

CITY COUNCIL MEETING
September 12th, 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 September 12th, 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 Anthony Williams gave the invocation.

Mayor Archibald introduced Brandon Morris who is a 5th grader at Reagan Elementary. Brandon led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

EMPLOYEE SERVICE AWARD

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

Margie Ramirez

Municipal Court Clerk III

20 Years

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the August 22nd regular meeting there being no deletions, no additions, and no corrections. Councilwoman Miller 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 pulled items 6.4 and 6.5. Councilman Price made the motion to approve consent item 6.1 through 6.13 with the exception of 6.4 and 6.5 as recommended by staff. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

Oral Resolutions:

6.1 **Oral Resolution:** City Council ratified the Meet and Confer Agreement between the City of Abilene and the Abilene Professional Fire Fighters Association.

The Meet and Confer Agreement currently in effect between the City of Abilene (the City) and the Abilene Professional Fire Fighters Association (APFFA) is for the period October 1, 2011 through September 30, 2013. Accordingly, a team representing the City and a team representing the APFFA have been in the negotiation cycle for the last several months to reach an agreement to be effective October 1, 2013.

Texas Local Government Code Chapter 142 provides for the meet and confer process. Once again, we are pleased with the outcome of the process and believe the new agreement continues to serve the interests of both parties.

Ratification of the agreement by APFFA membership was previously accomplished and we received notification from the APFFA president on August 19, 2013.

- 6.2** **Oral Resolution:** City Council authorized the City Manager to execute the Development Corporation of Abilene's annual contract with the City of Abilene for Business Services and the Airport Business Development Management Program.

The Development Corporation of Abilene, Inc. (DCOA) approved a budget for FY2014 that includes contract renewals with the City of Abilene for Business Services and the Airport Business Development Management program, the Abilene Industrial Foundation, Inc., Chamber of Commerce Military Affairs Committee, and Texas Tech University Small Business Development Center. Most of these agencies have been funded either wholly or in part by the DCOA since 1990.

- 6.3** **Oral Resolution:** City Council approved the execution of the Construction Manager at Risk Services Agreement to construct the Hamby Wastewater treatment plant facilities to the firm of Pepper Lawson Waterworks LLC.

On July 11, 2013 the City Council approved an oral resolution finding that the use of the alternative procurement process method utilizing a Construction Manager at Risk is the best value for the City of Abilene for procurement of construction services for the Hamby Wastewater Treatment Plant Improvements (Phase 2).

The City issued Requests for Proposals through advertisements in the Abilene Reporter News on July 14, 2013 and July 21, 2013 for interest for performing the duties of a Construction Manager at Risk. On August 14, 2013 four entities submitted responses to the Request for Proposals.

City staff conducted interviews of each of the entities submitting proposals. As a result of the proposals provided and the interviews conducted, staff recommends that the firm of Pepper Lawson Waterworks, LLC serve as the Construction Manager at Risk for the Hamby Wastewater Treatment Plant Improvements (Phase 2).

- 6.4** **Oral Resolution:** Approving the amendment to the Investment Policy. *Item pulled by Councilman Briley.*

- 6.5** **Oral Resolution:** Authorizing the City Manager to accept anticipated FY13 FAA Airport Improvement Program Grant 43. *Item pulled by Councilman Briley.*

- 6.6** **Oral Resolution:** City Council authorized the Federal Aviation Administration to demolish the original Air Traffic Control Tower (ATCT) at the Abilene Regional Airport.

As part of FAA's project to build the new ATCT, FAA included funding and responsibility to demolish the original ATCT and restore the area to a green space condition. This building does block a portion of the air

traffic controllers' view of Taxiway C and, therefore, is considered a potential hazard to aircraft movement in that area. The original ATCT is owned by the City and there is no planned future use of it. Any future use would likely require considerable capital investment by the City. FAA has agreed to give the ATCT's emergency generator to the City as part of this project.

- 6.7 Oral Resolution:** City Council approved a street use license for Pioneer Drive Baptist Church to hold their annual "Fall Family Fun Night", October 30, 2013. Closing Buccaneer Drive from the north right-of-way line of Potomac Avenue to the south right-of-way line of South 7th from 4:30pm to 10:00pm.

Pioneer Drive Baptist Church has submitted a Street Use License (SUL) application to hold their annual "Fall Family Fun Night" event within the public right-of-way on Buccaneer Drive. The applicant wishes to close Buccaneer Drive from the north right-of-way line of Potomac Avenue to the south right-of-way line of South 7th Street for this event. The event will take place on Wednesday, October 30th, 2013 from 6:00 p.m.-8:00 p.m., and the applicant wishes to close the street between the hours of 4:30 p.m. and 10:00 p.m. on this date. Pioneer Drive Baptist Church occupies the entire west side of the requested portion of Buccaneer Drive, and Bonham Elementary School/AISD occupies the entire east side. No residences or businesses are located on the requested portion of Buccaneer Drive, and the applicant has obtained the approval of Bonham Elementary School/AISD for this event.

- 6.8 Oral Resolution:** City Council approved a street use license for McMurry University for the 2013 Football Season. Closing Ross Ave. from north right-of-way line of Hunt St. to the south right-of-way line of South 16th.

McMurry University (McMurry) has submitted a Street Use License (SUL) application for control of vehicular access to Ross Avenue for the remaining home football games at McMurry Wilford Moore Stadium during the 2013 football season. This SUL Agreement will allow McMurry to control the traffic on Ross Avenue between Hunt Street and South 16th Street, from 10:00 a.m-6:00 p.m. on 09/28/13, 10/05/13, 10/26/13, 11/02/13 and 11/15/13. McMurry University owns the property on both sides of the requested portion of Ross Avenue. No residences or businesses are affected by this request.

- 6.9 Oral Resolution:** City Council approved a street use license from Hardin-Simmons University for the 2013 Football Season. Closure of Simmons Avenue from the north right-of-way line of Ambler Avenue to the south right-of-way line of Vogel Avenue closure of Simmons Avenue from the north right-of-way line of Ambler Avenue to the south right-of-way line of Vogel Avenue.

Hardin-Simmons University (HSU) has submitted a Street Use License (SUL) application for control of vehicular access to Simmons Avenue for home football games at HSU Shelton Moore Stadium during the 2013 football season. This SUL Agreement will allow HSU to control the traffic on Simmons Avenue between Ambler Avenue and Vogel Avenue, Beginning two hours before each football game and ending no later than two hours after the conclusion of each game. HSU Shelton Stadium is located on the east side of Simmons Avenue near Vogel Avenue, and some of the primary parking areas for the stadium lie across Simmons Avenue to the west and south. A similar SUL Agreement has been granted to HSU annually since 1993.

- 6.10 Oral Resolution:** City Council approved the Extended Street Use License Agreement with Abilene Jaycee Foundation.

The Abilene Jaycee Foundation have applied for an Extended Term Street Use License (SUL) to place advertising on transit waiting benches within the corporate limits of the City of Abilene, located upon the parkway adjacent to streets and intersections. The Abilene Jaycee Foundation has provided the advertising on the benches since the 1970's. The Foundation leases advertising space on the benches and it is staffs

understanding that proceeds are contributed to Safety City and other philanthropic youth endeavors.

- 6.11 Oral Resolution:** City Council approved the extension of bid – **CB#1224** Misc. Repair Work 2012-2013 for on demand repair of existing portions of streets that have been damaged by replacement of water lines.

This is an extension of bid #CB-1224-Water Department Street & Miscellaneous Repair Work 2012-2013 for the on-demand repair to existing portions of streets that have been damaged by the replacement of water lines. This work is an ongoing contract at numerous streets and alleys throughout the city. The original contract included a provision for an additional one (1) year term extension

Bid Awards:

- 6.12 Award of Bid:** CO-OP, Front loader Trucks. City Council approved the purchase through BuyBoard.

Fleet Management seeks approval to purchase two Frontloader Refuse trucks to replace units that are worn out and no longer cost-effective to maintain. The trucks will be utilized in the collection of commercial refuse.

The units are to be purchased through the Local Government Purchasing Cooperative (BuyBoard) to effectively coordinate the build process and delivery.

BID TABULATION

| <u>Vendor</u> | <u>Description</u> | <u>Amount</u> |
|------------------|--|---------------|
| Chastang Autocar | (2) Autocar ACX64 Trucks BuyBoard contract # 358-10 | \$339,708.00 |
| Heil of Texas | (2) Heil Refuse Bodies BuyBoard contract # 357-10 | \$228,890.00 |

- 6.13 Award of Bid:** CO-OP, Side loader Trucks. City Council approved the purchase through HGAC.

Fleet Management seeks approval to purchase three Sideloader Refuse trucks to replace units that are worn out and no longer cost-effective to maintain. The trucks will be utilized in the collection of residential refuse.

The units are to be purchased through the Houston-Galveston Area Council Purchasing Cooperative (HGAC) to effectively coordinate the build process and delivery.

BID TABULATION

| <u>Vendor</u> | <u>Description</u> | <u>Amount</u> |
|---------------------|---|---------------|
| Chastang Autocar | (3) Autocar ACX64 Trucks HGAC contract # HT11-12 | \$509,463.00 |
| DaDee Manufacturing | (3) Scorpion Refuse Bodies HGAC contract # RH08-12 | \$309,930.00 |

ITEMS PULLED FROM CONSENT

- 6.4 Oral Resolution:** Approving the amendment to the Investment Policy. *Item pulled by Councilman Briley.*

Councilman Briley asked for clarification on the amendment to the city's investment policy. Mindy Patterson Finance Director briefed the council on the amendment. This will allow banks the city does business with to expand investment securities on the city's behalf following the Public Funds Investment Act.

The City maintains deposits in local banks in excess of the Federal Deposit Insurance Corporation (FDIC) insurable limits. In order to collateralize these excess deposits the banks will pledge investment securities to the City that will be held by a third party. In the event of a bank failure, the City would take ownership of these securities to secure the amount of our deposits.

Our investment policy stipulates that only the investments that we are allowed to purchase and hold in our investment portfolio may be pledged to collateralize our bank deposits. In lieu of the current economic climate our depository banks are finding it difficult to obtain suitable investments to pledge within these narrow constraints.

6.5 Oral Resolution: City Council authorized the City Manager to accept anticipated FY13 FAA Airport Improvement Program Grant 43. *Item pulled by Councilman Briley.*

Councilman Briley asked about the date of the approval of the Airport Board action. Don Green Director of Aviation explained that the Airport Board did approve this at their meeting on Wednesday Sept. 11.

This one grant is the combined total of the airport's entitlement and discretionary grant funding for this FY. Grant 43 will fund reconstruction of Taxiways M, N and P, design of Runway 17L/35R reconstruction, and the purchase of an airfield sweeper vehicle. The contracts for each of these projects will be considered by Council separately.

Councilman Spano made the motion to approve items 6.4 and 6.5 as presented by staff. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

REGULAR ITEMS

7.1 Mindy Patterson Director of Finance briefed the city council on the on the Proposed 2013-14 Tax Rate.

The FY 2014 Budget approved by Council on July 24, 2013 set the tax rate at 68.60¢. State law requires that two (2) public hearings must be held prior to the final public hearing and vote. Another public hearing will be held on September 12, 2013, with the final public hearing and vote to be held on September 23, 2013.

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

No action is required by council.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, APPROVING THE ASSESSMENT ROLL FOR 2013, LEVYING AN AD VALOREM TAX FOR THE CITY OF ABILENE, TEXAS, FOR THE YEAR 2013; PROVIDING FOR THE ASSESSMENT AND COLLECTION THEREOF; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING; PROVIDING AN EFFECTIVE DATE.

7.2 Jon James Director of Planning and Development Services briefed the council on the **CUP-2013-01** request from Acme Commercial Properties, LLC, agent Mike O’Neal, for a Conditional Use Permit to allow a Commercial Antenna Tower on property zoned GC (General Commercial), located at 4074 N. Clack St.

Currently the property is zoned GC and has been developed with small office building. The property to the south has been developed as self-storage. To the north, there is a convenience store and a bank. The properties to the west are developed with manufactured homes. The request is to allow for an ‘Antenna Tower – Commercial’ to provide better cell coverage in the area. The tower is needed as the existing nearby towers are either full or are not able to support additional antennas due to existing usage of the towers. The tower will be designed for co-location in the future.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial activity along the freeway. The applicant proposes to add a new cell tower to the property. The request would be compatible with the surrounding uses.

Staff recommends approval as requested.

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Glenn, McClarty, Rosenbaum, Todd, Yungblut, 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 **CUP-2013-01** request from Acme Commercial Properties, LLC, agent Mike O’Neal, for a Conditional Use Permit to allow a Commercial Antenna Tower on property zoned GC (General Commercial), located at 4074 N. Clack St.. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Ordinance [#35-2013](#)

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

Location: 4074 N. Clack St.

7.3 Jon James Director of Planning and Development Services briefed the council on the **CUP-2013-02** Request from Clavel Corporation, for a Conditional Use Permit to allow for Manufacturing (Light) on property zoned HC (Heavy Commercial), located at 4150 E. Overland Tr.

Currently the property is zoned HC and has been developed with small office building and a larger warehouse/storage building. The adjacent properties are largely undeveloped. The property was originally developed to showcase manufactured homes. The current business was permitted as a beauty product retail store. The request is to allow for ‘Manufacturing (Light)’ to allow for the business to compound their product on-site. The compounding of the product is considered light manufacturing and is only allowed with approval of a Conditional Use Permit in the HC zoning.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial activity and is part of a Business-Industrial Gateway. The light manufacturing request would be compatible with the surrounding uses.

Staff recommends approval as requested.

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

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

- Dr. Larry Holbert – spoke in favor of the request.

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

Councilman Spano made the motion to approve the **CUP-2013-02** Request from Clavel Corporation, for a Conditional Use Permit to allow for Manufacturing (Light) on property zoned HC (Heavy Commercial), located at 4150 E. Overland Tr.. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance [#36-2013](#)

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

Location: 4150 E. Overland Tr.

7.4 Jon James Director of Planning and Development Services briefed the council on the Case for **Z-2013-21** a request from Directors Real Estate Management, LP, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to RS-8 (Single-Family Residential) & GR (General Retail) zoning, being approximately 45.19 acres located at 6602 S. Clack St.

Currently the property is zoned AO and is currently undeveloped. There are a few barn buildings on the property. The adjacent properties to the north are zoned PD & GC and developed with large offices and a hotel. The property to the west is zoned MD and developed as a retirement community. The property to the south is zoned AO and is undeveloped. Highway 83-84 exists along the east frontage. The developer plans to develop a new single-family subdivision on the majority of the property while also setting aside the eastern edge for retail development.

The Future Land Use section of the Comprehensive Plan designates the general area at the intersection of Antilley Rd and Hwy 83-84 as a Special Activity Center. Special Activity Centers provide locations for unique attractions or activities serving local, regional & statewide needs. The area is supported by a mix of uses that are connected and of a high quality design. The applicant is requesting the zone change to allow for a single-family residential uses as well as general retail uses measuring approximately 300' in depth along the highway frontage. The requested zoning would be compatible with the adjacent uses to the north as well as the Comprehensive Plan.

Staff recommends approval as requested.

The Planning and Zoning Commission recommends approval by a vote of 4 in favor (Glenn, McClarty, Rosenbaum, and Famble), none opposed, and 2 abstained (Todd & Yungblut).

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

Councilman Briley made the motion to approve the request **Case #Z-2013-21** from Directors Real Estate Management, LP, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to RS-8 (Single-Family Residential) & GR (General Retail) zoning, being approximately 45.19 acres located at 6602 S. Clack St. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

Ordinance [#37-2013](#)

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: 6602 S. Clack St.

7.5 Jon James Director of Planning and Development Services briefed the council on the Case for **Z-2013-22**, a request from Joe Hawkins, agent Aaron Wesson, to rezone property from HI (Heavy Industrial) to GC (General Commercial) zoning, located at 1001 Energy Dr.

Currently the property is zoned HI and is developed with a building. The adjacent properties in all directions are zoned HI and developed with industrial uses. The owner plans to use the building as a personal fitness use. The property does not appear to have sufficient parking for such a use. Additionally, it would be the only property in the area not zoned HI. The proposed zoning change would restrict the types of uses that are currently expected in this area.

The Future Land Use section of the Comprehensive Plan designates this general area for industrial uses. The applicant is requesting the zone change to allow for a personal fitness use in the existing building. The requested zoning would not be compatible with the adjacent industrial uses as well as the Comprehensive Plan.

Staff recommends denial.

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

Mayor Archibald opened the public hearing and council heard from the proponent agent Aaron Wesson who answered questions about parking for the proposed use. There being no one else present and desiring to be heard the public hearing was closed.

Councilman Williams made the motion to approve the request Case for **Z-2013-22**, a request from Joe Hawkins, agent Aaron Wesson, to rezone property from HI (Heavy Industrial) to GC (General Commercial) zoning, located at 1001 Energy Dr. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

ABSTAIN: Councilman Price

Ordinance [#38-2013](#)

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: 1001 Energy Dr.

7.6 Jon James Director of Planning and Development Services briefed the council on the Case for **Z-2013-23** a request from Hendrick Medical Center, agent Duane Martin, to rezone property from RS-12/COR (Single-Family Residential/Corridor Overlay) & NO/COR (Neighborhood Office/Corridor Overlay) to MU/COR (Medical Use/Corridor Overlay) zoning, located at 5302 & 5400 Buffalo Gap Rd and 5321 Ridgeline Dr.

Currently the property is zoned RS-12/COR & NO/COR. There are 2 homes located at 5400 Buffalo Gap Rd and 5321 Ridgeline Dr. The adjacent properties to the west & south are zoned RS-12/COR. Single-family homes exist to the west and a large church is located to the south. The property to the north is zoned PD/COR (Planned Development) and is developed as a small office complex. The properties to the east are zoned GR (General Retail) & PD and allow for a mix of retail and office uses. The developer plans to develop a medical office complex at this site. The requested MU zoning permits medical office, but also allows for a hospital use. Staff recommends considering O (Office) or NO (Neighborhood Office) zoning as an alternative.

The Future Land Use section of the Comprehensive Plan designates the general area as low density residential. Commercial uses currently exist to the north at the intersection of Chimney Rock & Buffalo Gap Rd. The Buffalo Gap Corridor Study recommends concentrating commercial & retail uses at intersections while allowing for office zoning at mid-block locations. The NO zoning was approved at 5400 Buffalo Gap based on the corridor study. The requested zoning to allow for medical offices would be compatible with the adjacent uses to the north as well as the Buffalo Gap Corridor Study.

Staff recommends approval of O (Office) or NO (Neighborhood Office) zoning instead of the MU (Medical Use) zoning.

The Planning and Zoning Commission recommends approval of MU zoning for 5302 & 5400 Buffalo Gap Rd only by a vote of 4 in favor (Glenn, McClarty, Rosenbaum, and Famble), none opposed, and 2 abstained (Todd & Yungblut).

Mayor Archibald opened the public hearing and the council heard from Duane Martin with Hendrick Medical Center who was here to answer any questions of council. There being no one else present and desiring to be heard the public hearing was closed.

Council filed conflict of interest affidavits for this item, 4 members of the council have conflicts so all are eligible to vote.

Councilman Spano made the motion to approve MU zoning for Case for **Z-2013-23** a request from Hendrick Medical Center, agent Duane Martin, to rezone property from RS-12/COR (Single-Family Residential/Corridor Overlay) & NO/COR (Neighborhood Office/Corridor Overlay) to MU/COR (Medical Use/Corridor Overlay) zoning, located at 5302 & 5400 Buffalo Gap Rd and 5321 Ridgeline Dr. Councilman McAlister seconded the motion, motion carried.

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

NAYS: None

ABSTAIN: Councilman Briley

Ordinance [#39-2013](#)

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: 5302 & 5400 Buffalo Gap Rd and 5321 Ridgeline Dr.

7.7 Jon James Director of Planning and Development Services briefed the council on the Case **Z-2013-24** Request from the City of Abilene to rezone property from CB/H (Central Business/Historic Overlay) to CB (Central Business) zoning, located at 101 Oak St.

The subject property is currently vacant due to a fire destroying the historic Matera Paper Company building. The Historic Overlay no longer applies to the property since the resource no longer exists. The property owner has indicated that the parcel is to be redeveloped in the future. The removal of the Historic Overlay will allow the property to redevelop under the existing CB zoning.

The Future Land Use section of the Comprehensive Plan designates this general area Central Business. The city is requesting removal of the Historic Overlay Zoning to allow for redevelopment since the resource no longer exists.

Staff recommends approval.

The Landmarks Commission recommends approval by a vote of 6 in favor (Lee, McClellan, Butman, Calk, Weatherl, & Minter) to none opposed.

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Glenn, McClarty, Rosenbaum, Todd, Yungblut, 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.

Councilwoman Miller made the motion to approve zoning for Case for **Z-2013-24** request from the City of Abilene to rezone property from CB/H (Central Business/Historic Overlay) to CB (Central Business) zoning, located at 101 Oak St. Councilman McAlister seconded the motion, motion carried.

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

NAYS: None

Ordinance [#40-2013](#)

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: 101 Oak St.

7.8 Jon James Director of Planning and Development Services briefed the council on the Case **Z-2013-25**, a request from Jack Easterling to rezone property from RS-12 (Single-Family Residential) to PD (Planned Development) zoning for residential use, located at 4110 Concord Ct.

Currently the property is zoned RS-12 and is developed with an accessory building only. The applicant previously owned the property located adjacent to this lot at 4116 Concord Court as well, which has a house built on it. Since the 2 lots were under the same ownership, the applicant was allowed under the practices at that time to construct an 1199 sq. ft. accessory building on the adjacent lot located at 4110 Concord Court. The accessory building was built in 1990. It was considered an accessory building at the time and was allowed to be constructed at the 3' distance from the rear property line. The minimum rear building setback for a home in RS-12 zoning is 30'. The applicant has since sold the lot at 4116 Concord Ct with the primary structure/house on it. The applicant has since requested a water meter and is wishing to convert the accessory structure into a primary structure. A water meter cannot be issued as the structure does not meet the setback requirement. The Land Development Code also does not allow for accessory buildings on a lot without a primary structure, in this case a house. The applicant went to the Board of Adjustment seeking a variance to the 30' rear setback requirement. However, the variance was denied as the criteria for granting a variance was not met. The remaining options are to either construct a house on the property or rezone the property with allowance for a 3' rear setback. It appears that there is sufficient area to construct a primary structure on the lot without affecting the accessory structure.

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. The requested zoning would maintain the single-family use which is compatible with the adjacent uses as well as the Comprehensive Plan.

Staff recommends denial based on the reduced setback and the ability to build a home that complies with the RS-12 standards.

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

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

- Jack Easterling – applicant. Mr. Easterling spoke in favor of the request
- Matty Elliot – spoke in support of Mr. Easterling

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

Councilman Price made the motion to approve the zoning for Case for **Z-2013-25**, a request from Jack Easterling to rezone property from RS-12 (Single-Family Residential) to PD (Planned Development) zoning for residential use, located at 4110 Concord Ct. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance [#41-2013](#)

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-138 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Location: 4110 Concord Ct.

7.9 Jon James Director of Planning and Development Services briefed the council on the Case **Z-2013-26** a request from Region 14 Education Service Center, agent Richard Burdine, to rezone property from AO (Agricultural Open Space) & LI (Light Industrial) to GR (General Retail) zoning, located at 1842 & 1850 Hwy 351.

Currently the property is zoned AO & LI and is developed with the Region 14 education building. The adjacent properties are a mix of residential (north), retail & restaurant (west) and industrial (south) uses. A street connection from Lowden St to Enterprise Dr is planned to cross the west portion of the Region 14 property. A plat is required to take care of this action. The minimum lot size for AO zoning is 5 acres, which the new lot would not meet. The proposed zoning change is to match the development trend in the area would allow for the plat to be approved.

The Future Land Use section of the Comprehensive Plan designates this general area as a Major Commercial/Business Center. The applicant is requesting the zone change to allow for a plat to dedicate a new street connection between Lowden St and Enterprise Dr. The requested zoning would be compatible with the adjacent uses as well as the Comprehensive Plan.

Staff recommends approval.

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Glenn, McClarty, Rosenbaum, Todd, Yungblut, 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 Williams made the motion to approve zoning for Case for **Z-2013-26** a request from Region 14 Education Service Center, agent Richard Burdine, to rezone property from AO (Agricultural Open Space) & LI (Light Industrial) to GR (General Retail) zoning, located at 1842 & 1850 Hwy 351. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Ordinance [#42-2013](#)

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: 1842 & 1850 Hwy 351

7.10 Jon James Director of Planning and Development Services briefed the council on the Case **Z-2013-27** a request from Development Corporation of Abilene, agent Richard Burdine, to amend the PD-73 (Planning Development) zoning regarding allowable industrial-related uses, at Five Points Business Park in the vicinity of N. Arnold Blvd.

Currently the property is zoned PD and has been developed with large scale industrial type uses. There are several commercial and industrial uses in the surrounding area.

The Future Land Use section of the Comprehensive Plan designates this general area as business/industrial as well as a Gateway into the City. The requested PD amendment would allow for repair & maintenance services and power generation within the PD. The existing developments are all large scale industrial buildings. The amendment would permit these uses while still requiring the uses to meet the development standards of the zoning so as not to detract from the overall aesthetic quality of the development within the PD.

Staff recommends approval.

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

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 zoning for Case for **Z-2013-27** a request from Development Corporation of Abilene, agent Richard Burdine, to amend the PD-73 (Planning Development) zoning regarding allowable industrial-related uses, at Five Points Business Park in the vicinity of N. Arnold Blvd. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Ordinance [#43-2013](#)

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, PART "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, AMENDING PD-73 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Location: Five Points Business Park in the vicinity of N. Arnold Blvd.

7.11 Jon James Director of Planning and Development Services briefed the council on the Case **TC-2013-05** a request from Raj Bhakta, Agent Enprotec/Hibbs & Todd, Inc., to abandon an unimproved right-of-way for Eastview Drive, projects east of W. Lake Rd.

The applicant is requesting to abandon the street right-of-way (ROW) to be able to utilize the area for development of a hotel. The street has not been improved on this segment and does not provide direct access for adjacent properties. The properties to the north and east are large, undeveloped properties. The properties to the south are currently developed and have access to W. Lake Rd or I-20.

The Plat Review Committee recommends approval of the requested street ROW closure with the following condition:

1. The applicant must replat within 12 months, at which time any issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots.

Staff recommends approval of the requested street ROW abandonment.

The Planning and Zoning Commission recommends approval per the Plat Review Committee by a vote of 4 in favor (Glenn, McClarty, Rosenbaum, and Famble), none opposed, and 2 abstained (Todd & Yungblut).

Mayor Archibald opened the public hearing and B. J. Prichard with Enprotec Hibbs/Todd Engineering was in attendance to answer 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 zoning for Case for **TC-2013-05** a request from Raj Bhakta, Agent Enprotec/Hibbs & Todd, Inc., to abandon an unimproved right-of-way for Eastview Drive, projects east of W. Lake Rd. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Ordinance [#44-2013](#)

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: unimproved right-of-way for Eastview Drive

7.12 Jon James Director of Planning and Development Services briefed the council on the request to amend the Master Thoroughfare Plan regarding Campus Court, between Ambler Avenue and Interstate 20.

The City of Abilene received a request to rezone property to allow for a nursing home at the north end of Campus Court. As part of the discussion, staff was directed to bring an amendment to the Master Thoroughfare Plan to discuss the need for the connection of Campus Court to I-20. The designation of Campus Court as a 'collector' road makes the connection necessary.

The proposed amendment would change the designation of the roadway from a 'collector' street to a 'local' street. The change of designation would then eliminate the requirement that the right-of-way connect to I-20.

The request was reviewed by the Plat Review Committee and was deemed unsatisfactory. Staff has several concerns about the proposed amendment.

- The proposed collector connection is the only collector road between the flood zone area to the west and Judge Ely Blvd to the east. Due to this condition, the status of Campus Ct as a 'collector' road is important.
- A collector connection in this location would provide greater connectivity between the university and the interstate. As development to the north continues, this collector street will provide vital connectivity for the neighborhood.

Staff recommends denial of the proposed amendment. The roadway connects to an existing expressway and will provide future connectivity from the residential area to I-20 as development occurs.

The Planning and Zoning Commission recommends approval of change of designation by a vote of five (6) in favor (Glenn, McClarty, Rosenbaum, Todd, Yungblut and Famble) to none (0) opposed.

Council and Staff discussion included: 1) possible Neighborhood Shopping center along the access road on the undeveloped property; 2) extending Campus Court to I-20; 3) platted as a collector street; and 4) the designation will not change the existing street as it is now.

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

- Kris Kinnaman – supports making Campus Ct a local street
- Philip Jergins – supports making Campus Ct a local street
- Bonnie Schneider – supports making Campus Ct a local street
- Carmen Price – supports making Campus Ct a local street t
- Kris Kowatch – supports making Campus Ct a local street
- Mary Ann Martin – supports making Campus Ct a local street
- Ed Walker – supports making Campus Ct a local street

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

Mayor Archibald made the motion to approve of change of designation of Campus Court to a local street amending the Master Thoroughfare Plan regarding Campus Court, between Ambler Avenue and Interstate 20. Councilman Briley seconded the motion, motion carried.

AYES: Councilmen Spano, Williams, Briley, McAlister, and Mayor Archibald

NAYS: None

ABSTAINED: Councilman Price and Councilwoman Miller

Ordinance #45-2013

AN ORDINANCE AMENDING THE CITY'S MASTER THOROUGHFARE PLAN MAP AND CALLING A PUBLIC HEARING

Location: regarding Campus Court, between Ambler Avenue and Interstate 20

7.13 Jon James Director of Planning and Development Services briefed the council on the request for an appeal of a denial of a sidewalk waiver for Mad Coffee, located at 8049 Hwy 83-84.

The Mad Coffee business, located at 8409 Hwy 83-84, is the nearing completion of their development. The approved site plan showed the provision of sidewalks along the street frontages of the property. Section 3.2.13.5 (a) of the Land Development Code (LDC) requires for the provision of sidewalks along arterial streets as part of a site plan. The applicant is requesting a waiver of the sidewalk requirement for this development.

The City's ordinance recognizes that major streets, like Beltway S. & the frontage road for Hwy 83-84, provide connectivity for a larger area and thus are expected to provide sidewalks. The intersection of these two roads is part of a Gateway/Mixed Use area identified on the City's Future Land Use Plan. The intersection will be a major retail/commercial node in the future and will generate pedestrian traffic.

Regarding Beltway S., a sidewalk would create and begin an important sidewalk connection leading in both directions. A portion of the sidewalk currently exists within the TxDOT right-of-way, to which the sidewalk on this site would connect. It appears that adequate space exists for proper installation of a sidewalk, even with the noted topography issues.

Regarding Hwy 83-84, it would be similar to Beltway S. The City Engineer met with the TxDOT Area Engineer on the site to review the situation on the ground and both agreed that a sidewalk on the site is buildable and can be constructed in the TxDOT right-of-way or drainage easement with a minimal amount of grading work.

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 lacked sufficient substance to grant the waiver request.

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

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

- Kevin Phillips with Harris Acoustics – agent for the business spoke on the difficulty of placing sidewalks at this location and requested the waiver.
- Paula Beall, Realtor – spoke in favor of the waiver of sidewalks.

Council and Staff discussion included: 1) pictures of the area as provided by Councilman Price; 2) TXDOT improving the access road and adding curb and sidewalks at a later date; 3) elevations; and 4) property along the access road – is residential;

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

Councilman Price made the motion to approve the waiver for sidewalks for Mad Coffee, located at 8049 Hwy 83-84. Councilwoman Miller seconded the motion, motion carried. Councilman Williams had to leave the meeting.

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

NAYS: None

ABSTAINED: Councilman McAlister

7.14 Megan Santee Director of Public Works briefed the council on an application/permit to drill and/or operate Oil and/or Gas well Bridger Petroleum, LLC: “Clack No. 8”, Permit No. 766880.

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.

Bridger Petroleum, LLC of Abilene, Texas has submitted an application to drill the “Clack No. 8” well on property owned by Edward Kerry Clack, located between Abilene Regional Airport and Loop 322. Because of the proximity to Abilene Regional Airport, a Federal Aviation Administration (FAA) Aeronautical Study was required. The aeronautical study is attached to, and made part of the application/permit. The study concluded that the drilling rig 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 study are met. This application has been reviewed and approved by City Staff. All owners of real property within 500 feet of the proposed drill site have been notified of this application and of the City Council meeting to consider its approval, as required by City ordinance.

Mayor Archibald opened the public hearing and Brandon Mann with Bridger Petroleum was present and available to answer any questions council had. There being no one else present and desiring to be heard the public hearing was closed.

Councilman Briley made the motion to approve the application/permit to drill and/or operate Oil and/or Gas well Bridger Petroleum, LLC: “Clack No. 8”, Permit No. 766880. Councilman Price seconded the motion, motion carried.

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

NAYS: None

7.15 Megan Santee Director of Public Works briefed the council on an application/permit to drill and/or operate Oil and/or Gas well – Bridger Petroleum, LLC: “Pat Serenbetz No. 4 & Pat Serenbetz No. 5”, Permit Nos. 766885 & 766888.

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.

Bridger Petroleum, LLC of Abilene, Texas has submitted applications to drill the “Pat Serenbetz No. 4” and “Pat Serenbetz No. 5” wells on property owned by the Serenbetz Revocable Trust, located between Abilene Regional Airport and Loop 322. 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. 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 there being no one present and desiring to be heard the public hearing was closed.

Councilman Spano made the motion to approve the application/permit to drill and/or operate Oil and/or Gas well – Bridger Petroleum, LLC: “Pat Serenbetz No. 4 & Pat Serenbetz No. 5”, Permit Nos. 766885 & 766888. Councilman McAlister seconded the motion, motion carried.

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

EXECUTIVE SESSION

No Executive Session

10. Resolutions: Approving the nominations to the Taylor County Central Appraisal District and the Jones County Appraisal District.

Mayor Archibald made the motion to nominate to the current board members to Taylor County Central Appraisal District and the Jones County Appraisal District. Councilman Price seconded the motion, motion carried.

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

Resolution [#22-2013](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, NOMINATING INDIVIDUALS TO THE BOARD OF DIRECTORS OF THE CENTRAL APPRAISAL DISTRICT OF TAYLOR COUNTY FOR TWO YEARS BEGINNING JANUARY 1, 2014

Yvonne Batts

David Copeland

Cecil Davis

Kent LeFevre

John Stearns

Resolution [#23-2013](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, NOMINATING INDIVIDUALS TO THE BOARD OF DIRECTORS OF THE JONES COUNTY APPRAISAL DISTRICT FOR TWO YEARS BEGINNING JANUARY 1, 2014

Seaton Higginbotham

Dale Spurgin

Isaac Castro

David Dickerson

Jim Astin

There being no further business the meeting was adjourned at 12:31 p.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor