

CITY COUNCIL MEETING
October 25th 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 25th, 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.

Councilman Price gave the invocation.

Mayor Archibald introduced Michelle Oliver a 5th grader at Taylor Elementary School who 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 October 11th 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, Councilwoman Miller and Mayor Archibald
NAYS: None

CONSENT AGENDA

Councilman Williams made the motion to approve consent items 6.1 through 6.6 as recommended by staff. Councilman Spano seconded the motion, motion carried.

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

Ordinances:

6.1 **Ordinance:** *(First Reading)* **Z-2012-24** - on a request from Harris Acoustics to rezone property from LI (Light Industrial) to CB (Central Business), located at 741 N. 5th Street; and setting a public hearing for November 1, 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

6.2 **Ordinance:** *(First Reading)* **Z-2012-25** - on a request from Slade & Dava Sullivan, to rezone property from RS-12 (Single-Family Residential) to RS-12/H (Single-Family Residential/Historic Overlay), located at 1201 Cedar Crest Drive; and setting a public hearing for November 1, 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.

- 6.3** **Ordinance:** (*First Reading*) **Z-2012-26** - on a request from Joe & Sandra Martin to rezone property from AO (Agricultural Open Space) to MH (Manufactured/Mobile Home) zoning, located at 461 Jolly Rogers Road; and setting a public hearing for November 1, 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..

- 6.4** **Ordinance:** (*First Reading*) **SNC-2012-01** - on a request from Musgrave and Musgrave, LLP to change the names of Arapaho Trail, Cocopah Trail, and Sioux Trail; and setting a public hearing for November 1, 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.

- 6.5** **Ordinance:** (*First Reading*) to amend the Land Development Code with regard to Table 2.4 Site Layout and Building Requirements for Nonresidential Zoning Districts, Section 2.4.2.1 Land Use Matrix, Section 2.4.3 Requirements Applicable to Specific Land Uses, Section 2.4.4 Accessory Uses & Structures, and Section 4.2.4.1 Fences, Walls and Hedges; and setting a public hearing for November 1, 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.

Oral Resolution:

- 6.6** **Oral Resolution:** City Council authorized the City Manager to enter into an Operating Agreement with Merry McKenna dba Moose's Snack Shack & Café.

The City conducted a Request For Proposals (RFP), CB-1242, with a submittal deadline of September 27, 2012. Four competitive proposals were received. The airport put together a selection committee of an Airport Development Board member, representatives from four of our tenant groups and airport staff to conduct interviews and recommend a selection to the Airport Development Board. The committee selected Merry McKenna's Moose's Snack Shack and Café, which currently operates the Nelson Park softball concession as Moose's Snack Shack. The operating agreement will be for a two-year term with no rent or fees due to the city during the term. Ms. McKenna has begun the application process for a state beer and wine permit, but that will likely be received sometime after opening the airport location.

Ms. McKenna is aware of the challenges of previous restaurants at the airport and her business plan addressed these very satisfactorily.

REGULAR ITEMS

7.1 Kelley Messer Assistant City Attorney, briefed the council on an Ordinance allowing Golf Carts on public streets with restrictions.

In years past UPS has utilized a golf cart with an attached trailer to make parcel deliveries in the Fairway Oaks neighborhood during the holiday season. State law allows municipalities to legalize the operation of golf carts, for purposes unrelated to a golf course, if the operation is permitted pursuant to the limitations and requirements set out in state law. Last year the City Council approved an ordinance that would permit golf cart parcel deliveries in the Fairway Oaks neighborhood during the 2011 holiday season. There is now a need for an ordinance allowing such golf cart use during the 2012 holiday season. The City Council may choose to adopt an ordinance that allows such use annually, from November 1 until December 31.

This ordinance allows parcel delivery services, including but not limited to UPS, to utilize golf carts for the purpose of delivery during the holiday season, while limiting the operation of golf carts in a manner so as to promote public safety. Texas Transportation Code Section 551.404 provides that a governing body of a municipality may allow the operation of a golf cart on a street within the corporate boundaries of the municipality if the street has a posted speed limit of not more than 35 miles per hour and a golf cart so operated has headlamps, tail lamps, reflectors, a parking brake, and mirrors. This ordinance has been drafted to meet the requirements found in Chapter 551 of the Transportation Code.

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

- David Hanks – with UPS (United Parcel Service), spoke in favor of the ordinance and requested that council consider allowing the same use of golf carts in other neighborhoods.
- Doug Wrenn, Assistant Police Chief, asked that the council pass the ordinance as is and to allow the police department to review the request for other neighborhoods.

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

Councilman Briley made the motion to approve the Ordinance allowing Golf Carts on public streets with restrictions. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

Ordinance **#50 -2012**

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

7.2 Stan Standridge Chief of Police, briefed the council on an Ordinance regulating Metal Recycling Entities, Crafted Precious Metal Dealers and Metal Buyers.

The Police Department routinely investigates criminal offenses in which precious or scrap metals are targeted because of their high value. After being stolen, these metals are then sold to metal dealers or precious

metal buyers. No pictures are taken and precious metals are resold or melted immediately. Therefore, successful investigations regarding these thefts or burglaries are extremely limited. The proposed ordinance would require dealers or buyers document all transactions to include: identifying the seller, photographing the precious metals, and retaining the precious metals for a minimum of eleven days and scrap metals for the time period required by law, currently 72 hours. These measures would enable the Police Department to successfully investigate crimes that often involve precious or scrap metals and return said merchandise to its rightful owner.

- **Who does this ordinance affect?**
 - Precious metal buyers (commonly known as gold buyers) and metal recycling entities (scrap yards).
- **Why doesn't it affect pawnshops, they too buy gold?**
 - Pawn shops are regulated by the Office of the Consumer Credit Commissioner.
- **Do pawn shops have reporting requirements similar to what this ordinance is requiring?**
 - Yes, pawn shops also have reporting requirements. All Abilene pawn shops currently report to LeadsOnline.
- ***Metal Recycling entity.*** Anyone who operates or maintains a scrap metal yard or other place in which used or previously purchased metal items or scrap metal is collected or kept for shipment, sale, or transfer...
- ***Precious Metal Buyer:*** Any person engaged in the business of buying gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or an alloy of those metals...

Permit Application:

- Must file application with City Secretary.
- Provide valid state issued ID
- Pay appropriate annual fee
- Expires December 31 of the year the permit is issued
- Ordinance establishes guidelines for denials, revocations, and appeals

Recordkeeping requirements:

- Record the date and time of each transaction.
- Record a detailed description of the property - serial numbers, model numbers, etc.
- Identify the seller by his/her state issued ID to include physical description, address, telephone number and ID/DL #.
- Precious metal buyers must photograph the property.
- Metal recycling entities do not have to photograph if they have a DVR system that records daily transactions.
- **Inventory tracking system:**
 - Upload transactions to LeadsOnline within 24 hours. (LeadsOnline is a vast online investigation system used by law enforcement to recover stolen property, reduce metal theft, and solve crimes. With hundreds of millions of records in their database, their secure web-based electronic reporting service is trusted by thousands of law enforcement agencies and participating businesses nationwide.)
- **Retention Period:**
 - All items purchased by precious metal buyers would be held a minimum of 11 days.

- Retention for metal recycling entities would remain 72 hours for regulated materials only, as already outlined by State law

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

- Greg Dankworth owner of Pine Street Salvage, asked council to table so that they could continue to have conversation with the Police Department in regards to reporting.
- Wayne Lanham owner of Texas Metal & Recycling Co., asked council to table so more information can be discussed with the Police Department in regards to reporting.
- David Hudson owner of David's Auto Salvage voiced his frustration with the court system on repeat offenders that are stealing and breaking into business and residences. Asked for more time on the ordinance.
- Blake Dozier co-owner of A-1 Salvage spoke of cooperation between the police and businesses in the recycle and metal business.
- Sheila Dankworth co-owner of Pine Street Salvage spoke about their business.

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

Council and Staff discussion included: 1) software cost – LeadsOnline paid for by Abilene Police Department; 2) Salvage owners discussed the cost of software conversion from their current software they are using, so that their software will transfer to LeadsOnline; 3) peer city review; 4) will close loop holes in the law; and 5) backlog of the Texas Department of Public Safety records.

Councilman Williams made the motion to TABLE the ordinance regulating Metal Recycling Entities, Crafted Precious Metal Dealers and Metal Buyers. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 10:08 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 11:23 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel (Boards) and Section 551.072 Real Property.

There being no further business the meeting was adjourned at 11:23 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor