

**CITY COUNCIL MEETING
December 20th, 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 20th, 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 called for a moment of silence for the loss of life in Newtown Connecticut and then Councilman Briley gave the invocation.

Mayor Archibald introduced Kenzie Fortson 5th grader at Austin Elementary School who led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PRESENTATION

Mayor Archibald recognized Keep Abilene Beautiful for the Recycled Christmas Tree Decorating Contest. Clack Middle School PTA was awarded \$250 for their tree entry.

Student winners are: Best in Show - Tiare Peters (8th grade)
Honorable Mention – Chase Chambers (8th grade), Estevan E. (8th grade), Ashley Bolden (7th grade), Xandie Washburn (6th grade)

The purpose of this contest was to educate the students about the 3 R's (Reduce, Reuse, Recycle) by actively engaging them in a creative way of reducing and reusing everyday household waste.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the December 6th 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 Price pulled item 6.8. Councilman Spano made the motion to approve consent items 6.1 through 6.7 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

Ordinances:

- 6.1 Ordinance:** *(First Reading)* **Z-2012-31** - on a request from LKC Group LLC, agent Harris Acoustics, to rezone property from AO (Agricultural Open Space) to GC (General Commercial), located at the northeast corner of Highway 83-84 and Beltway South; and setting a public hearing for January 10, 2013.

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: The northeast corner of Highway 83-84 and Beltway South

- 6.2 Ordinance:** *(First Reading)* on a proposal to amend the Land Development Code to allow active outdoor recreation as a conditional use in residential districts; and setting a public hearing for January 10, 2013.

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.

AMEND: Section 2.4.2.1 The Land Use Matrix

ADD: Add the Conditional Use Permit designation to residential districts for the "Recreation – Outdoors (active)" use to the Land Use Matrix

- 6.3 Ordinance:** *(First Reading)* on a proposal to amend the Land Development Code related to regulations pertaining to child-care as a home occupation; and setting a public hearing for January 10, 2013.

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.

AMEND: Section 2.4.3.3 – All Other Uses With Specific Requirements

REVISE: Revise the language for regulations pertaining to "Day Care Operation – Home Based" uses.

Chapter 2 – Zoning Regulations

Article 4 -- Use Regulations

Division 3 – Requirements Applicable to Specific Land Uses

Section 2.4.3.3 -- All Other Uses With Specific Requirements

- (13) DAY CARE OPERATION -- HOME BASED:** Child day care operations allowed as accessory to a residence shall include only those specifically listed, registered or licensed by the Texas Department of Family and Protective Services (or other applicable state agency) to be undertaken in the caregiver's

home and shall, furthermore, be subject to all standards and limitations relevant to such listing, registration or licensing. These include but are not limited to restrictions on the number and age of children for who care is provided. Home-based day care operations shall also be subject to all limitations applicable to other home occupations, as stipulated in Section 2.4.5.2 of this Land Development Code.

AMEND: Section 5.1.1.3 – Land Use Definitions

REVISE: Revise the definition for home-based operation under the “Child Day-Care Operation” land use.

Chapter 5 – Definitions

Article 1 – Definitions

Division 1 – Definitions

Section 5.1.1.3 – Land Use Definitions

(36) **CHILD DAY-CARE OPERATION:** This is a general definition that means the care, supervision, training or education of an unrelated child or children under fourteen (14) years old for less than twenty-four (24) hours per day that occurs in a place other than the child’s own home. This definition includes child day care provided to school-age children before and/or after the customary school day.

a. Center-Based Operation.

1. Child-Care Center. An operation providing care for seven or more children under 14 years of age for less than 24 hours per day at a location other than the permit holder’s home.
2. Kindergarten and Nursery School. An operation that provides an educational program that is four hours or less per day and more than two days a week for children two through six years.

b. Home-Based Operation.

Child care operations allowed as an accessory to a residence shall include only those specifically listed, registered or licensed by the Texas Department of Family and Protective Services (or other applicable state agency) to be undertaken in the caregiver’s home and shall, furthermore, be subject to all standards and limitations relevant to such listing, registration or licensing. These include but are not limited to restrictions on the number and age of children for who care is provided.

6.4 Ordinance: (*First Reading*) on a proposal to amend the Land Development Code to allow digital conversion of billboards in the Buffalo Gap Corridor Overlay; and setting a public hearing for January 10, 2013.

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.

AMEND: Section 2.3.4.1 Corridor Overlay (COR) District

REVISE: Revise the language in the Prohibited Signs section (letter 'b') to allow for digital conversion of an existing billboard.

(e) **Signage Requirements.**

4. Prohibited Signs

b. No new off-site signs shall be permitted within the boundaries of the overlay district with the exception of:

- off-site group signs;
- digital conversion of an existing billboard

Oral Resolutions:

6.5 Oral Resolution: City Council accepted a petition for annexation and directed staff to prepare a Service Plan for property located south of Beltway South (FM 707) and east of the Beltway Park Baptist Church property.

The land is generally located south of Beltway South (FM 707) and east of the existing Beltway Baptist Church located at 4009 Beltway South. The Local Government Code allows a property owner to request, by petition, annexation on a voluntary basis.

6.6 Oral Resolution: Authorized the City Manager to execute a contract with Richard J. Leidl, P.C.

In 2005, the City of Abilene began using the professional services of Richard J. Leidl, a Washington D.C. area legislative and regulatory consultant, to assist in identifying sources of federal funding for City projects. With his assistance the City has received funding for use in projects ranging from paratransit vehicles to law enforcement training facility improvements. Mr. Leidl proposes to assist the City in seeking funding through agency grants, as well as continuing to assist with other on-going projects that involve Federal funding and oversight. Those efforts include assistance with the Cedar Ridge Reservoir Project, and the City's application to the US Army Corps of Engineers for a 404 construction permit.

Bid Awards:

6.7 Bid Award: CB-1310 City Council authorized the City Manager to execute a contract with Starks Construction Company for the Vogel Avenue and Mimosa Drive sewer line project in the amount of \$119,860.50.

6.8 Bid Award: CB-1311 authorizing the purchase of Rifles for the Abilene Police Department. *Item pulled by Councilman Price.*

ITEM PULLED FROM CONSENT

Bid Award: CB-1311 authorizing the purchase of Rifles for the Abilene Police Department. Councilman Price asked Chief Standridge to talk about the program.

The Abilene Police Department has a long-standing Rifle Program wherein officers are authorized to carry standardized rifles of .223 caliber. Rifles have been recognized as an enhancement to officer safety during high-risk calls for service, as seen throughout the nation on many occasions. Policies and training standards govern the Department's Rifle program. The Department seeks approval for an upgrade to the Rifle program whereby replacement rifles will be procured for officers to ensure current equipment is deployed for the officers' use in the program. The officers will, after proper federal firearm license transfers have occurred and full reimbursement is made to the City, own and maintain the new rifles. This program upgrade is modeled after one successfully implemented by the City of San Angelo's Police Department.

Councilwoman Miller made the motion to approve the purchase of Rifles for the Abilene Police Department. Councilman Price seconded the motion, motion carried.

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

NAYS: None

REGULAR ITEMS

7.1 James Childers Director of Community Services, briefed the council on an ordinance establishing the standards of care for the City of Abilene Youth Programs.

In August of 1997 the 74th Legislature enacted Section 42.041(14) of the Texas Human Resources Code, which exempts youth programs operated by a municipality from state child-care licensing requirements. 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 we do not serve.

The Standards of Care require three inspections/review levels be performed each year to insure compliance. The first level is performed by the Recreation Coordinator to confirm adherence to the Standards themselves. The second is a visual inspection of the facilities to be conducted by the program Administrator with the assistance of a certified leisure professional not associated with the City of Abilene. That visual inspection was conducted on October 31, 2012. The Parks and Recreation Professional who assisted was Jeff White. The third level is an annual inspection by both the Fire Department and Environmental Health. All of these inspections and reviews were satisfactorily completed and the program is in compliance. Mr. White offered a few suggested improvements the staff is planning to implement in the coming year. These include: (1) Change certified leisure professional to Parks and Recreation Professional since few individuals hold that certification due to the Texas Recreation and Parks Society no longer offering that certification. (2) Update the document to reflect current reporting practices.

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

Councilman Spano made the motion to approve the Ordinance establishing the standards of care for the City of Abilene Youth Programs. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

Ordinance #64 -2012

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

7.2 Jon James Director of Planning and Development Services, briefed the council on an appeal of a denial of a sidewalk waiver for the Estates at Pack Saddle Creek Section 2 subdivision

The Estates at Pack Saddle Creek Section 2 subdivision is currently being developed in the extra-territorial jurisdiction (ETJ), which has triggered sidewalk construction per the City's Sidewalk Master Plan and the Land Development Code (LDC). The subdivision has a roadway that is designated as a 'collector' street. While sidewalks are already exempt for "local" streets, they are required along both sides of a collector street in the ETJ. Per the appeal provisions, the developer's agent sought a waiver of the sidewalk along the collector street, Prosperity Road. This request was reviewed by both the Planning Director and City Engineer. The Planning Director determined that there was not reasonable justification for granting the waiver along Prosperity Road. The City Engineer, however, determined that the rural design of the street, as allowed for subdivisions with an average lot size greater than 1-acre in the ETJ, presented enough justification for the waiver. In the case of a split decision, the LDC outlines a procedure for the City Manager or his designee to make the determination as to whether or not the waiver should be granted. The decision was to deny the waiver request. The following briefly addresses the staff response to each of the applicant's concerns, as expressed in their original request letter:

- 1. No sidewalk on previously constructed section of Prosperity Road:** The applicant's letter indicates that the previous section of Prosperity Road was approved without sidewalks and that a waiver was approved. However, the road was allowed to use the Interim Rural Design, which includes a minimum street pavement width with bar-ditches on the sides. This plan is designed to allow for installation of curb-and-gutter and sidewalks in the future. Also, the responsibility for installing sidewalks in the future was not waived and Prosperity Road will extend into the large undeveloped area to the west and the requirement for the sidewalk would continue.
- 2. Such a sidewalk will have limited use:** The applicant asserts that this sidewalk will have limited use since the other streets in the neighborhood are exempt from sidewalks. Additionally, previous subdivisions in the area were developed without sidewalks. The City's ordinance exempts sidewalks on local streets in subdivisions where each lot is 1 acre or larger. It also recognizes that major streets, like Prosperity Road, provide connectivity for a larger area as these areas develop. These thoroughfares are thus not exempted in the ordinance.

Council and Staff discussion included: 1) the sidewalk ordinance – re-review ordinance; 2) the expectation of living outside the city limits; 3) voluntary and involuntary annexation; and 4) collector and arterial streets.

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

- Tal Fillingim –agent for the proponents, spoke for the wavier appeal.
- Aaron Waldrop – complimented the council for their ability to work with developers
- Mike Vandervoort - with the Federation of the Blind spoke on the issues of sidewalks in town.
- Steve Savage – spoke for the granting of the waiver.
- Dan Symonds - spoke for the granting of the waiver.

Councilman Williams made the motion to approve the appeal of a sidewalk waiver for the Estates at Pack Saddle Creek Section 2 subdivision. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

7.3 Tommy O’Brien Director of Water Utilities, briefed the council on the Oral Resolution authorizing execution of Amendment No. 1 to the Professional Engineering Services Agreement with Alan Plummer Associates, Inc. for permitting a Monofill Disposal Site for Water Treatment Plant Residuals. Rex Hunt, P.E. with Alan Plummer Associates, Inc. described the process whereby the City is making the recommendation of a Monofill disposal site.

The treatment processes of the Grimes and Northeast water treatment plants (WTP) produce sizable quantities of WTP residuals (solids) which must be appropriately disposed in accordance with Federal and State regulations. Abilene currently disposes of such residuals on a registered land application site. The Texas Commission on Environmental Quality notified the City that upon expiration of the Registration in October 2014, the City will need to both renew the registration and revise its current disposal operations at the site to comply with land application regulations, or change its management of disposal of WTP residuals.

On June 28th, 2010 the City contracted with Alan Plummer Associates, Inc. (APAI), teamed with Enprotec/Hibbs and Todd, Inc., to evaluate options for long-term management of disposal of WTP residuals. Three disposal options were evaluated: land application at current registered site based on land application regulations; private landfill disposal; and monofill disposal at a City-owned site. It was recommended that the City consider monofill disposal as the long-term disposal option of WTP residuals. A monofill is a landfill that allows disposal of only one material, which will be WTP residuals. It will be owned and operated by the City. It is the most cost-effective of the options evaluated, and will have the least operational issues because operations occur on one relatively small contiguous site.

Staff supports the recommendation of the consulting team, and desires to proceed with the permitting of a monofill disposal site. Such work is proposed to be performed as an Amendment to the original APAI contract. The required permitting activities include preliminary design, environmental investigations, geotechnical investigations, permit application to the TCEQ and necessary negotiations for obtaining the permit.

The team of consultants will provide technical and regulatory support to develop and permit a monofill disposal site for WTP residuals. Such work will be performed in Amendment No. 1, which will be

structured for reimbursement based on actual time spent and expenses, with total compensation not to exceed \$347,665.00.

Staff and Council discussion included: 1) land apply; 2) dispose in landfill; 3) monofill; 4) Hargesheimer Plant is different than the other two; and 5) our neighboring cities and what they are doing.

Councilman Price made the motion to authorize execution of Amendment No. 1 to the Professional Engineering Services Agreement with Alan Plummer Associates, Inc. for permitting a Monofill Disposal Site for Water Treatment Plant Residuals. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

7.4 Mayor Archibald, briefed the council on the Resolution requesting further review and action by TxDOT regarding the location of the exit ramp from Interstate 20.

The exit ramp occurs at a spot where drivers can't see what stores are at the location of Hwy 351 and I-20 when west bound.

Mayor Archibald made the motion to approve the Resolution requesting further review and action by TxDOT regarding the location of the exit ramp from Interstate 20. Councilman Briley seconded the motion, motion carried.

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

NAYS: None

Resolution #24-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, REQUESTING FURTHER REVIEW AND ACTION BY TxDOT REGARDING THE LOCATION OF THE EXIT RAMP FROM INTERSTATE 20 TO OVERLAND TRAIL NEAR THE INTERSECTION OF MUSGRAVE BOULEVARD AND OVERLAND TRAIL

7.5 Richard Burdine Assistant City Manager for Economic Development, briefed the council on the annual report of the Development Corporation of Abilene, Inc.

Highlights for Fiscal 2012

- Vine Street Warehouses (187,000 square feet)
 - 60% leased with balance under renovation – 2013 Q2 completion.
 - Leases for 22,330 square feet (12%) pending completion.
- Springboard Idea Challenge 2012
 - \$5,000 sponsorship to support entrepreneurship.
 - 4th year the Board has supported the program.
- Incentive Guidelines Revisions
 - 10% capital investment percentage was:
 - reduced to 7% for projects outside the city limits; and,

- Increased to 15% when existing businesses invest in land & buildings.
- Fast Track Welding Program
 - Funding to Cisco College & the Workforce Center to train 84 students.
 - Most students are employed upon graduation.
 - Cisco College considering adding space for welder training.
- Abilene Regional Airport
 - \$200,000 committed for a travel bank for a 2nd air carrier.
- Cisco College
 - Graduation of 1st class of 8 biotech technicians.
 - 10-week hands-on internship at the SOP “capped” the course.

Councilwoman Miller made the motion to approve the annual report of the Development Corporation of Abilene, Inc. Councilman Higgins 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 10:31 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 10:52 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.071 Consultation/Litigation with Attorney.

There being no further business the meeting was adjourned at 10:52 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor