

**CITY COUNCIL MEETING
November 6, 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 November 6, 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, Robert O. Briley, Anthony Williams, and Councilwoman Laura Moore. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Jonathan Glenn; he is 11 years old and a 5th grader at Wylie Intermediate School. Jonathan 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, recognized the following employee for her years of service:

Fay Parks	Secretary II, Public Works Administration	20 Years
Kim St. Clair	Library Administrative Assistant II	25 Years

PROCLAMATIONS

Mayor Archibald presented the following Proclamation:

November 9th- 15th, 2008 – Youth Appreciation Week, accepting the proclamation was Charles Loveland, with the Optimist Club.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the Regular Meeting held October 23, 2008. There being no deletions, no addition, and no corrections Councilwoman Moore made a motion to approve the minutes as presented. Councilman Williams seconded the motion and the motion carried.

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

CONSENT AGENDA

Councilman Higgins made a motion to approve consent agenda item 6.2 as presented. Councilman Chase seconded the motion, the motion carried. *Councilman Chase pulled item 6.1.*

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

NAYS: None

Oral Resolutions:

6.1 Approving a new building lease with AvFuel. *Item pulled.*

6.2 Approving New Parking Lot Rates for the Airport Terminal Parking Lot. The new daily rate is set at \$8.00/day with the first 30 minutes free and an associated hourly rate with the first 30 minutes of parking free.

ITEM PULLED FROM CONSENT

6.1 Approving a new building lease with AvFuel. Don Green Director of Aviation addressed the concerns from Councilman Chase in regards to the lease with AvFuel. This lease is for the old terminal building where AvFuel currently occupies as office space. There is about 300,000 square feet of ground lease that AvFuel will no longer lease, they no longer have need for this area. The lease rate of \$2.12 per square foot is for building lease and not a ground lease rate.

Councilman Chase made a motion to approve the Oral Resolution authorizing the City Manager to Execute a Building Lease with AvFuel, lease rate will start at \$2.12 per square foot per year and will adjust with the CPI-U every fifth year. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

REGULAR AGENDA

7.1 Jon James Director of Planning and Development Services briefed the council on an Ordinance amending Section 23-128(A) and adding Section 23-172 of the Sign Regulations of the City of Abilene regarding Electronic Message Signs.

In order to bring the City's Sign Ordinance into compliance with TxDOT rules for off-premise digital signs, staff initiated a Sign Ordinance amendment for Electronic Message Signs. In addition to the rules for off-premise signs, this proposed amendment also addresses on-premise signs. Based on reviews of recently adopted ordinances in other Texas cities, staff proposed an ordinance amendment in June that would have prohibited all motion, flashing, and animation on all digital signs, with only limited exceptions, consistent with 5 of Abilene's 10 peer cities. The Planning and Zoning Commission made minor modifications to this ordinance and recommended

approval at their June meeting. However, part of their direction was for staff to meet with affected businesses and sign companies to gather more feedback on the proposal.

Primary Concerns

- Many cities have recently enacted new rules to address digital signs.
- Driver Distraction
 - Electronic signs with moving images contribute to driver distraction for longer intervals than signs with no movement.
 - Twice as many and longer glances at “active signs” vs. “passive signs”
 - Video and scrolling text received the longest glances
 - Flashing messages are harder to comprehend
- Public Perception / Aesthetics
 - Many cities have found public opposition to these signs.
 - In Abilene, any opposition seems to be limited mostly to flashing and animation, not digital signs in general.

Community Meetings

- P&Z Commission asked staff to meet with sign companies and affected businesses to get feedback on proposed regulations.
 - Two meetings held on August 11 and 14
 - 17 attendees over the two meetings
- Areas of general agreement:
 - Restrictions near residential areas
 - Prohibition of “flashing” but not all animation
 - Don’t want full-motion video (“big TVs”)
 - Brightness restrictions that are consistent with industry standards.
- Areas of concern:
 - Complete prohibition on scrolling, motion, and animation
 - No differentiation between different size signs or between on-premise and off-premise
 - Minimum display time is too long
 - Wasted investment for existing signs, if not grandfathered

P&Z Recommendation

- Signs over 75 sf and all billboards regardless of size:
 - Digital signs allowed with no flashing, animation, video, etc.

- Minimum display time of 8 seconds
- Maximum transition time of 2 seconds
 - *Display time and transition consistent with TxDOT rules*
- On-premise signs 75 sf or under:
 - Digital signs allowed with animation, scrolling, etc.
 - No flashing or full motion video
- All digital signs currently in the City are 75 sf or less.
- Limits on maximum brightness
 - 7,000 nits (candelas per square meter) daytime
 - 1,000 nits at night
 - Public Works Director may order brightness reduced or other operational characteristics altered if deemed a traffic hazard
 - Requires proof of limits from manufacturer and dimmer control
- If within 100 feet of residential → sign must not face residential OR must be reduced to 250 nits brightness at night
- Public comment at P&Z meeting indicates that sign companies and concerned businesses support this modified ordinance.

Peer Cities Requirements for Electronic Message Signs

- Digital Signs Prohibited: Denton
- Limited to static messages only:
 - Killeen (10 sec minimum, 2 sec transition)
 - Lubbock (10 sec min, 0.3 sec transition)
 - San Angelo (8 sec min, 2 sec transition) {2008}
 - Waco (no min identified)
- Animation allowed with restrictions:
 - Carrollton {2007}
 - Limited to 1/3 of sign area; only along I-35 on 5 acre+ lots
 - Limited to 2/3 of sign area for schools, churches, and public facilities
 - Wichita Falls
 - 120 sf max sign (200 sf if more than 25' from property line)
 - Must be static if within 200' of residential
 - Only allowed in GC, Industrial, CBD, and River District
- No restrictions: Midland, Odessa, *Grand Prairie**

**Revisions planned to be more restrictive*

Staff recommends approval of the ordinance. Planning and Zoning Commission approved amendments to the Sign Regulations at their meeting on June 2, 2008. After recommending that staff meet with affected businesses and sign companies, this issue was brought back before the Commission at their October 6 meeting, where they approved amendments to the ordinance by a vote of 5 in favor and 1 opposed.

Council and Staff discussion included: 1) why Mr. McClarty with the Planning and Zoning Commission voted against the ordinance. Staff advised that Mr. McClarty is opposed to billboard signs in location other than the interstate; 2) input by citizens, input by Sign Companies, TxDOT regulations, all have worked together to come up with a workable ordinance; 3) concern with the sign at the First National Bank of Baird located on South 1st Street; and 4) concern with unmaintained signs that are no longer used.

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

Councilman Briley made the motion to approve the Ordinance for amending Section 23-128(A) and adding Section 23-172 of the Sign Regulations of the City of Abilene regarding Electronic Message Signs. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Briley, Councilwoman Moore and Mayor Archibald.
NAYS: None

The Ordinance is numbered **#57-2008** 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 A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

7.2 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case No. **Z-2008-35**, a request from the Development Corporation of Abilene to amend the text of PDD-73 (Planned Development District), regarding building design, located at the Five Points Industrial Park.

The regulations of this PDD were originally written with the intent of establishing an industrial park with higher building aesthetics than typically found in industrial areas. The current regulations prohibit standard metal facades and this restriction applies to all walls on a building. This regulation was included not only to have an aesthetically pleasing industrial area, but also due to the anticipation of the size and visibility of buildings that would be built in this industrial park. The applicant wishes to change the regulation to only apply this standard to the front façade of a

building and any side within 300' of a public right-of-way. The applicant's intent is to cut down on the cost of development to help promote future development in the area.

Additionally the applicant is requesting to modify the regulation regarding openings, windows, and doors and that "Petroleum/Gas wells" be added as a permitted use with the PDD.

Staff recommends approval of an alternative to the requested amendment. Planning and Zoning Commission recommends approval.

Council and Staff discussion included: 1) first reading of said Ordinance, Ordinance will come back at the next meeting on Consent unless council wishes to place this item on the Regular agenda; 2) concern over the use of the word side in the Ordinance under the Amend Part 7 Specific Modifications B.6 of the Exhibit "A" of the Ordinance; and 3) concern that adjusting this PDD could cause others to come back to council for a change also. Staff advised that this was probably the most restrictive PDD than any other PDD in the City.

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

- Richard Burdine, CEO of the Development Corporation. Mr. Burdine had not seen the text under the Amendment on Part 7 that was to be changed and he clarified the siding is just as functional.

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

Councilman Higgins made the motion to approve the first reading of the Ordinance for Case No. Z-2008-35, a request from the Development Corporation of Abilene to amend the text of PDD-73 (Planned Development District), regarding building design, located at the Five Points Industrial Park and amend Part 7 Modifications B.6 by deleting the two words side. Councilwoman Moore seconded the motion, motion carried.

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

NAYS: None

The Ordinance is numbered #58-2008 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE; AND ORDINANCE NO. 30-2000 CONCERNING THE PDD #73 PLANNED DEVELOPMENT DISTRICT; DECLARING A PENALTY AND CALLING A PUBLIC HEARING AND AN EFFECTIVE DATE.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 9:45 a.m. 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 at 11:02 a.m. and reported no votes or action was taken in Executive Session.

There being no further business the meeting was adjourned at 11:02 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor