

**CITY COUNCIL MEETING**  
**July 11<sup>th</sup>, 2013, 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 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, Kyle McAlister 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 McAlister gave the invocation.

Mayor Archibald introduced Emma Martinez she is a 4<sup>th</sup> grader at Jackson Elementary, and she led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas. Emma is the daughter of Livia Martinez, Employee Benefits Manager for the City of Abilene.

**PROCLAMATION**

Mayor Archibald presented the following proclamation:

National Therapeutic Recreation Week, the proclamation was accepted by Barbara Liggett, City of Abilene Adaptive Recreation Services. Several participants of the program were in attendance.

**INTRODUCTION**

Mayor Archibald introduced Leah Mazzarelli she is the new Communications and Media Relations Manager for the City of Abilene.

**EMPLOYEE SERVICE AWARD**

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

Daniel O. Flores, Sr.	Water Utilities	20 Years
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**SCHOLARSHIP AWARDS**

Mayor Archibald and Donna Littlefield presented the following Scholarship Awards:

Amanda Nicole Stites	daughter of Kenneth Stites	Firefighter, Tactical Operations
Andrew Ross Leving	son of Kathy Leving	Computer Programmer III
Renee Elizabeth Adlesperger	daughter of Loren Adlesperger	Police Officer
Jordon DeLynn Wright	daughter of Coby Wright	City Marshall

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the June 24<sup>th</sup> regular meeting there being no deletions, no additions, and no corrections. Councilman Spano made a motion to approve the minutes as presented. Councilman Williams seconded the motion, motion carried.

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

### CONSENT AGENDA

Councilman Briley made the motion to approve consent item 6.1 through 6.2 as recommended by staff. Councilman McAlister seconded the motion, motion carried.

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

#### Bid Awards:

- 6.1** **Award of Bid: CB-1329**- UtiliTex Construction for the Sewer Collection System Improvements project. The City Council awarded the bid to UtiliTex and authorized the City Manager to execute the needed documents. Cost of the project \$1,257,032.50.

On April 2, 2013 the City of Abilene received bids for the Sewer Collection System Improvements Project (Project). The Project was advertised in the Abilene Reporter News on March 10th and 17th, 2013. Four bids were received. The low bid was submitted by UtiliTex Construction (UtiliTex) of Balch Springs, TX in the amount of \$1,257,032.50. The Engineer, after evaluating the bid submittal and the contractor references, does recommend awarding the bid to UtiliTex.

On July 28th, 2010 the Abilene City Council approved a professional services contract with Jacob and Martin, Ltd. for City of Abilene Sewer Main Rehabilitation. City staff provided the Engineer with a list of sewer main segments known to be aged and problematic and in need of rehabilitation. Most of the identified segments had unique characteristics such as excessive depth and/or close proximity to major roadways or adjacent structures which were not favorable for utilizing City force labor to perform that work. The Engineer conducted a detailed evaluation of each of the identified piping segments, and recommended a repair method best suited for each situation. The list of projects was prioritized by staff and Engineer. The Engineer prepared plans, specifications and contract documents for a project to repair the segments of highest priority. The Project consists of renovation of eight sewer main segments using the construction methods determined by the Engineer.

#### FUNDING/FISCAL IMPACT

The City Council approved CY 2012 CIP Project 8060-05-10 (Insertion Upgrade of Selected Lines) in the amount of \$1,200,000.00 and designated for cash financing utilizing Water Department Fund Balance. The residual will be funded using existing Water Department funds (Unrestricted, designated for capital projects).

- 6.2** **Award of Bid: CB-1336** - Bucket Truck, Fleet Management. The City Council awarded the bid to Grande Truck Center in the amount of \$73,884.00. The truck will be assigned to Traffic Engineering and will be utilized for daily maintenance and emergency trouble calls on traffic signals throughout the city.

### REGULAR ITEMS

**7.1** Jon James, Director of Planning and Development Services briefed the council on the final reading of an ordinance to annex and establish zoning on property located at 4009 Beltway South and being the southern portion of the Beltway Park Baptist Church property.

This item originated as a request from the City of Abilene to have the remaining property owned by Beltway Park Baptist Church, approximately 10 acres, to be annexed into the city. The church has since requested that the City of Abilene consider voluntary annexation on the approximately 10 acres outside the city limits.

The proposed area is currently developed with a church and has access to utilities (water & sewer). The property has no public facilities to be maintained (streets, drainage facilities, etc.). Police and Fire services will be available. The proposed annexation would present no adverse service impacts to any of the services or facilities offered by the Community Services Department.

Section 2.4.2.1 (c) of the Land Development Code states, "From the time an annexation takes effect until action is completed to zone the land, the initial uses permitted on the annexed property shall be consistent with uses permitted within the AO, Agricultural Open Space, District." Therefore, zoning of any property that is annexed should be AO until such time that a property owner requests some other classification through the normal rezoning process.

Two public hearings were held in May & June in which no one spoke in support or opposition to the request.

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

Councilwoman Miller made the motion to approve an ordinance to annex and establish zoning on property located at 4009 Beltway South and being the southern portion of the Beltway Park Baptist Church property. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance [#26-2013](#)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, PROVIDING FOR THE EXTENSION OF THE BOUNDARY LIMITS OF THE CITY OF ABILENE, TEXAS, AND THE ANNEXATION OF CERTAIN TERRITORY LYING ADJACENT AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF ABILENE

**7.2** Jon James, Director of Planning and Development Services briefed the council on Case **Z-2013-14** a request from Tacks Investments, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, located south of Beltway South (FM707) and east of the Beltway Park Baptist Church property.

Currently the property is zoned AO and is undeveloped. The adjacent properties to the east are developed with single-family homes. There properties to the west are developed primarily with single-family homes and does include a large church bordering the subject property. The property to the south is undeveloped and outside the city limits. The owner plans to develop the subject property as a residential subdivision.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant is requesting the zone change to allow for development of a single-family residential

subdivision. The requested zoning would be compatible with the adjacent residential uses as well as the Comprehensive Plan.

Staff recommends approval.

The Planning and Zoning Commission recommends approval by a vote of 5 in favor (Bixby, Glenn, McClarty, Rosenbaum, and Famble), none opposed, and 1 abstained (Todd).

Mayor Archibald opened the public hearing and B. J. Prichard with Enprotec/Hibbs & Todd Engineering was here for any questions. There being no one else present and desiring to be heard the public hearing was closed.

Councilman Spano made the motion to approve an Ordinance for Case **Z-2013-14** a request from Tacks Investments, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, located south of Beltway South (FM707) and east of the Beltway Park Baptist Church property. Mayor Archibald seconded the motion, motion carried.

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

NAYS: None

Ordinance [#27-2013](#)

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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: South of Beltway South (FM707) and east of Beltway Park Baptist Church Property**

**7.3** Jon James, Director of Planning and Development Services briefed the council on Case **Z-2013-15** on a request from Warren Harkins, agent Erik Johnson, to rezone property from AO (Agricultural Open Space) to LI (Light Industrial) zoning, being approximately 22.43 acres located on the north side of FM 18 east of 4750 FM 18.

Currently the property is zoned AO and is undeveloped. The property to the north is undeveloped. Bandag currently operates on the property to the west. The properties to the south are largely undeveloped. The owner is asking for the LI zoning to use the land for industrial uses such as manufacturing and warehousing.

The Future Land Use section of the Comprehensive Plan designates this general area as "business/industrial". The applicant is requesting the zone change to allow for development of industrial uses. There are multiple properties adjacent to the subject property that are zoned for industrial and developed with industrial uses. The requested zoning would be compatible with the adjacent industrial uses as well as the Comprehensive Plan.

Staff recommends approval.

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

Mayor Archibald opened the public hearing and council heard from:

- Erik Johnson agent for the property owner – spoke in favor of the zone change.

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

Councilman Williams made the motion to approve an ordinance on Case **Z-2013-15** on a request from Warren Harkins, agent Erik Johnson, to rezone property from AO (Agricultural Open Space) to LI (Light Industrial) zoning, being approximately 22.43 acres located on the north side of FM 18 east of 4750 FM 18. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Ordinance [#28-2013](#)

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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: being approximately 22.43 acres located on the north side of FM 18 east of 4750 FM 18.**

**7.4** Jon James, Director of Planning and Development Services briefed the council on Case **Z-2013-17** on a request from Sam Daggubati to amend PD-116 (Planned Development), located at 2002 Jameson St.

Currently the property is zoned PD and was once a school. Interstate 20 is adjacent to the north with properties on the other side zoned for commercial uses. A gas station exists to the west. The properties to the east and south are developed with single-family residential homes. The current zoning allows for a mix of uses to include places of worship, restaurants, medical clinics, playgrounds, and other similar uses. The owner is asking to amend the PD zoning to allow for additional uses such as apartments, a hotel, and a convenience store with fuel sales.

The Future Land Use section of the Comprehensive Plan designates this general area as 'low density residential'. The applicant is requesting amend the PD to allow for a greater mix of uses. The frontage along I-20 and the commercial zoning to the west supports the inclusion of the proposed uses. The proposed concept plan shows the apartments providing a buffer to the adjacent single-family homes to the east and south. The requested zoning would be compatible with the adjacent uses as shown on the proposed concept plan.

Staff recommends approval.

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

Staff and council discussion included: 1) location of apartments, set back footage; 2) access from the apartments onto Old Anson Highway. Only 1 new access shall be allowed along Jameson Street if developed as apartments. Cross access in the development; and 3) landscape buffer along property line adjacent to Jameson St as if the property was adjacent to single-family residential zoning.

Mayor Archibald opened the public hearing and council heard from

- Paul Martin – citizen voiced his concerns with the project being across from his house and was against the zone change.

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

Mayor Archibald made the motion to approve an ordinance on Case **Z-2013-17** on a request from Sam Daggubati to amend PD-116 (Planned Development), located at 2002 Jameson St. With the following additions to

the PD 1) Setbacks – apartments shall be setback a min. of 45 feet from the property line adjacent to Jameson St; 2) Landscape Buffer – A type “A” landscape buffer shall be required along the property line adjacent to Jameson St as if the property was adjacent to single-family residential zoning. If apartments per the concept plan; 3) Ingress/Egress – If apartments per the concept plan then one point of access shall be required along Old Anson Rd, only 1 new access shall be allowed along Jameson St and cross-access shall be required for the entire development. Councilman Briley seconded the motion, motion carried.

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

NAYS: None

Ordinance [#29-2013](#)

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-116 AND ORDINANCE NO. 5-2007, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

**Location: 2002 Jameson St.**

**7.5** Jon James, Director of Planning and Development Services briefed the council on Case **TC-2013-04** on a request from VFW Post 6873, Agent Mike Craft, to abandon Richmond St between Veterans Dr. and Baker St.

The applicant is requesting to abandon the street right-of-way (ROW) to be able to utilize the area for expansion of the RV parking at the VFW hall. The street has not been improved on this segment and does not provide direct access for adjacent properties except for 1 residential property. The property to the north is a large, undeveloped property that has been acquired by the applicant.

The Plat Review Committee recommends denial of the requested street ROW closure. The closure would leave 6225 Richmond St without access to the property. Additionally, the block length of Baker St between Pueblo Dr and Fairmount St would exceed the maximum of 1,200 feet. If the ROW closure is approved, the following conditions would apply:

- All adjacent properties replatted as necessary so that all parcels have street frontage.
- Retain an access easement for the property using this for access to Veterans Drive.
- Retain the area as an accessible utility easement.

Staff recommends denial of the requested street ROW abandonment.

The Planning and Zoning Commission recommended approval per the conditions of approval by the Plat Review Committee by a vote of six (5) in favor (Glenn, McClarty, Rosenbaum Todd, and Famble) and one (1) in opposition (Bixby).

Staff and Council discussion included: 1) adjacent landowner and his access to his property; and 2) fence at the end of the current path (ROW).

Mayor Archibald opened the public hearing and council heard from:

- Mike Craft – Adjutant for the Post spoke for the request to abandon the street right-of-way.

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

Councilman Price made the motion to approve an ordinance on Case **TC-2013-04** on a request from VFW Post 6873, Agent Mike Craft, to abandon Richmond St between Veterans Dr. and Baker St as recommended by Planning and Zoning Commission. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

Ordinance [#30-2013](#)

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

**Location: abandon Richmond St between Veterans Dr. and Baker St**

**7.6** Jon James, Director of Planning and Development Services briefed the council on Appeal of a denial of a sidewalk waiver for Wylie ISD Early Childhood Addition, located at 6249 Buffalo Gap Rd.

The Wylie ISD Early Childhood Addition, located at 6249 Buffalo Gap Rd, is undergoing a major addition to the campus to become their Pre-K and Kindergarten school. The proposed expansion requires approval of a site plan due to the major scope of the project. Section 3.2.13.5 (c) of the Land Development Code (LDC) requires for the provision of sidewalks along arterial and collector streets as part of a site plan. The adjacent streets, Buffalo Gap Rd & Antilley Rd, are both arterial streets.

This request was reviewed by both the Planning Director and City Engineer. They determined that there was not reasonable justification for granting the waiver along either street. The City's ordinance recognizes that major streets, like Buffalo Gap Rd & Antilley Rd, provide connectivity for a larger area and thus are expected to provide sidewalks as part of ensuring adequate public facilities on the site. While it is anticipated that some families may use the sidewalk to travel to and from the school facility, many more will use these sidewalks to travel along Antilley and Buffalo Gap to other destinations in the area (as is currently evidenced by worn dirt paths along Buffalo Gap in the vicinity of this site).

Regarding Antilley Rd, a sidewalk would create an important extension of an existing sidewalk leading all the way to the Wylie High School. A sidewalk currently exists west of Buffalo Gap Rd on the north side of Antilley Rd. It appears that adequate space exists for installation of a sidewalk, even with the noted encroachments.

Regarding Buffalo Gap Rd, pedestrian activity can be expected to increase with the increased traffic along the roadway. While the drainage structure in the right-of-way presents some design issues, it does not necessarily preclude construction of a sidewalk (and the applicant has not raised sidewalk construction costs as a factor for consideration). In addition, staff has identified other alternatives for the applicant, including one that would utilize the existing sidewalk area in front of the existing buildings on the site.

Based on the information provided by the applicant, staff continues to recommend denial of the waiver of the sidewalks along Buffalo Gap Rd & Antilley Rd.

Mayor Archibald opened the public hearing and council heard from:

- Joey Light Superintendent of Wylie ISD – Mr. Light presented the reason why the School district believes that sidewalks would encourage children to utilize them when they are too young to be out there without supervision and would encourage parents to drop off students on Antilley where they don't need to be. Safety is the main issue the school has with the proposed sidewalks.

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

Staff and council discussion included: 1) landscape issues on Buffalo Gap Road; 2) locations of other sidewalks; 3) lack of other sidewalks on the East side of Buffalo Gap Road; 3) sidewalks on Antilley Road; 4) city wide policy on sidewalks; and 5) waiver granted to Hamil Funeral Home in the past.

Councilman Price made the motion to approve sidewalk waiver for Wylie ISD Early Childhood Addition, located at 6249 Buffalo Gap Rd. Councilman Briley seconded the motion, motion carried.

AYES: Councilmen Price, Briley, McAlister, and Mayor Archibald

NAYS: Councilmen Spano, Williams and Councilwoman Miller

**7.7** Megan Santee, Director of Public Works briefed the council on the application/permit to Drill and/or Operate an Oil and/or Gas well – Bullet Development LLC, Lytle Rankin #2, Permit No. 748492 and Lytle Rankin #3, Permit No. 759159.

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.

Bullet Development, LLC of Abilene, Texas has submitted applications to drill the “Lytle-Rankin No. 2” and “Lytle-Rankin No. 3” wells on property owned by the Lytle Lake Water Control and Improvement District, located on East Industrial Blvd. south of Diamondback Golf Club and Abilene Regional Airport, as shown on the attached map. Because of the proximity to Abilene Regional Airport, a Federal Aviation Administration (FAA) Aeronautical Study was required for each well. The aeronautical studies are attached to, and made part of each application/permit. The studies concluded that the drilling rig for each well does not exceed obstruction standards and would not be a hazard to air navigation, provided that the marking/lighting and notification requirements detailed in the studies are met. Additionally, because the Lytle-Rankin No. 2 well is located within the floodway of Lytle Creek, a floodplain / floodway analysis was required to be performed for this well location and a Floodplain Development Permit obtained for this location (attached to, and made part of the permit for the Lytle-Rankin No. 2 well location).

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.

Staff Recommendation:

Because all prerequisites and requirements of Chapter 21, Oil and Gas; have been met, including no anticipated adverse effect on the health, safety and welfare of the public, staff recommends that the City Council vote to approve the applications for these drilling permits and authorize the Mayor to execute permit no.'s 748492 and 759159 for Bullet Development, LLC.

Mayor Archibald opened the public hearing and Larry Wellhausen was here for 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 application/permit to Drill and/or Operate an Oil and/or Gas well – Bullet Development LLC, Lytle Rankin #2, Permit No. 748492 and Lytle Rankin #3, Permit No. 759159. Councilman Spano seconded the motion, motion carried.

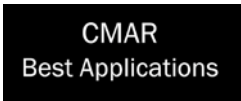


AYES: Councilmen Price, Spano, Williams, Briley, McAlister, Councilwoman Miller and Mayor Archibald  
NAYS: None

**7.8** Tommy O'Brien, Director of Water Utilities briefed the council on the agenda item for use of Construction Manager at Risk Procurement Process and turned the presentation over to Scott Hibbs Engineer with Enprotec Hibbs & Todd.

Government Code Chapter 2267 allows the use of alternative procurement methods:

- Construction Manager at Risk (CMAR)
- Design-Build



Owner desires high degree of involvement & control

- Owner desires more construction input into design
- Owner desires less construction risk
- Schedule is a priority
- Project is complex or scope is uncertain
- Ensures maximum local subcontractor participation

CMAR Delivery  
The "Plus" During Preconstruction  
Design Phase  
Construction Phase

**Preconstruction Phase Services**

Budget Conformance	Scope Conformance	Schedule Conformance
Design Reviews	Design Workshops	<b>GMP Development</b>
Value Engineering	Constructability Reviews	Phasing Plans
Bid Gap Analysis	Subcontractor Qualification	Early out Packaging

***Design Professional and CMAR create best value  
while minimizing claims and litigation***

Councilman Price made the motion to approve use of Construction Manager at Risk Procurement Process finding this to be the best value for the City. Councilman Williams seconded the motion, motion carried.

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

**EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 12:03 p.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 Executive Session at 12:30 p.m. and reported no votes or action was taken in Executive Session in regards to Section 551.071 Consultation with Attorney.

There being no further business the meeting was adjourned at 12:30 p.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor