

CITY COUNCIL MEETING
August 8th, 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 August 8th, 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 Williams came in during the discussion of item 7.5.

Councilman Shane Price gave the invocation.

Councilman Spano introduced his grandson Karson Grigsby who is a 4th grader at Allie Ward Elementary. He led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

EMPLOYEE SERVICE AWARDS

Mayor Archibald assisted by City Manager Larry Gilley recognized the following employees for their years of service to the City.

Isaias Romero	Maintenance Worker I, Water Utilities	20 Years
Anthony D. Redman	Librarian I, Community Service	20 Years
David L. Dockter	Fire Fighter, Fire Tactical Operations	35 Years

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the July 23rd & July 24th special budget workshop and July 25th regular meeting there being no deletions, no additions, and no corrections. Councilman Price made a motion to approve the minutes as presented. Councilman Spano seconded the motion, motion carried.

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

CONSENT AGENDA

Councilwoman Miller made the motion to approve consent item 6.1 through 6.4 as recommended by staff. Councilman McAlister seconded the motion, motion carried.

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

Resolutions:

6.1 **Resolution:** The City Council authorized Addendum I to the Water Supply Contract with the Steamboat Mountain Water Supply Corporation.

The City of Abilene is a regional water supplier to satellite cities and communities through Water Supply Contracts in which Abilene agrees to sell potable water to four satellite cities, eight Water Supply Corporations, Dyess AFB, and it also treats water for one other City. The Water Supply Contract

(Contract), made March 1, 2004, between the City of Abilene and the Steamboat Mountain Water Supply Corporation (SMWSC) provides that Abilene will sell potable water to the SMWSC. The Contract provides for two delivery points.

The Texas Commission on Environmental Quality (TCEQ) notified the SMWSC that it does not provide sufficient production capacity. The Maximum Daily Flow Rate (Flow Rate) in the Contract is not sufficient to meet the minimum requirement. The SMWSC is requesting to increase the Flow Rate currently contained in the Contract in order to remedy the situation. The SMWSC contracted with a Professional Engineer to evaluate its distribution system. The Engineer recommends increasing the Flow Rate for Delivery Point No. 1 from 700 gallons per minute (gpm) up to 1,100 gpm. The Engineer, along with City staff, evaluated the impact that the proposed Flow Rate would have on the City's distribution system and determined that the proposed increase in the Flow Rate would not have a significant impact on current system operation, nor does it require acceleration or expansion of planned system improvements as identified in the 2010 Water Master Plan.

Resolution: [#20-2013](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING AN AMENDMENT TO THE EXISTING WATER SUPPLY CONTRACT BETWEEN THE CITY OF ABILENE AND THE STEAMBOAT MOUNTAIN WATER SUPPLY CORPORATION BY INCREASING THE MAXIMUM DAILY FLOW RATE.

- 6.2** **Oral Resolution:** The City Council approved an Extended Term Street Use License for Abilene Country Club for use of Fairway Oaks Blvd. right-of-way, between Muirfield and Pinehurst.

Abilene Country Club has submitted an Extended Term Street Use License (SUL) application for use of a portion of the public right-of-way on Fairway Oaks Blvd., between the south right-of-way line of Muirfield and the north right-of-way line of Pinehurst. The applicant wishes to bore underneath and install one new eight (8) inch effluent irrigation line in one specific location under Fairway Oaks Blvd., for irrigation of applicant's golf course. The specific location for this line is identified on the Exhibit "A"/construction drawings, as part of the Extended Term SUL Agreement. No other private property owners or business tenants will be affected by this request. The Extended Term SUL Agreement will be for a term of ten (10) years from the date of execution, and the City may cancel the License Agreement at any time should it become necessary.

- 6.3** **Oral Resolution:** The City Council acknowledges receipt of Abilene-Taylor County Events Venue District Budget for Revised FY 2013 and approved FY 2014 Budget.

Abilene-Taylor County Events Venue District submitted their Budget for Revised FY 2013 and Budget FY 2014 to the City Council. The Board approved this funding at their July 22, 2013 meeting. Board members are Mayor Norm Archibald, County Judge Downing Bolls, Jr., Councilman Robert Briley, County Commissioner Stan Egger, and Glenn Dromgoole.

Fiscal Year 2013:

Collections for FY 2013 are expected to exceed the original estimate. Therefore, each entity will receive additional funds.

Fiscal Year 2014:

The Board approved distributing all funds after the debt payment and the administrative expenses are paid based on the approved allocation of 60% for Frontier Texas! and 40% for Expo Center. A portion will go toward payment on the bonds issued for improvements to the Expo Center and Abilene Independent School District's Shotwell Stadium. This amount is deducted prior to distributing any balance.

Bid Award:

- 6.4** **Award of Bid: CB-1342** Law Enforcement Center Roof Repair. City Council awarded the bid to repair the roof to Lydick-Hooks Roofing in the amount of \$51,740.

REGULAR ITEMS

- 7.1** Mindy Patterson Director of Finance briefed the city council on the Revised Budget for FY 13 in the amount of \$79,785,500.

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

Mayor Archibald made the motion to approve the Ordinance revising the FY 2012-2013 budget. Councilman Spano seconded the motion, motion carried.

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

Ordinance [#31-2013](#)

AN ORDINANCE APPROVING REVISED BUDGET FIGURES FOR FISCAL YEAR 2012-2013; FOR THE CITY OF ABILENE; APPROPRIATING FUNDS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING.

- 7.2** Jon James Director of Planning & Development Services briefed the council on Case **Z-2013-18** a request from Aaron Waldrop, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, located at 601 Swift Water Dr.

Currently the property is zoned AO and is undeveloped. The adjacent properties to the east are zoned RS-6 and is developed as the Dakota Springs subdivision. The owner plans to develop the property as the next phase of the Dakota Springs 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 the next phase 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.

Planning and Zoning Commission Recommendation

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

Mayor Archibald opened the public hearing and council heard from:

- Tal Fillingim agent for the developer – spoke in support of the zone request and answered questions regarding the new addition.

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

Councilman Briley made the motion to approve Case **Z-2013-18 a** request from Aaron Waldrop, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, located at 601 Swift Water Dr. Councilman Price seconded the motion, motion carried.

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

Ordinance [#32-2013](#)

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: 601 Swift Water Dr.

7.3 Jon James, Director of Planning and Development Services briefed the council on Case **Z-2013-19 a** request from Josh Ensor, agent Caleb Ensor, to rezone property from AO (Agricultural Open Space) to RR-1 (Rural Residential) zoning, being approximately 15.13 acres located on the south side of Waldrop Dr. east of 1849 Waldrop Dr.

Currently the property is zoned AO and is undeveloped. The adjacent properties to the east are a mix of zonings to include AO, O (Office), & GR (General Retail) and are either developed as single-family homes or are vacant. The property to the west is developed as large estate property. The properties to north are zoned AO and undeveloped. The subdivision is developed to the south. The owner plans to develop the property as a small subdivision with large lots. The RR-1 zoning requires a minimum lot size of 1-acre per lot.

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

Staff recommends approval.

Planning and Zoning Commission Recommendation

The Planning and Zoning Commission recommends approval by a vote of 5 in favor (Bixby, Glenn, Rosenbaum, Todd, and Famble) 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 Case **Z-2013-19 a** request from Josh Ensor, agent Caleb Ensor, to rezone property from AO (Agricultural Open Space) to RR-1 (Rural Residential) zoning, being approximately 15.13 acres located on the south side of Waldrop Dr. east of 1849 Waldrop Dr. Councilman McAlister seconded the motion, motion carried.

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

Ordinance [#33-2013](#)

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: approximately 15.13 acres located on the south side of Waldrop Dr. East of 1849 Waldrop Dr.

7.4 Jon James, Director of Planning and Development Services briefed the council on Case **Z-2013-20** a request from CAF Realty, LLC, agent Cecil Fain, to rezone property from HI (Heavy Industrial) to GC (General Commercial), on all except the west 140 feet of the parcel located at 2318 Butternut St.

Currently the property is zoned HI and is developed with 2 separate buildings. The properties along Butternut St and S. Treadaway Blvd are zoned HI and there is a mix of industrial uses in the area. The owner is requesting a change of zoning to GC (General Commercial) to allow for a 'personal service' use in the smaller building in front. The requested zoning would only be in the front part of the lot to allow for use of the smaller building as a salon.

The Future Land Use section of the Comprehensive Plan designates this general area as commercial. The applicant is requesting the zone change on the front of the property only to allow for development of a salon in the front building. The requested zoning would be compatible with the adjacent industrial/commercial uses as well as the Comprehensive Plan.

Staff recommends approval.

Planning and Zoning Commission Recommendation

The Planning and Zoning Commission recommends approval by a vote of 5 in favor (Bixby, Glenn, Rosenbaum, Todd, and Famble) 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 Briley made the motion to approve the Case **Z-2013-20** a request from CAF Realty, LLC, agent Cecil Fain, to rezone property from HI (Heavy Industrial) to GC (General Commercial), on all except the west 140 feet of the parcel located at 2318 Butternut St. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Ordinance [#34-2013](#)

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: on all except the west 140 feet of the parcel located at 2318 Butternut St.

7.5 Jon James Director of Planning and Development Services briefed the council on the appeal of a denial of a sidewalk waiver for Bella Vista Estates, Section 4.

The Bella Vista Estates, Section 4, located south of Beltway S. and east of Buffalo Gap Rd, is the next addition to the Bella Vista Estates subdivision. The proposed new phase requires approval of a plat. Section 3.2.13.4 (a) of the Land Development Code (LDC) requires for the provision of sidewalks along both sides of all new streets as part of a plat. The applicant is requesting a waiver of the sidewalk requirement for this new phase.

This request was reviewed by both the Planning Director and City Engineer. They determined that there was not reasonable justification for granting the waiver. Several justifications were provided in the applicant's letter; however, the justifications either did not apply to the situation or lacked sufficient substance to grant the waiver request.

Staff Recommendation

Based on the information provided by the applicant, staff continues to recommend denial of the waiver of the sidewalks in the neighborhood.

Overview of Recommendations

- Sidewalks required for all **new** development, except:
 - Local streets in "rural subdivisions" (lots > 1 ac)
 - Along freeways without frontage roads
- Sidewalks required for redevelopment:
 - All arterials, collectors, and frontage roads
 - Local streets, except:
 - **Existing** single-family neighborhoods without sidewalks
 - Industrial or AO zoned areas
- Sidewalk Requirement triggered by:
 - **any land development or subdivision that triggers street improvements**
 - any development requiring a site plan approval, or
 - prior to the issuance of a certificate of occupancy.

Issue

- Exemption for "existing neighborhoods"?
 - Ordinance requirement "is not intended to apply to existing single-family residential neighborhoods where sidewalks are not present and have not historically been provided."
 - Under current ordinance, exemption is limited to existing streets in existing neighborhoods (i.e., any new subdivision will trigger sidewalks)
 - The applicant in this case is asking you to waive the requirement for sidewalks in a **new** subdivision, for **new** homes, on **new** streets...

Practical Impact of Waiving Sidewalk

- The subject plat is for 27 lots adjacent to previous subdivisions:
 - 141 lots without sidewalks
 - 22 new lots building sidewalks
 - 155 new lots proposed with sidewalks
- This is simply the next development in what will likely be hundreds or thousands of lots over the coming years.

Council and Staff discussion included: 1) sidewalks in new developments; 2) sidewalks in residential areas and commercial areas; 3) housing development west of this location and the problems with the development of sidewalks. Dispute is between the builder and developer for this development in regards to sidewalks; 4) whether or not a cull-de-sac would be required to have sidewalks; and 5) need to have clarity and consistency.

Mayor Archibald opened the public hearing and council heard from B. J. Prichard with Enprotec/Hibbs & Todd Engineering, spoke in favor of the appeal.

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

Councilman Spano made the motion to deny the appeal of a sidewalk waiver for Bella Vista Estates, Section 4. Councilman Williams seconded the motion, motion carried.

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

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 10:19 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 Executive Session at 11:23 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.071 Consultation with Attorney and Section 551.087 Business Prospect/Economic Development.

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

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor