

CITY COUNCIL MEETING
December 6th, 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 December 6th, 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.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Jacob Smith a 5th grader at Ward Elementary School who led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATION

Mayor Archibald presented the following proclamation:

Day Nursery of Abilene "Spirit of Christmas"

Cynthia Pearson, Day Nursery, accepted the proclamation. Mayor Archibald recognized Catherine Gilley (Daughter of City Manager Larry Gilley and Stacy Gilley) for her winning art work. Her artwork is featured on the 2012 "Spirit of Christmas" Christmas card.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the November 13th regular meeting there being no deletions, no additions, and no corrections. Councilman Spano 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 Price made the motion to approve consent items 6.1 through 6.2 as recommended by staff. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance:

6.1 **Ordinance:** (*First Reading*) Establishing Standards of Care for the City of Abilene Youth Programs.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PRORAMS; REPEALING ALL ORDINANCES OR

PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE;
AND CALLING A PUBLIC HEARING.

Bid Award:

- 6.2** **Award of Bid:** Bid **CB-1308** Patrol SUV's for Police Department. City Council approved the purchase of Police Department Patrol SUV's from Lawrence Hall Chevrolet. \$348,037.23.

REGULAR ITEMS

- 7.1** Mayor Archibald called for a motion to Remove from the TABLE the following agenda item: Ordinance replacing Chapter 17, "Miscellaneous Provisions", Article II, "Pawn Shops".

Councilman Williams made the motion to Remove from the TABLE. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

Stan Standridge Police Chief, briefed the council on an ordinance regulating Metal Recycling Entities and Precious Metal Buyers.

This proposed ordinance was tabled during the City Council meeting on October 25, 2012. The Mayor requested staff visit with business owners and address concerns they had concerning the ordinance. This meeting occurred on November 1st. Thereafter, staff revised the ordinance to ensure business owners did not have to report the purchase of scrap metal from manufacturing, industrial, commercial, retail, or other sellers that sell regulated material in the ordinary course of the seller's business (a major point of concern for the business owners); changed the language from required reporting of personal property to precious metals or regulated metals (consistent with State law); and eliminated the requirement to obtain and report a phone number from those selling scrap or precious metals. In addition to these ordinance revisions, staff created an email notification system that fosters increased communication between the police department and vendors.

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

- Roland Delauney – Big Country Gold – spoke against the 11 day hold on items and requested a 3 day hold only.
- Marcus Cass – Abilene Gold Exchange – also spoke against the 11 day hold on items and also requested a 3 day hold.
- Assistant City Attorney Theresa James – spoke about fees from other cities
- Steve Savage – spoke against more regulations by the city
- Dan Symonds – spoke against more regulations by the city

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

Staff and Council discussion included: 1) 11 day hold in the ordinance on precious metals; 2) 7 day hold and 3 day hold; 3) regulations to aid in the investigation of thefts and for the Abilene Police Department to be able to return stolen property to the rightful owners; 4) consistent with state law; 5) Pawn Shops hold for 11 days; and 6) permit fees.

Councilman Williams made the motion to approve the Ordinance replacing Chapter 17, “Miscellaneous Provisions”, Article II, “Pawn Shops” with corrections to clear up Sections and to change the hold days to 7 instead of 11 days. Councilman Spano seconded the motion, motion carried.

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

NAYS: Councilmen Price, Briley and Councilwoman Miller

Ordinance #58 -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.

Councilman Williams left the meeting.

7.2 Danette Dunlap City Secretary, briefed the council on a Resolution approving the Fee Schedule for the metal recycling entities, crafted precious metal dealers and precious metal buyers ordinance.

By approving item 7.1 of this agenda, the City Council revised Chapter 17, “Miscellaneous Provisions, Article II Pawn Shops, of the Abilene Municipal Code for the purpose of assisting the Police Department’s efforts to successfully investigate crimes that often involve precious or scrap metals and return said merchandise to its rightful owner. The Occupation Code allows for the city to collect up to \$250.00 and the fees have to reflect the administrative costs to handle the fees. The suggested fees were \$100.00 for the 1st year and \$25.00 thereafter. \$50.00 if the fee was not paid by the 15th of January. After some discussion of the fees.

Councilman Spano made the motion to approve the Resolution approving the Fee Schedule for the metal recycling entities, crafted precious metal dealers and precious metal buyers ordinance. Fees were set at \$25.00 for first permit and to renew, \$50.00 if payment not received by Jan. 15 each year. Mayor Archibald seconded the motion, motion carried.

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

NAYS: Councilman Price

Resolution #23-2012

A RESOLUTION OF THE CITY OF ABILENE, TEXAS ESTABLISHING FEES FOR THE METAL RECYCLING ENTITIES, CRAFTED PRECIOUS METAL DEALERS AND PRECIOUS METAL BUYERS ORDINANCE.

7.3 Jon James Director of Planning and Development Services, briefed the council on the Ordinance for Case No. Z-2012-27, a request from Abilene Bone & Joint clinic, LLP, agent Tino Martinez, to rezone property from MD (Medium Density) to GR (General Retail), located at 1641 Cottonwood Street.

The property is zoned MD. The property was rezoned in 2008 as part of a request to develop a series of duplexes on the property to the south. The surrounding area is developed with industrial and heavy commercial uses both across Cottonwood St on the properties along N. Treadaway Blvd to the west and the properties to the east across the railroad right-of-way. The applicant is developing the property to the south with a medical office as well as a physical fitness & training facility. The applicant has now purchased this property is requesting the GR (General Retail) zoning to conform to the zoning on the property to the south.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. This area is just to the east of the N. Treadaway Boulevard commercial corridor and is bounded by a railroad right-of-way on the east. The residential uses in this area were originally zoned for industrial uses. While there are existing residential uses in this area, staff believes the proximity to N. Treadaway Blvd and the railroad would lend itself for commercial development throughout this area.

Staff recommends approval as requested.

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Famble, Glenn, Rosenbaum, Yungblut, and McClarty) and none opposed.

Mayor Archibald opened the public hearing and 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 Case No. **Z-2012-27**, a request from Abilene Bone & Joint clinic, LLP, agent Tino Martinez, to rezone property from MD (Medium Density) to GR (General Retail), located at 1641 Cottonwood Street. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

Ordinance **#59-2012**

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: 1641 Cottonwood Street

7.4 Jon James Director of Planning and Development Services, briefed the council on the Ordinance for Case No. **Z-2012-28** a request from Village Investment Partners/Windmill Circle Partners, Agent Tony Conder, to rezone property from PD (Planned Development) and LI (Light Industrial) to GR (General Retail), located north of Covenant Drive between S. Clack Street and Memorial Drive.

The property is zoned PD-31, PD-100, and LI. The property is currently vacant and no business activity has occurred on the property for several years. The applicant is proposing to rezone the property in order to market the property for retail development. The PD districts generally allow for GC uses in the area within 400 feet Highway 83/84. The remaining area to the west allows for HC uses. The requested GR zoning would be more consistent with the desired uses for the area. Large single-family residential homes are being developed to the west. A transition to less intensive retail zoning, such as NR (Neighborhood Retail) zoning, would be appropriate. However, the GR zoning is less intensive and is desired over the existing zoning.

The Future Land Use section of the Comprehensive Plan designates this general area as business/industrial. This area is just to the north of a Special Activity Area that includes Abilene Regional Hospital. There is an existing retirement community and a proposed Sam's Club to the south. There are existing residential subdivisions to the west. The request would not have a negative impact on the surrounding properties and would be compatible with the City's plans for this area.

Staff recommends approval as requested.

The Planning and Zoning Commission recommends approval of GR by a vote of 6 in favor (Bixby, Famble, Glenn, Rosenbaum, Yungblut, and McClarty) and none opposed.

Mayor Archibald opened the public hearing and council heard from:

- Tony Conder – Agent for the development was present if council had any questions.

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 for Case No. **Z-2012-28** a request from Village Investment Partners/Windmill Circle Partners, Agent Tony Conder, to rezone property from PD (Planned Development) and LI (Light Industrial) to GR (General Retail), located north of Covenant Drive between S. Clack Street and Memorial Drive. Councilman Spano seconded the motion, motion carried.

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

Ordinance **#60-2012**

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: North of Covenant Drive between S. Clack Street and Memorial Drive

7.5 Jon James Director of Planning and Development Services, briefed the council on the Ordinance for Case No. **Z-2012-29** a request from Village Investment Partners/Windmill Circle Partners, Agent Tony Conder, to rezone property from PD (Planned Development) to GR (General Retail), located at 28, 32, 34, & 36 Windmill Circle, 5601 Memorial Drive, and 5850, 5950, & 6042 S. Clack Street

The property is zoned PD-34 and all lots are currently vacant. The applicant is proposing to rezone the property in order to market the property for retail development. The PD districts generally allow for GC uses in area #1 adjacent to Highway 83/84. Area #2 to the west allows for HC uses. The requested GR zoning would be more consistent with the desired uses for the area. Large single-family residential homes are being developed to the west. A transition to less intensive retail zoning, such as NR (Neighborhood Retail) zoning, would be appropriate. However, the GR zoning is less intensive and is desired over the existing zoning.

The Future Land Use section of the Comprehensive Plan designates this general area as business/industrial. This area is just to the north of a Special Activity Area that includes Abilene Regional Hospital. There is an existing retirement community and a proposed Sam's Club to the north. There are existing residential subdivisions to the west. The request would not have a negative impact on the surrounding properties and would be compatible with the City's plans for this area.

Staff recommends approval as requested.

The Planning and Zoning Commission recommends approval of GR by a vote of 6 in favor (Bixby, Famble, Glenn, Rosenbaum, Yungblut, and McClarty) and none opposed.

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 Case No. **Z-2012-29** a request from Village Investment Partners/Windmill Circle Partners, Agent Tony Conder, to rezone property from PD (Planned Development) to GR (General Retail), located at 28, 32, 34, & 36 Windmill Circle, 5601 Memorial Drive, and 5850, 5950, & 6042 S. Clack Street. Councilman Price seconded the motion, motion carried.

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

Ordinance #61-2012

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: 28, 32, 34, & 36 Windmill Circle, 5601 Memorial Drive, and 5850, 5950, & 6042 S. Clack Street

7.6 Jon James Director of Planning and Development Services, briefed the council on the Ordinance for Case No **Z-2012-30** a request from Cheryl McNally to rezone property from MD (Medium Density) to MD/H (Medium Density/Historic Overlay), located at 1343 S. 3rd Street.

The property is zoned MD and has been developed with a residential dwelling unit: The Miller-McNalley house has been identified as a significant resource for Abilene in every historic resource survey conducted since 1977. It has been included on the City Council official Landmarks list, and is one of the oldest private residences in the Old Town neighborhood. This Folk Victorian residence has many of its original features including windows, doors, siding, and sawn wood ornament decorations. The metal fencing on 3rd Street and part of Poplar is original. It was built c. 1900 as a single story wood frame dwelling, and was expanded to the 1-1/2 story residence, as shown, by two additions, both prior to 1915. It is a contributing structure to the neighborhood with several historic homes. It is in good condition. 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 medium-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. This request could encourage other properties in the area to request Historic Overlay Zoning.

Staff recommends approval as requested.

The Landmarks Commission recommended approval by a vote of five (5) in favor to none (0) in opposition.

The Planning and Zoning Commission recommends approval of GR by a vote of 6 in favor (Bixby, Famble, Glenn, Rosenbaum, Yungblut, and McClarty) and none opposed.

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

Councilman Spano made the motion to approve the Ordinance for Case No **Z-2012-30** a request from Cheryl McNally to rezone property from MD (Medium Density) to MD/H (Medium Density/Historic Overlay), located at 1343 S. 3rd Street. Councilman Higgins seconded the motion, motion carried.

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

Ordinance **#62-2012**

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: 1343 S. 3rd Street

7.7 Jon James Director of Planning and Development Services, briefed the council on the Ordinance for Case No. **CUP-2012-04**, a request from Jan Kidd Engelke for a Conditional Use Permit to allow a Vacation Travel Trailer Park on property zoned GC (General Commercial), located at 1125 Elmdale Road.

Currently the property is zoned GC and has been developed with a restaurant. The property to the south has been developed as a single family residence. There is a retail store to the east of the property. The majority of the surrounding area is undeveloped. The request is to allow for a Vacation Travel Trailer Park to be developed on the remaining area of the property to the south. The site plan requirement has been deferred by the Planning Director. However, a site exhibit has been provided showing the proposed development.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial activity and is also designated as a Gateway into the City of Abilene. The applicant proposes to add a Vacation Travel Trailer Park to the property. The request would allow the applicant to develop their property as they intend, and would be compatible with the surrounding uses.

Staff recommends approval as requested.

The Planning and Zoning Commission recommends approval with a 6' solid, opaque fence along the south property line by a vote of 6 in favor (Bixby, Famble, Glenn, Rosenbaum, Yungblut, and McClarty) and none opposed.

Mayor Archibald opened the public hearing and 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 Case No. **CUP-2012-04**, a request from Jan Kidd Engelke for a Conditional Use Permit to allow a Vacation Travel Trailer Park on property zoned GC (General Commercial), located at 1125 Elmdale Road. Councilman Higgins seconded the motion, motion carried.

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

Ordinance **#63-2012**

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: 1125 Elmdale Road

7.8 Megan Santee Director of Public Works, briefed the council on an Application/Permit to Drill and/or Operate an Oil and/or Gas well (4) – Bob Hughes Oil Co., LLC: “Hantman A #4”, “Hantman A #5”, “Hantman A #6”, and “Hantman A #7” wells, Permit No.’s 748553, 748554, 748555 and 748556.

Chapter 21, Oil and Gas, of the City Code requires a permit for drilling and operating oil/gas wells within the city limits. As part of the review process, the City Council is to conduct a public hearing and then approve or deny the permit. Bob Hughes Oil Company, LLC of San Angelo, Texas has submitted applications to drill the Hantman A #4, Hantman A #5, Hantman A #6 and Hantman A #7 wells on property owned by Joseph Hantman, located north of 1-20, east of Highway 83/277 and west of Old Anson Road, as shown on the attached map. These applications have been reviewed and approved by City Staff. All owners of real property within 500 feet of the proposed drill sites have been notified of these applications and of the City Council meeting to consider their approval, as required by City ordinance.

Mayor Archibald opened the public hearing and council heard from:

- Larry Wellhausen – representing the Bob Hughes Oil Co., spoke for the permit.

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

Councilman Briley made the motion to approve an Application/Permit to Drill and/or Operate an Oil and/or Gas well (4) – Bob Hughes Oil Co., LLC: “Hantman A #4”, “Hantman A #5”, “Hantman A #6”, and “Hantman A #7” wells, Permit No.’s 748553, 748554, 748555 and 748556.. Councilman Price seconded the motion, motion carried.

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

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 11:08 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 11:36 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property. Councilwoman Miller left during the executive session.

There being no further business the meeting was adjourned at 11:36 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor