

**CITY COUNCIL MEETING**  
**July 12, 2012 at 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 July 12<sup>th</sup>, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Anthony Williams, Joe Spano, Robert O. Briley, and Stormy Higgins. Councilwoman Kellie Miller was absent. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff. Youth Advisory Council Member Rowdy Riggins.

Councilman Higgins gave the invocation.

Mayor Archibald introduced Kathlyn (6<sup>th</sup> grader at Mann Middle), Melia (4<sup>th</sup> grader at Austin Elementary) and Reid (Kindergartner at Austin Elementary) they are the children of Assistant City Attorney Kellie Messer. They 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 June 28<sup>th</sup> regular meeting there being no deletions, no additions, and no corrections. Councilman Price made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Mayor Archibald  
NAYS: None

**CONSENT AGENDA**

Councilman Price and a citizen asked to pull item 6.2. Councilman Williams made the motion to approve consent item 6.1 as recommended by staff. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Mayor Archibald  
NAYS: None

**Ordinance:**

**6.1** **Ordinance:** (*First Reading*) Approving the Execution of a Developer Participation Agreement between the City of Abilene and Abilene Development Associates, LLC.

AN ORDINANCE APPROVING THE EXECUTION OF A DEVELOPER PARTICIPATION AGREEMENT BETWEEN THE CITY OF ABILENE (CITY) AND ABILENE DEVELOPMENT ASSOCIATES, LLC (DEVELOPER) FOR THE PURPOSE OF MAKING CERTAIN PUBLIC IMPROVEMENTS AS AUTHORIZED BY LAW.

**Award of Bid:**

- 6.2 Bid Award:** *Item pulled by Councilman Price and a citizen.* To approve the purchase of a Lenco Armored Vehicle from the GSA Contract GS-07F-0390M. The BearCat is a 4WD, diesel engine, 6.7L Turbo vehicle that is certified for protection against .50 caliber rounds and smaller. The vehicle, with Level E armor, costs \$226,000.00.

**ITEM PULLED FROM CONSENT**

- 6.2 Bid Award:** *Item pulled by Councilman Price and a citizen.* To approve the purchase of a Lenco Armored Vehicle from the GSA Contract GS-07F-0390M. The BearCat is a 4WD, diesel engine, 6.7L Turbo vehicle that is certified for protection against .50 caliber rounds and smaller. The vehicle, with Level E armor, costs \$226,000.00.

Councilman Price stated he had been contacted by a citizen who wanted to know if the Police Department had check with other cities to see if they had purchased more than one and were needing to sell a surplus vehicle. Chief Standridge stated that he was not aware of any city having more than one and needing to sell one.

Citizen Dan Symonds – made comments referencing gun rights issues and his concern with the United Nations.

On May 10, 2012, Chief of Police Stan Standridge made a presentation to Abilene City Council regarding the need for a police armored vehicle. This was a presentation only and did not require any Council action. Thereafter, SWAT Commander Richy Waggoner began researching specifications for armored vehicles, and in doing so identified a number of necessary equipment items that should be considered. Additionally, staff reviewed the US General Services Administration (GSA) listing of approved armored vehicle vendors.

There are (21) vendors listed on the GSA website that are authorized providers of armored vehicles. Upon further research, however, staff learned that some of these providers only manufacture cash-transit vehicles (used by commercial institutions such as banks). Staff then conducted research to identify which sister cities have purchased armored vehicles, and if they had one, what vendor their city used to supply the vehicle. Two vendors were identified – Lenco Industries Inc. and The Armored Group LLC. Both suppliers are listed as approved vendors by GSA. Most major and mid-size Texas cities had purchased the Lenco Bearcat. These cities included Wichita Falls, Killeen, Dallas, TX DPS, Tyler, Temple, Lubbock, Austin, Carrollton, San Marcos, Round Rock, Fort Worth, Grand Prairie, and many others.

Written communication was then drafted by the Police Department and the Purchasing Division. This communication was sent to Lenco Industries and The Armored Group, and it asked for formal quotes for an armored vehicle that met or exceeded all options specified. The quote was to reflect an itemized list of the options not included in the base price of the vehicle and their associated GSA price. A quote was received from each vendor. However, Lenco Industries was the only vendor to supply a quote listing all prices for each option specified by the Police Department. Additionally, Lenco Industries is the only US State Department certified supplier of Level E armored vehicles. Level E affords protection up to and including .50 caliber rifle rounds. Lenco Industries is the largest supplier of armored vehicles for police departments in the State of Texas.

Councilman Price made the motion to approve the purchase of the Lenco Armored Vehicle from the GSA Contract GS-07F-0390M. The BearCat is a 4WD, diesel engine, 6.7L Turbo vehicle. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

## REGULAR ITEMS

**7.1** Jon James, Director of Planning and Development Services, briefed the council an ordinance for Case No. **Z-2012-13**, a request from Kenneth Musgrave, Agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GR (General Retail), located at the southwest corner of Hwy 351 and East Lake Road.

The property is zoned AO and is currently undeveloped. The applicant is proposing to rezone the property to allow for a mix of retail & restaurant uses. The adjacent properties across Hwy 351 have been developed with a mix of single-family residential, educational, and industrial uses. The adjacent property to the west is developed with the Coca-Cola Bottling plant. The adjacent property to the south is vacant.

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. The intersection of Hwy 351 with I-20 is identified as a Major Commercial/Business Center. The City has recently adopted the Highway 351 Development Plan to help define the goals of the corridor. One of the goals of the plan includes: “Ensure the long-term economic viability of a vital retail and service hub serving this sector of the community and outlying communities.”

Additionally, this area was included in the concept plan for a major retail area with frontage on both I-20 and Highway 351. An initial Planned Development (PD-113) district was approved along I-20 for the Lowe’s with plans to continue development to Hwy 351. Part of the initial development included the construction of East Lake Road south of Hwy 351. The PD zoning was intended to continue in order to maintain continuity in the development. Staff has determined that continuation of the PD zoning is the appropriate course of action

### STAFF RECOMMENDATION

Staff recommends denial as requested and approval of PD-113 zoning.

### BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval of the requested zoning of General Retail by a vote of four (4) in favor (Famble, Glenn, Todd, and McClarty) and none (0) opposed.

Council and Staff discussion included: 1) discussion of sign locations for future development of the property on the Musgrave Blvd side; and 2) staff recommendation of the PD-113 zoning.

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

- Tal Fillingim – agent for Mr. Musgrave – spoke in favor of the zone change to GR.

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

Councilman Williams made the motion to approve the Ordinance for Case No. **Z-2012-13**, a request from Kenneth Musgrave, Agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GR (General Retail), located at the southwest corner of Hwy 351 and East Lake Road. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Mayor Archibald  
NAYS: None

### **Ordinance 30-2012**

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," 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..

#### **Location: Southwest Corner of HWY 351 and East Lake road**

**7.2** Jon James, Director of Planning and Development Services, briefed the council an ordinance for Case No **CUP-2012-03** a request from Milliron J & Company, LLC, Agent John M. Rogers, for a Conditional Use Permit to allow a fast food restaurant on property zoned NR/COR (Neighborhood Retail/Corridor Overlay), located at 5001 Buffalo Gap Road.

Currently the property is zoned NR/COR and has been developed with a retail florist store. The store has been vacant for some time now. The applicant is proposing to build a drive-thru coffee shop on the front of the property. This use is classified as a fast-food restaurant and requires a Conditional Use Permit (CUP) when located on property zoned NR. The properties to the north, east and south are developed with single-family and multi-family uses. The properties to the south along Buffalo Gap Road are developed with a dry cleaner and a fast-food restaurant.

The Future Land Use section of the Comprehensive Plan designates this general area as residential and office when located at mid-block. The intersection of Chimney Rock and Buffalo Gap Road is designated as a commercial node that would include retail, office, personal service & restaurant uses. The subject property currently allows for retail uses and standard restaurants. The applicant is requesting the CUP in order to use the property with a drive-thru coffee shop. The property fronts along an arterial street and near the commercial node at the major intersection which suggests that the use would be suitable for the property.

#### **STAFF RECOMMENDATION**

Staff recommends approval.

#### **BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommended approval to allow the drive-thru only within the area from the front of the property to the back of the existing building, approximately 165', and with a minimum of 8 stacking spaces by a vote of four (4) in favor (Famble, Glenn, Todd, and McClarty) and none (0) opposed

Council and Staff discussion included: 1) location of the business; 2) the minimum of 8 stacking spaces for the drive through; 3) screening for when cars go through the drive-through; and 4) adjusting the Conditional Use Permit based on the precedent set from the BBQ restaurant north of this location

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

- Matt Rogers – owner, spoke on the stacking of the vehicles for the drive-through and his plans for the property.

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

Councilman Higgins made the motion to approve the Ordinance for Case No. **CUP-2012-03** a request from Milliron J & Company, LLC, Agent John M. Rogers, for a Conditional Use Permit to allow a fast food restaurant on property zoned NR/COR (Neighborhood Retail/Corridor Overlay), located at 5001 Buffalo Gap Road. The drive-thru use shall not be allowed within the area 125 feet from the rear property line and A minimum of 8 stacking spaces shall be provided. Councilman Briley seconded the motion, motion carried.

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

NAYS: None

### Ordinance 31-2012

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," 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.

**Location: 5001 Buffalo Gap Road**

**BUTTON WILLOW PARKWAY, BLOCK A, LOT 1, CONT 1**

**With the following conditions:**

- **The drive-thru use shall not be allowed within the area 125 feet from the rear property line;**
- **A minimum of 8 stacking spaces shall be provided**

### **EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 10:00 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 10:48 a.m. and reported no votes or action was taken in Executive Session in regards to Sections 551.072 Real Property.

**10. Oral Resolution:** Approving the appointments and reappointments to the following Boards:

- Betty Hardwick Center Board of Trustees
- Keep Abilene Beautiful

Councilman Higgins made the motion to reappoint the following to the Betty Hardwick Center Board of Trustees – Steve Austin and to Keep Abilene Beautiful Martin Garcia. Councilman Price seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins and Mayor Archibald  
NAYS: None

There being no further business the meeting was adjourned at 10:48 a.m.

---

Danette Dunlap, TRMC  
City Secretary

---

Norm Archibald  
Mayor