

**CITY COUNCIL MEETING**

**December 2, 2010 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 December 2<sup>nd</sup>, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Anthony Williams, Robert O. Briley, Stormy Higgins, and Councilwoman Miller. 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 Brian Turner. Brian attends Dyess Elementary and is a 5th grader. Brian led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**EMPLOYEE SERVICE AWARD**

Mayor Archibald, assisted by City Manager Larry Gilley, presented an Employee Service Award to the following individual for his years of service:

Clifford Moore	Maintenance Worker I, Traffic & Transportation	30 Years
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**PROCLAMATION**

Mayor Archibald recognized David McKenzie of H-E-B for the annual H-E-B “Feast of Sharing”. The Feast of Sharing is the culmination of a year-round commitment H-E-B makes to fighting hunger. In addition to a holiday meal participants can enjoy music, arts and crafts, and kids activities—even an appearance by Santa himself.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the November 9<sup>th</sup> Workshop, November 15<sup>th</sup> Special Called Meeting and November 18<sup>th</sup> Regular Meeting there being no deletions, no additions, and no corrections, Councilman Spano made a motion to approve the minutes as presented. Councilman Price seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

**CONSENT AGENDA**

Councilman Briley made the motion to approve consent items 6.1 through 6.3 as presented. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

**Oral Resolutions:**

- 6.1 **Oral Resolution:** Council accepted David Deming's sculpture "The Centurion" which has been on exhibit as a part of the annual Outdoor Sculpture Exhibition. The sculpture is currently located on the right-of-way on North First and is recommended to remain there.
- 6.2 **Oral Resolution:** Amendment 1 to Memorandum of Agreement with Texas Parks and Wildlife Department for certain management functions of the Lake Abilene property.

A Memorandum of Agreement (MOA) between the City of Abilene and the Texas Parks and Wildlife Department (TPWD) for certain a management function of the Lake Abilene property was entered into on December 31, 2005 and has a five year term which expires December 31, 2010. TPWD has expressed its desire to extend the MOA.

The MOA conveyed management and operational responsibility of about 1612 acres of property at Lake Abilene, which has a common boundary with the western edge of Abilene State Park. TPWD now operates the area as an extension to the State Park. The State has implemented a long-term strategy to enhance wildlife habitat and protect and conserve natural resources in the area. The MOA provides for increased public use and enjoyment of the property that has resulted in construction of additional recreational facilities, and allows for additional educational opportunities through partnerships with schools and organizations. The City retains access to and control of the dam and all equipment related to raw water storage and the delivery system. The MOA benefits the City by providing for security, access control, and improved recreational facilities at a very reasonable cost.

Amendment No. 1 to the MOA would provide for an additional five year term, clarify the renewal procedure, describe certain minor edits to original language to provide for continuity, and insert an updated map showing easements across the property. The City and TPWD will continue to work in partnership in maintaining a Site Management Plan establishing operating policies and procedures, and a Site Development Plan describing recommended uses.

The Water Department will continue to contribute \$40,000 annually to TPWD in lump sum payments for the next five-year term. Council authorized City Manager to execute the Amendment 1 to Memorandum of Agreement with Texas Parks and Wildlife Department.

- 6.3 **Ordinance:** (First Reading) Approving the Standards of Care and setting a public hearing for December 16<sup>th</sup> 2010. The Texas Human Resources Code provides that in order for a municipality to be exempt from the state's licensing requirements, the governing body of the municipality must annually adopt standards of care by ordinance after a public hearing. The major difference in the City's standards is that we have established standards for 6-13 years of age, whereas the state's standard is for 0-6 years of age, a population the city does not serve.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PROGRAMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; AND CALLING A PUBLIC HEARING.

7.1 Jon James Director of Planning and Development Services briefed the council on the appeal of a denial on Case **Z-2010-16**, a request from Tina Hershaw to rezone property from MD (Medium Density Residential) to PD (Planned Development) zoning, located at 1101 Palm St.

Currently the property is zoned MD and has been developed with a two story building which is currently vacant. The adjacent properties to the north, south, east, and west are developed with multi-family residential units.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant is requesting the zone change to allow for a pet grooming business as well as kennel services (indoor only). The PD ordinance would allow for these uses as well as residential uses on the property. The PD would also require all fencing to be setback a minimum of 20' from all property lines with street frontage. The property has frontage along a collector road (S.11th St.) which supports having some low intensive commercial uses. The proposed PD ordinance would be compatible with the Comprehensive Plan and the surrounding land uses.

This item comes as a recommendation from staff and denial by Planning & Zoning.

Mayor Archibald opened the public hearing and council heard from:

- Tina Hershaw – proponent for the change. Ms. Hershaw described her vision for the use of the property as a Pet Resort.
- Cyndi Haley – spoke in support of the zone change
- Sue Laughter – spoke in support of the zone change
- Cindy Litz – spoke in support of the zone change
- Agnes Campbell – spoke against the zone change
- Nadine Campbell - spoke against the zone change
- Pastor Jason Castille – read aloud a letter from Melisa Dotson who had a complaint on Ms. Hershaw's current location and he also read aloud a letter from Mr. Ben Johnson who was against the zone change.
- David Gomez – owner of 1101 Palm St and in support of the zone change
- Jack Ramsey – spoke in support of the zone change
- Diedra Moutray – spoke in support of the zone change

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

Council and Staff discussion included: 1) possible regulations on the number of animals that could be kept; 2) size of the building; 3) windows in the building; 4) locations of fencing; and 5) noise concerns by residents in the neighborhood.

Councilman Higgins made the motion to deny the appeal of the zone change for 1101 Palm. Motion died for a lack of a second.

Councilman Price made the motion to approve as proposed by staff. Motion died for a lack of second.

Councilman Spano made the motion to approve as proposed by staff to rezone property from MD (medium density) to a Planned Development PD-134, with required fencing along street and alleyway frontages and be set back 20 ft from property line. Councilman Briley seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Councilwoman Miller and Mayor Archibald  
NAYS: Councilman Higgins

Ordinance #35-2010 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-134 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

7.2 Jon James Director of Planning & Development Services briefed the council on the ordinance to amend the Land Development Code, Section 2.4.4 (Accessory uses and Structures) regarding Accessory Dwelling Units.

With approval of the Land Development Code (LDC) earlier this year, accessory dwellings are now allowed on all residential property. Accessory dwellings are separate from the house and allow rental opportunities. In addition, accessory dwelling are subordinate to the primary dwelling, have maximum square footage restrictions, require similar construction to the primary dwelling and only allow 1 bathroom.

After reviewing the specific regulations dealing with accessory dwellings, staff feels that minor amendments are needed to clarify these regulations. Specifically, the amendments address the maximum size, location, and access to the accessory dwelling.

#### **Proposed Ordinance Regulations**

##### **Division 4 – Accessory Uses & Structures**

##### **Section 2.4.4.1 Description and Regulations by District Type**

##### **(b) Residential Districts.**

##### **(4) Accessory Dwelling Units.**

- a. An accessory dwelling unit shall not be larger than fifty percent (50%) of the primary structure.
- b. No accessory dwelling unit shall be sold separately from the primary structure.
- c. An accessory building or dwelling unit may have a maximum of one (1) bathroom.
- d. An accessory dwelling unit shall be constructed in a manner in keeping with the general architecture and building material of the main or primary dwelling.
- e. An accessory dwelling unit must be located to the rear of the primary dwelling. No accessory dwelling unit shall have a front facing door unless located to the rear of the primary dwelling.
- f. An accessory dwelling unit shall be constructed only with the issuance of a building permit and with the same minimum building standards as the primary dwelling.
- g. Any required additional parking for the accessory dwelling unit shall be provided with the required parking for the primary dwelling.
- h. If detached, any wall of the secondary dwelling must be placed no closer than six feet (6') from the primary dwelling and/or any other structure existing or under construction on the same lot.

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

- Sam Chase – spoke of his concerns with the 800 sq ft cap especially for large size lots – for example 1 to 2 acre lots sizes.

Council and Staff discussion included: 1) lots sizes; 2) subdividing property; 3) what happens in the future with the property that is allowed to have more than one main dwelling built on it; 4) 1 acre min. proposed that would exempt the property owner from having to subdivide; and 5) Tabling this item so that it can be better reviewed.

- Tim McClarty – Planning and Zoning Commission – would like for common sense to prevail as a decision tool and would like to see this item come back to Planning and Zoning for further review and discussion.

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

Mayor Archibald made the motion to table this item and to send it back to the Planning and Zoning Commission. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Higgins, Briley, Councilwoman Miller and Mayor Archibald

NAYS: None

7.3 Richard Burdine Assistant City Manager for Economic Development furnished the Annual Report of activities for the Development Corporation of Abilene, Inc. Mr. Burdine then gave a presentation on The Life of a Project the process whereby the Abilene Industrial Foundation receives a prospect "lead" from the state or a site selection consultant and the steps that are taken after that lead comes in.

Projects that are authorized under Section 4A:

Land, buildings, equipment, facilities, improvements and expenditures related to:

- Manufacturing, industrial, research & development, recycling, small warehouse and corporate headquarter facilities;
- Distribution centers;
- Closed or realigned military bases;
- Job training for primary jobs and commercial/retail;
- Business airport facilities;
- Infrastructure assistance to retail or commercial projects;
- Clean up of contaminated sites and 4B projects with voter approval.

That creates jobs, but not just any job. These jobs are defined under state law.

- Abilene Industrial Foundation (AIF) receives a prospect "lead" from the state or a site selection consultant.
- AIF decides to submit a proposal after reviewing any issues with the Office of Economic Development (OED):
  - OED develops a preliminary incentives package to be included in the proposal, if requested.
  - OED checks the company's North American Industrial Classification System (NAICS) code to confirm eligibility for assistance under state law.
- AIF submits the proposal and waits for a response from the site selection consultant, and waits...
- AIF learns that Abilene has made the "first cut" and begins the process of coordinating schedules with the consultant for a site visit.
- All parties sign a non-disclosure agreement.
- A site visit is scheduled and AIF coordinates resource people to meet with the consultant and his clients, which may include:
  - Labor experts from Workforce Solutions of West Central Texas and local companies;
  - Real estate brokers and building owners;
  - OED staff regarding incentives and land & buildings owned by the DCOA; and,
  - DCOA Board members and the Mayor to hear from the company and give them a sense of the Abilene community.
- AIF is notified that Abilene has made the "final cut" - a group of 3 to 4 cities that will be compared in detail.
- A second site visit is scheduled and AIF coordinates staff and resource people to address issues the consultant and his clients may have - typically about labor, facilities and incentives.
  - OED refines the incentive proposal based on additional information from the company about their needs.

- AIF assists company with the search for suitable facilities.
- OED and the company agree on the incentives package.
- The company's financials and the incentives package are vetted by the CEO's Advisory Committee.
- DCOA Board considers the incentives package in Executive Session.
- DCOA Board considers approval of the incentives package in open session at the same or a later meeting.
- OED finalizes the Agreement for Financial Assistance, as authorized by the DCOA Board, and both parties sign.
- Company buys or leases a building and renovates it to their specifications or builds a new building.
- Company advertises for employees and begins the hiring process, with assistance from Workforce Solutions.
- Company submits its first job certification a full year after signing the Agreement for Financial Assistance.
- OED reviews the job certification for accuracy and makes the first of 5 annual incentive payments based on the company's **actual** job creation and **actual** capital investment.
- AIF puts the company on its schedule for retention visits throughout the year, providing an "early warning" about challenges the company may be experiencing and how we may help.
- AIF invites the company to its semi-annual Manufacturers Luncheon at which they can "network" and discuss issues in common with other companies.

Councilman Williams made the motion to approve the Annual Report of activities for the Development Corporation of Abilene Inc. Councilman Briley seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Higgins, Briley, Councilwoman Miller and Mayor Archibald

NAYS: None

## EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 11:44 am 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 12:00 pm and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel (Boards). Mayor Archibald left during Executive Session.

10. Approving the Appointments/Reappointments to the following Boards:

- Abilene Housing Authority  
*Reappointed: Larry Holmes* *Term Expires 2012*
- Abilene Taylor Co Child Advocacy Board  
**Taylor County Appointed:** *Downing Bolls; replacing Judge George Newman as a county appointment – Non expiring term*  
*Reappointed: Dee Moore* *Terms Expires 2013*  
*Debra McCracken*

- Abilene Taylor Co Public Health Advisory Board *Term Expires 2013*  
**Reappointed:** *Shane Price*  
*Dr. Robert Hawley*
  
- Airport Development Board *Term Expires 2013*  
**Reappointed:** *Kirk Thaxton*  
*Larry Gill*
  
- Animal Services Advisory Board *Term Expires 2013*  
**Reappointed:** *Dr. Jack Callan*  
*Megan Santee*
  
- Board of Adjustment *Term Expires 2012*  
**Reappointed:** *Wayne Bradshaw*  
*Scott Hay*  
*Dani Ramsay*  
*Rick Waldraff*
  
- Board of Building Standards *Term Expires 2012*  
**Appointed:** *Daniel Ortiz*  
*Gretchen Denny – unexpired term 2011*  
**Reappointed:** *Delbert Allred, Alternate Realtor member,*  
*Steve Ellinger, Architect*  
*Pamela Youngblut, Realtor*  
*Perry Haynes, Regular Engineer member*  
*Wayland Schroeder, Architect, Alternate member*  
*Alana Maddox, moved to Regular Social Worker* *Term expires 2011*
  
- Civil Service Commission *Term Expires 2013*  
**Reappointed:** *Sandy Self*
  
- Development Corporation of Abilene *Term Expires 2013*  
**Reappointed:** *Paul Cannon*  
*Marelyn Shedd*
  
- Friends of Safety City *Term Expires 2013*  
**Appointed:** *Evan Harris*  
**Reappointed:** *Tom McAlister*  
*Mary Ann Martin*
  
- Frontier Texas! *Term Expires 2012*  
**Appointed:** *Charlie Black*  
*William Gollihar, M.D.*  
**Reappointed:** *Mike Alexander*  
*Bill Neal*  
*Sue Ball*  
*Chuck Statler*  
*David Vela*
  
- Keep Abilene Beautiful  
**Appointed:** *Zachary Johnson - Unexpired term 2011*  
*Raymond Grothaus – Unexpired term 2011*  
**Reappointed:** *Dede Morris* *Term Expires 2013*  
*Doug Hodel*
  
- Landmarks Commission *Term Expires 2013*  
**Reappointed:** *Steve Butman*  
*Tina Cargile*  
*Bill Minter*

- Library Board *Term Expires 2012*  
**Reappointed:** *Dennis Regan*  
*Julie Barcroft*  
*Virginia Sadler*
  
- Office of Neighborhood Services *Term Expires 2012*  
**Appointed:** *Kristina Campos, PhD*  
*Rachel Slaymaker* - *Unexpired term 2011*  
**Reappointed:** *Susan Robinson*  
*Kris Kowatch*  
*Brett Monroe*
  
- Planning & Zoning Commission *Term Expires 2013*  
**Reappointed:** *Bruce Bixby*  
*David Todd*  
*Tim McClarty*
  
- Youth Advisory Council *Term Expires 2011*  
**Appointed:** *Conner Dickinson, Wylie Jr. High*  
*Kirsten McDonough, Wylie Jr. High*

Councilman Briley made the motion to approve the Mayor's appointments and reappointments to the above listed Boards and Commission of the City of Abilene. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Higgins, Briley, Councilwoman Miller  
NAYS: None

There being no further business the meeting was adjourned at 12:01 pm.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor