

**CITY COUNCIL MEETING  
October 11<sup>th</sup> 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 October 11<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, Joe Spano, Anthony Williams, Robert O. Briley, Stormy Higgins and Councilwoman Kellie Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilwoman Miller gave the invocation.

Mayor Archibald introduced Austin Chaney, 7<sup>th</sup> grader at Clack Middle School, Skye Tschoepe 4<sup>th</sup> grader at Bassetti Elementary School and Novileh Louis kindergartner at Thomas Elementary School who led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas. The kindergarten class of Thomas Elementary was also in attendance and joined the council at the dais.

**PROCLAMATIONS**

Mayor Archibald presented the following proclamation:

**October 2012**

National Physical Therapy Month

Marsh Rutland, Associate Professor of Physical Therapy at Hardin Simmons, accepted the proclamation.

**October 11, 2012**

White Cane Day

Mary Kindrick, President Abilene Chapter National Federation for the Blind, accepted the proclamation.

**EMPLOYEE SERVICE AWARDS**

Mayor Archibald assisted by City Manager Larry Gilley honored the following City Employees for their years of service.

Glenn Bailey	Environmental Health Manager, Env. Health	25 Years
Luis Sanchez	Animal Control Officer I	30 Years
Larry Newton	Fire Fighter, Fire Tactical Operations	35 Years

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the September 24<sup>th</sup> special meeting and September 27<sup>th</sup> regular meeting there being no deletions, no additions, and no corrections. Councilman Higgins 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 6.9 as recommended by staff. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

ABSTAIN: Councilman Price on 6.3, Councilman Williams on 6.3 & 6.5.

### Ordinances:

- 6.1** **Ordinance:** (*First Reading*) Allowing golf carts on public streets with restrictions; and setting a public hearing for October 25<sup>th</sup>, 2012.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ALLOWING GOLF CARTS ON PUBLIC STREETS WITH RESTRICTIONS

- 6.2** **Ordinance:** (*First Reading*) Metal recycling entities, crafted precious metal dealers and metal buyers; and setting a public hearing for October 25<sup>th</sup>, 2012.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE REPLACING CHAPTER 17, "MISCELLANEOUS PROVISIONS", ARTICLE II, "PAWN SHOPS", OF THE ABILENE MUNICIPAL CODE IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING

### Oral Resolutions:

- 6.3** **Oral Resolution:** Council approved a fireworks display permit from Extreme Pyrotechnics for an event to be held at Abilene Christian University on October 19, 2012.

- 6.4** **Oral Resolution:** Council approved a Street Use License for Pioneer Drive Baptist Church closing Buccaneer Drive on October 31, 2012 from 4:30 pm to 10:00 pm.

Pioneer Drive Baptist Church has submitted a Street Use License (SUL) application to hold their annual "Fall Family Fun Night" event within the public right-of-way on Buccaneer Drive. The applicant wishes to close Buccaneer Drive from the north right-of-way line of Potomac Avenue to the south right-of-way line of South 7th Street for this event. The event will take place on Wednesday, October 31st, 2012 from 6:00 p.m.-8:00 p.m., and the applicant wishes to close the street between the hours of 4:30 p.m. and 10:00 p.m. on this date. Pioneer Drive Baptist Church occupies the entire west side of the requested portion of Buccaneer Drive, and Bonham Elementary School/AISD occupies the entire east side. No residences or businesses are located on the requested portion of Buccaneer Drive, and the applicant has obtained the approval of Bonham Elementary School/AISD for this event.

- 6.5** **Oral Resolution:** Council approved a Street Use License for McMurry University for 2012 Football Season, closing Ross Avenue.

McMurry University (McMurry) has submitted a Street Use License (SUL) application for control of vehicular access to Ross Avenue for the remaining home football games at McMurry Wilford Moore

Stadium during the 2012 football season. This SUL Agreement will allow McMurry to control the traffic on Ross Avenue between Hunt Street and South 16<sup>th</sup> Street, from 10:00 a.m-6:00 p.m. on 10/27/12, 11/3/12, 11/10/12 and 11/17/12. McMurry University owns the property on both sides of the requested portion of Ross Avenue. No residences or businesses are affected by this request.

- 6.6 Oral Resolution:** Council approved a Street Use License for The Center for Contemporary Arts on November 2, 2012, closing Cypress Street from 5:00 pm to 11:00 pm.

The Center for Contemporary Arts has submitted a Street Use License (SUL) application to hold a public event entitled “Dia de los Muertos” within the public right-of-way on Cypress Street. The applicant wishes to close Cypress Street from the north right-of-way line of North 2<sup>nd</sup> Street to the south right-of-way line of North 3rd Street for this event. The event will take place on Friday, November 2nd, 2012, and the applicant wishes to close the street between the hours of 5:00 p.m. and 11:00 p.m. on this date. The applicant has obtained the approval of all affected property owners and/or business tenants for this event.

**Award of Bids:**

- 6.7 Bid Award: CB-1239** Council approved the purchase of various bulk chemicals used for water and wastewater treatment process. The following table lists the individual chemicals bid, the staff recommended bidder, and the unit price for that bid.

<i>Item:</i>	<i>Company</i>	<i>Unit Price</i>
Alum 48% Solution	Chameleon Industries, Inc.	\$ 220.00 / Dry Ton
Anhydrous Ammonia	DPC Industries, Inc.	\$1,960.00 / Liquid Ton
Liquid Caustic Soda	DPC Industries, Inc.	\$ 598.00 / Dry Ton
Liquid Chlorine	DPC Industries, Inc.	\$ 549.50 / Liquid Ton
Sodium Bisulfite 40% Solution	Dimmitt Sulfur Products, Ltd.	\$ 485.625 / Dry Ton
Hydrated Lime	Texas Lime Company	\$ 152.20 / Dry Ton
Fluorosilicic Acid	Pennco, Inc.	\$3,035.00 / Dry Ton
Ferric Sulfate	General Chemical	\$ 288.00 / Dry Ton
Sodium Chlorite	Siemens Industry, Inc.	\$3,400.00 / Dry Ton
Dry Polyacrylamide	SNF Polydyne	\$3,480.00 / Dry Ton
Cationic Polymer		
Sodium Bisulfite 38% Solution (water)	Hydro Plus, Ltd.	\$ 0.41 /Wet Pound
Bleach Sodium Hypochlorite	Hydro Plus, Ltd.	\$ 2.25 /Gallon
Citric Acid	Hydro Plus Ltd.	\$ 0.98 /Wet Pound

- 6.8 Bid Award: CB-1302** Council approved the purchase of 300 gallon automated refuse containers. To be purchased from Rotational Molding Inc. at a price of \$191,025.00.

- 6.9 Bid Award: CB-1303** Council approved the construction contract for the Miscellaneous seal coat project for 2013. Contract is awarded to J. H. Strain & Sons, Tye, Texas in the amount of \$3,024,927.82.

This construction contract involves a seal coat of the existing pavement as outlined in the Construction Plans. Type "D" HMA is set up on this project should the contractor encounter any pavement failures or as a level up as directed by the City Engineer.

The project areas include:

Streets between Danville Dr. and Mockingbird Ln. and N 1st St. and N. 10th St.

Streets between Buffalo Gap Rd. and Treadaway Blvd. and Danville Dr. and S. 27th St.  
Streets between Treadaway Blvd. and Judge Ely Blvd. and EN 10th St. and Ambler Ave.  
Streets between Treadaway Blvd. and Judge Ely Blvd. and E. Hwy 80 and EN 10th St.  
Streets between Sayles Blvd. and Treadaway Blvd. and S 14<sup>th</sup> St. and S 7<sup>th</sup> St.

## REGULAR ITEMS

**7.1** Jon James Director of Planning and Zoning, briefed the council on the Ordinance for the Case No. **Z-2012-22** a request from Simon Moreno, Sr., to rezone property from LI (Light Industrial) to MD (Medium Density), located at 441 & 501 Bois D 'Arc Street.

Currently the properties are zoned LI but had been developed with single-family residential homes. The surrounding properties had been developed similarly. This site and surrounding properties were previously zoned RM-2 (Multi-Family Residential) and developed with single-family homes. The zoning was changed to LI (Light Industrial) in December of 1977 making residential uses no longer permitted. The existing home has been considered a legal non-conforming use of this property. As such, a home cannot be reconstructed at this same location if damaged more than 50% of the building's appraised value. A recent fire at this home has completely destroyed it.

The Future Land Use section of the Comprehensive Plan designates this general area for heavy commercial/industrial activity. However, the primary uses in the immediate area have remained residential. Staff has begun a review of the existing zoning districts city-wide and determined that the zoning for this area could be reconsidered to change from LI to the MD (Medium Density) zoning given the lack of interest shown for industrial development in this area. The requested zoning would be compatible with the surrounding uses and would be more appropriate with the existing residential uses in the immediate area.

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

Councilman Price made the motion to approve the Ordinance for the Case No. **Z-2012-22** a request from Simon Moreno, Sr., to rezone property from LI (Light Industrial) to MD (Medium Density), located at 441 & 501 Bois D 'Arc Street. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

### Ordinance **#47 -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: 441 & 501 Bois D' Arc Street**

**7.2** Jon James Director of Planning and Zoning, briefed the council on the Ordinance for the Case No. **Z-2012-23** a request from Bill Ortega & Elisa Bontke, to rezone property from MD (Medium Density) to MD/H (Medium Density/Historic Overlay), located at 782 Palm Street.

The property is zoned MD and has been developed with a residential dwelling unit. The 1-1/2 story Queen Anne Victorian Cottage was built in 1909 by Wesley E. Hargrove. The large framed structure has an irregular design with a hipped roof, dormer and gable windows, and a columned wrap-around porch with a characteristic rounded corner. Recently, the current owners, Bill Ortega & Elisa Bontke, have begun restoring the interior of the home and are planning to begin work on the exterior. They are requesting Historic Overlay Zoning after gaining more information regarding the responsibilities and benefits of the zoning.

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. Other properties in the area have received Historic Overlay Zoning, and this request could encourage other properties to do the same.

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

Councilman Higgins made the motion to approve the Ordinance for the Case No. **Z-2012-23** a request from Bill Ortega & Elisa Bontke, to rezone property from MD (Medium Density) to MD/H (Medium Density/Historic Overlay), located at 782 Palm Street. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

**Ordinance #48 -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: 782 Palm Street**

**7.3** Jon James Director of Planning and Zoning, briefed the council on the Ordinance Amending the Land Development Code related to Urban Gardens.

Urban farming has gained popularity recently as a way to use under-utilized property while supporting a self-sustaining land use. Several inquiries have been made to staff about community gardens and urban farms being located on vacant lots throughout the city. Currently, community gardens and urban farms are not permitted. Specifically, the City's ordinances do not allow for a water meter to be issued for a vacant lot.

Staff is proposing to allow community gardens/urban farms by right in the majority of the zoning districts so long as they meet specific regulations to mitigate potential negative impacts. The use would allow for

cultivation of fruits, flowers, vegetables, or ornamental plants by one or more person or family, to include organizations such as non-profits or churches.

The use is currently not listed in the Land Use Matrix. It is proposed to be included and identified as 'Urban Garden'. The sections proposed for amendment are Section 2.4.2.1 –Land Use Matrix, Section 2.4.3.3 – Specific Requirements, and Section 5.1.1.3 – Land Use Definitions.

Council and Staff discussion included: 1) the use of City owned property that is vacant, being used by non-profit organizations; and 2) Storage buildings, buildings that don't require a building permit can be placed on these lots.

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

- Josh Casey – spoke in favor of the change, asked about allowing a wash-up sink for those that come to tend the garden.
- Wes Grigsby – spoke in favor of the change.

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 amending the Land Development Code related to Urban Gardens. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

#### Ordinance #49 -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.

**7.4** Presentation by Paul Johnson. Mr. Johnson land owner - requested that the City Council review and consider adding a left hand turn lane off of South 14<sup>th</sup> into the Frenchman's Creek Shopping Center between 7-11 Convenience Store and Hastings. The following citizens spoke in support of the addition of a left turn lane: Darlene Ortiz General Manager for Little Italy, Lodovik "Luigi" Tetaj owner of Little Italy, and Anna Humphrey Property Manager for Frenchman's Creek Shopping Center.

Mayor Archibald explained that the council would not take action today on this item. Council has directed staff to review and put together a cost analysis for this request.

### **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 11:00 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.071 Consultation with Attorney and Section 551.072 Real Property.

There being no further business the meeting was adjourned at 11:05 a.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor