planning be sent out prior to the next meeting for this Ordinance so that council would have time to review.

Jon James Director of Planning and Development Services stated that the biggest issue had to do with the license requirement.

6.3 First Reading approving execution of a Developer Participation Contract with Connecting Caring Communities to provide Infill Development Funds for the North Park Development Project; and setting a Public Hearing for August 28, 2008. *(Item pulled by Councilman Chase)*

Councilman Chase noted that the Infill Fund had started at \$180,000 with \$60,000 set aside for another project which left \$120,000 in this Fund. The original request from Connecting Caring Communities was in the amount of \$80,000 and has since been amended to the full \$120,000 from the Infill Fund.

Jon James Director of Planning Development Services explained that no other requests have come in for this funding. The CIP funds can only be used for capital improvements.

Councilman Chase made the motion to approve items **6.2** and **6.3** as recommended by staff. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Higgins, Councilman Moore and Mayor Archibald.
NAYS: None

6.7 Bid Award - CB# 8055 – Motor Grader for Street Services Division. Bid was TABLED. *(Item pulled by Councilman Chase)*

Councilman Chase asked about the low bid from Abilene New Holland.

Mindy Patterson, Interim Director of Finance explained that Abilene New Holland bid was for a front articulation joint grader whereas a rear articulation joint was specified in the specs.

Paul Knippel Director of Public Works explained that the rear articulation joint motor graders are a preferred piece of equipment for operators that maintain city alleys. They function better than the front articulation graders.

Dan Santee, City Attorney, advised that Abilene New Holland's bid did not meet bid specifications.

Councilman Chase made the motion to TABLE this item. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Higgins, Councilman Moore and Mayor Archibald.
NAYS: None

REGULAR AGENDA

7.1 Jon James, Director of Planning and Development Services, briefed the City Council on the appealed item, Case No. **Z-2008-23**, a request from Shelley Flowers to rezone property from RM-2 (Multi-Family Residential) to O (Office) zoning, located at 1369 Sayles Blvd.

Currently the property is zoned RM-2 and has been used for residential purposes. The property is near the intersection of two major arterials, Sayles Blvd, and S. 14th Street. There is GC zoned properties directly to the south as well as across Sayles Blvd. and S. 14th St. from the subject property. McMurry University is located on the southwest corner of Sayles Blvd. and S. 14th St.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Community Enhancement Corridor. Given the location of this property and its proximity to the intersection of two major arterials, office zoning would be compatible with the surrounding area. Office zoning would be appropriate transition from GC zoning north from S. 14th St. toward the residential properties.

The recommendation for approval was denied by a vote of three (3) in favor and three (3) opposed (Rosenbaum, Todd, & McClarty in favor of approval; Bixby, Famble & Long opposed). Staff recommends approval as requested.

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

Council and Staff discussion included: 1) location of the property; 2) concerns of commercial encroaching into the residential homes north on Sayles; 3) property is currently zoned

RM2 which would allow for apartments or duplexes to be built on this location; and 4) Office zoning wouldn't allow for any retail business. Office zoning allows, for example, doctor offices, realtors offices, etc.

Mayor Archibald made the motion to approve Case No. **Z-2008-23**, a request from Shelley Flowers to rezone property from RM-2 (Multi-Family Residential) to O (Office) zoning, located at 1369 Sayles Blvd. Councilman Williams seconded the motion and the motion carried.

AYES: Councilmen Chase, Williams, Higgins and Mayor Archibald

NAYS: Councilman Spano and Councilwoman Moore

The Ordinance is numbered **#38-2008** 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.

7.2 Jon James, Director of Planning and Development Services, briefed the City Council on the Case No. **Z-2008-24** a request from Hendrick Medical Center to rezone property from O (Office) to GC (General Commercial) zoning, located at 2110 Pine Street.

Currently the property is zoned O (Office). The surrounding area is developed for medical use, Hendrick Hospital. The property was not used for a health club in the past. Due to a recent submittal for expansion and change in use, staff has determined that the property will need to be zoned as GC (General Commercial) to allow the use.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Special Activity Center and along a Community Enhancement Corridor. The property is currently surrounded by GC zoning and rezoning the subject property to GC would make this property more consistent with the surrounding area.

P & Z recommends approval of GC (General Commercial) by a vote of 5 in favor with 1 abstention (Bixby, Famble, Long, McClarty, and Rosenbaum in favor; Todd abstained. Staff recommends approval as requested.

Mayor Archibald opened the public hearing, and the Council heard the following:

- Duane Martin Director of Architectural Engineering with Hendrick Medical – Mr. Martin explained that when Hendricks purchased this property it was zoned Office and since then Hendricks has made a recent submittal for expansion. Mr. Martin asked for council approval.

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

Councilman Higgins made the motion to approve Case No. **Z-2008-24** a request from Hendrick Medical Center to rezone property from O (Office) to GC (General Commercial) zoning, located 2110 Pine Street. Councilwoman Moore seconded the motion and the motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins and Councilwoman Moore.

NAYS: None

ABSTAINED: Mayor Archibald

The Ordinance is numbered **#39-2008** 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.

7.3 Jon James briefed the City Council on the Case No. **Z-2008-25** a request from K. V. Sneed to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at 5702 S. Clack Street

Currently the property is zones AO (Agricultural Open Space) and is undeveloped. The proposed GC (General Commercial) zoning would be compatible with the surrounding zoning. Given the property's location along HWY 83/84, commercial activities would be appropriate.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial use. The requested zoning is comparable to other areas of the City of Abilene for properties that have frontage along highways. This property is in an entryway to the City and is just north of an area along HWY 83/84 that is designated as a gateway as well as a Special Activity Center on the Future Land Use Map.

P & Z recommends approval of GC (General Commercial) by a vote of 6 in favor (Bixby, Famble, Long, McClarty, Rosenbaum and Todd in favor) and none opposed. Staff recommends approval as requested.

Mayor Archibald opened the Public Hearing and the Council heard the following:

- Dale Scoggins – agent for the owner of the property. Mr. Scoggins explained to the council that this property was formerly used for residential, but do to the Hwy 83/84 expansion the homeowners moved. Mr. Scoggins also discussed problems he saw with zoning property this size into a PDD (Planned Development District).

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

Councilman Chase made the motion to approve Case No. **Z-2008-25** a request from K.V. Sneed to rezone property from AO (Agricultural Open Space) to GC (General Commercial)

zoning, located at 5702 S. Clack Street. Councilman Williams seconded the motion and the motion carried.

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

NAYS: None

The Ordinance is numbered **#40-2008** 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

7.4 Jon James Director of Planning and Development Services briefed the council on Case No. **Z-2008-26** a request from Crystal City Railroad, Inc. to rezone property from AO (Agricultural Open Space) to LI (Light Industrial) zoning, located south of Anson Avenue, north of Lowden Street, and east of the railroad right-of-way.

Currently the properties are zoned AO (Agricultural Open Space) and are used as such. The surrounding area has been developed with industrial type uses. There are some residential homes to the west of the property across the rail road ROW that have been zoned HI (High Industrial) since 1986. The applicant wishes to use this property for storage of materials to be shipped in on the railway and then distributed to certain sites in this general area.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential. Although this general area may be planned for low density residential, the subject properties are adjacent to a rail road right-of-way making them an ideal location for commercial/light industrial uses. Light industrial would be appropriate zoning for these properties given the location of the rail road right-of-way, the HI and HC zoned properties in the area, as well as the short distance to access I-20.

P&Z recommends approval of LI (Light Industrial) by a vote of 6 in favor (Bixby, Famble, Long, McClarty, Rosenbaum and Todd in favor) and none opposed. Staff recommends approval as requested.

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

- Jeff Baskett with Iron Horse Resources. Mr. Baskett briefed the council on the railroad and the businesses they are marketing to. He explained that they are doing business as a short line rail road. They are doing business with the windmill industry. With the purchase and the rezone of this property it will allow the business to expand. Mr. Baskett explained that the railroad had a 100ft right of way, 50 feet either side of the center of the railroad.

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

Councilman Chase made the motion to approve Case No. **Z-2008-26** a request from Crystal City Railroad, Inc. to rezone property from AO (Agricultural Open Space) to LI (Light Industrial) zoning, located south of Anson Avenue, north of Lowden Street, and east of the railroad right-of-way. Councilman Higgins seconded the motion and the motion carried.

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

NAYS: None

The Ordinance is numbered **#41-2008** 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

7.5 Jon James Director of Planning and Development Services briefed the council on Case No. **Z-2008-27** a request from Village Investment Partners, LP to rezone property from AO (Agricultural Open Space) to LI (Light Industrial) zoning, located at 5250 S. Clack Street.

Currently the property is zoned AO (Agricultural Open Space). The surrounding uses are all compatible with the current zoning. The proposed LI (Light Industrial) zoning would be compatible with the surrounding zoning. Given the properties location along HWY 83/84, light industrial activities would be appropriate. The property directly to the north of the subject property has been developed for commercial use.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial use. The requested zoning is comparable to other areas of the City of Abilene for properties that have frontage along highways. This property is in an entryway to the City and is just north of an area along HWY 83/84 that is designated as a gateway as well as a Special Activity Center on the Future Land Use Map.

P&Z recommends approval of LI (Light Industrial) by a vote of 6 in favor (Bixby, Famble, Long, McClarty, Rosenbaum and Todd in favor) and none opposed. There was some concern expressed by the Commission regarding aesthetics of this area, as a designated entryway. However, the determination was that our recently adopted Landscaping Ordinance provides sufficient standards to ensure appropriate development. Staff recommends approval as requested.

Mayor Archibald opened the public hearing and the city council heard from the following:

- Tal Fillingim – agent for owner of the property. Mr. Fillingim explained the business that would be coming on to this location was a cabinet and countertop business. They will be working with granite which will require the property to be re-zoned Light Industrial. Mr. Fillingim didn't believe that the property would need to be rezoned into a PDD and asked for approval.

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

Councilman Chase made the motion to approve Case No. **Z-2008-27** a request from Village Investment Partners, LP to rezone property from AO (Agricultural Open Space) to LI (Light Industrial) zoning, located at 5250 S. Clack Street. Councilman Williams seconded the motion and the motion carried.

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

NAYS: None

The Ordinance is numbered **#42-2008** 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

7.6 Mindy Patterson, Interim Director of Finance briefed the council on the proposed 2008-2009 Tax Rate. The FY 2009 Budget approved by Council on July 23, 2008 set the tax rate at .6854 cents. State law requires that two (2) public hearings must be held prior to the final public hearing and vote. Another public hearing will be held on August 28, 2008, with the final public hearing and vote to be held on September 11, 2008.

Staff recommends that the City Council hold the public hearing in accordance with State law. No action is required by Council.

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

- S.C. Jones addressed the city council and asked that the city council continue to look at ways to cut the budget instead of a tax increase. Mr. Jones stated that the citizens had spoken at the bond election loud and clear that they didn't want new taxes.

Councilman Chase addressed Mr. Jones and his concerns. In the City's proposed budget the Maintenance and Operation is staying the same. The increase is for the debt payment that was approved by the public in 2006 Bond Election for improvements. The City didn't increase the debt payment last year, but is having to this year.

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

Mayor Archibald stated that there is no action to be taken today. The City will hold another public hearing on the tax rate on August 28, 2008 at 5:30 p.m.

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.

10.0 Councilman Williams made a motion to approve Mayor Archibald's reappointment of Steve Austin to the MHMR Board and Councilman Spano seconded the motion, and the motion carried.

MHMR Board
Steve Austin Term expires 8/2010

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

NAYS: None

There being no further business the meeting was adjourned at 11:14 a.m.

Danette Dunlap
City Secretary

Norm Archibald
Mayor