

**CITY COUNCIL MEETING**  
**June 25, 2009, 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 June 25, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Shane Price, Stormy Higgins, Joe Spano, Anthony Williams, and Councilwoman Laura Moore. Absent was Councilman Robert O. Briley. 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 Kyler Bone; Kyler is a 5th grader at Wylie Elementary and the son of Abilene Police Officer Lt. Bone. Kyler led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the Regular Meeting June 11th, 2009. There being no deletions, no addition, and no corrections. Councilman Higgins made a motion to approve the minutes as presented. Councilman Price seconded the motion and the motion carried.

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

NAYS: None

**CONSENT AGENDA**

Councilman Williams made the motion to approve consent items 6.1 and 6.4 as presented. Councilwoman Moore seconded the motion, the motion carried.

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

NAYS: None

**Ordinance:**

**6.1** (First Reading) Approving a revision to Section 7 of the Budget Ordinance No. 50-2008.

AN ORDINANCE APPROVING A REVISION TO SECTION 7 OF ORDINANCE NUMBER 50-2008; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING.

**Resolution:**

**6.2** Resolution in Support of and Authorizing Solid Waste Grant application:

Resolution numbered 19-2009 and captioned as follows:

RESOLUTION OF THE CITY OF ABILENE AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE WEST CENTRAL TEXAS COUNCIL OF GOVERNMENTS (WCTCOG) FOR A REGIONAL SOLID WASTE GRANTS PROGRAM GRANTS; AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF ABILENE IN ALL MATTERS RELATED TO THE APPLICATION; AND PLEDGING THAT IF A GRANT IS RECEIVED, THE CITY OF ABILENE WILL COMPLY WITH THE GRANT REQUIREMENTS OF THE WCTCOG, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE STATE OF TEXAS.

**Bid Awards:**

**6.3** Award of Bid – Midsize SUV's, **CB-9034**. City Council approved the bid award to Planet Ford, the sole responsive bidder, in the amount of \$64,977.00.

**6.4** Award of Bid – Extended Cab large Pickup Trucks, **CB-9036**. City Council approved the bid award to Planet Ford, the sole responsive bidder, in the amount of \$53,775.00.

**REGULAR AGENDA**

**7.1** Mayor Archibald announced that this item had been Tabled and will take a motion to take the item off of the Table.

Councilman Williams made a motion to remove item 7.1 from the Table – final reading and public hearing on Ordinance for Case No. Z-2009-05. Councilman Higgins seconded the motion, and the motion carried.

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

NAYS: None

Jon James, Director of Planning and Development Services briefed the council on the Ordinance Case No. **Z-2009-05**, a request from Glen Weatherbee, Agent: Tal Fillingim, to rezone property from PDD-104 (Planned Development District) to AO (Agricultural Open Space) zoning, located at the northwest corner of Oldham Lane and Loop 322.

The item was previously before the City Council May 14, 2009 and was tabled to allow staff to facilitate a meeting between the applicant and the neighborhood group of the adjacent residential subdivision to see if a compromise could be found. A meeting was held on June 2, 2009 at City Hall. Unfortunately, no compromise was reached. The applicant is willing to reduce the limits of the PDD to keep the area identified as Tract 2 as is and the remainder of the property to convert back to AO zoning.

The resident group is willing to keep the existing limits of the PDD and amend the language to permit for passive agriculture uses only, i.e. pasture, farming, etc. This is unacceptable to the applicant and therefore he wishes to proceed with the request as submitted.

Staff recommends approval as requested but would also be ok with the amended zoning of the PDD as recommended by the neighborhood group.

Council and Staff discussion included: 1) keeping the limits of the PDD as is and adding AO zoning as a overlay; and 2) the applicant would be able to develop the property as per the PDD/with AO overlay without returning to council unless he made changes that didn't concur with the current PDD.

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

- Tal Fillingim, agent for Mr. Weatherbee. Mr. Fillingim stated the case for the property owner. He has two goals one to be able to use his property for farming and ranching and two to address the tax issues associated with the zoning of this property. He stated that they understand the concern of the homeowners and the time and effort that they have put into the zoning of this property in the past. The owner is advising that he would leave Tract 2 Office zoning as per the PDD and request that the rest go back to Agricultural Open Space.
- Kris Kimbrell – Ms. Kimbrell stated that she represented the Homeowners Association. They would support the PDD as is and adding the AO overlay.
- Charles Spicer – Mr. Spicer discussed the property North of this property and owned by the State School. There is a strip of land that is not zoned AO but is zoned RS-12. Mr. Spicer explained that the property taxes had declined 20% on the said property. Mr. Spicer requested that the city deny the request.
- Wendell Mathis – Mr. Mathis discussed the land zoning in the area around the property. Any future requests will come before the council for changes and approval. Zoning will have no impact as far as taxes. Feels there is no compelling need for change. Leave the PDD in place.
- Jerry Fincher – Mr. Fincher stated that he agreed with the recommendation of Councilwoman Moore to allow the AO/overlay over the current PDD.
- Tal Fillingim – Mr. Fillingim discussed the difference between a very large tract of land and a smaller tract of land with respect market values when sold. Agricultural uses were discussed and how they would be handled. Mr. Fillingim stated that they feel safe guards are in place to protect the homeowners if the land is rezoned back to Agricultural Open Space.

Council discussion included: 1) the proposed WHIP program discussed the last time the item came before council; 2) unclear on exactly what Mr. Weatherbee wants to do with the property; and 3) the best of both worlds by leaving the PDD and overlaying with the Agricultural Open Space.

- Tal Fillingim – The land owner (Mr. Weatherbee) wants to take the property back to the Agricultural Open Space zoning and be able to use the property for Ag use with the ability to farm and raise livestock without restrictions and secondly the taxes on very small tracts vs a large tract.

Council discussion included: 1) the Appraisal District uses specific formulas for determining taxes and the zoning status doesn't apply; and 2) amending with AO/overlay.

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

Council and staff included: 1) if the property is zoned back to AO the PDD will be on file and could be used again at a later date; 2) the will of the property owner; 3) 4 options on the table **a)** keep the PDD with no change **b)** to return the property to AO zoning **c)** keep tract 2 in the PDD and allow the remainder to go back to AO zoning **d)** keep PDD amend it with AO/overlay with defined uses; 4) look to future and the best interest of the development; 5) the struggle the parties went through 3 years ago to come to an agreement between the developer and the owners in the area; and 6) keeping tract 2 Office zoned and possibly moving down into Tract 1 along Oldham Lane as Office zoning.

Councilman Higgins made the motion to approve Ordinance Case No. **Z-2009-05**, a request from Glen Weatherbee, Agent: Tal Fillingim, to rezone property from PDD-104 (Planned Development District) leaving Tract 2 in the PDD and allowing the rest of the PDD to return to AO (Agricultural Open Space) zoning, located at the northwest corner of Oldham Lane and Loop 322. Councilman Price seconded the motion, motion failed.

AYES: Councilmen Price, Higgins.

NAYS: Councilman Spano, Williams, Councilwoman Moore and Mayor Archibald.

Discussion included: 1) Mr. Weatherbee asked about Article 10 of the zoning ordinance that allows the property to be reverted back to the original zoning if development has not taken place in three years. This is not a mandate, Article 10 gives the Planning Director the ability to look at zoning cases on a case by case review and make the determination if the zoning needs to be reverted back; 2) further consideration was given to the AO/overlay with permitted uses on top of the PDD; 3) uses allowed in AO were discussed with the fact that the majority of them would take approval from the Board of Adjustment; and 4) Mr. Weatherbee was not interested in the AO/overlay with permitted uses.

No further action.

**7.2** Richard Burdine briefed the council on the Development Corporation of Abilene, Inc.'s semi-annual report of activities through March 31, 2009. Authorized uses for Section 4A was reviewed along with the Incentive Guidelines for jobs.

The DCOA has committed \$28 million toward the retention and expansion of local businesses over the last 5 and ½ years.

**Sector Initiatives – Info Technology & Computing**

- FY 01-06 DCOA 5-year funding to TTU software engineering graduate program and purchase and remodel of Grant Building
- FY 05-06 DCOA assistance to Genesis Network Solutions (GNS) and creation of 140 jobs
- FY 07-08 DCOA assistance to GNS to create an additional 140 jobs
- FY 07-08 DCOA commits funds for a research institute in collaboration with university and private sector partners
- FY 08-09 Abilene company formed to commercialize application of TTU's SequenceL computer language to parallel processing in multi-core processors

### **Sector Initiatives – Wind Energy**

- FY 07-08 DCOA assists Energy Maintenance Services, Inc. to establish turbine maintenance and blade repair in former Lockheed Plant, which was vacant for 5+ years
- FY 07-08 DCOA assists Tower Tech Systems, Inc. to establish wind tower manufacturing
- FY 08-09 DCOA assists Run Energy to expand and relocate their corporate headquarters to Abilene
- FY 08-09 Negotiations are on-going with several wind energy companies to expand in or locate in Abilene
- FY 08-09 DCOA, Global Energy Services and TSTC work to provide a fast-track wind technician training program pilot

### **Sector Initiatives – Biotechnology**

- FY 04-05 Community partners recruit a TTUHSC School of Pharmacy (SOP), DCOA funds research capability
- FY 05-06 DCOA assists local Integrated Clinical Research, Inc. to expand their clinical trial business
- FY 06-07 DCOA and TTUHSC-SOP agree to create the Center for Immunotherapeutic Research
- FY 06-07 DCOA recruits first biotechnology company, Receptor Logic, which located temporarily in SOP
- FY 07-08 Abilene Life Sciences Accelerator project out to bid with anticipated completion in December 2009
- FY 08-09 DCOA completes New Markets Tax Credit transaction, netting \$2M to Abilene Life Sciences Accelerator

Staff recommends approval.

Councilman Higgins made the motion to approve the Semi-Annual Report of the Development Corporation of Abilene Inc. Councilwoman Moore seconded the motion, motion carried.

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

NAYS: None

### **EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session at 10:31 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 11:34 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel/Boards.

There being no further business the meeting was adjourned at 11:34 a.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor