

CITY COUNCIL MEETING
January 24th 2014, 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 January 24th 2014, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Anthony Williams, Robert O. Briley, Kyle McAlister and Councilwoman Kellie Miller came in at 9:00. Councilman Spano was absent. 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 Whitney Getz who is a 4th grader at Bowie Elementary and her Big Sister Tara Lowe who is a student at ACU. Whitney and Tara led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATION

Mayor Archibald presented the following proclamation:

National Mentoring Month Proclamation – was presented to Tim Yandell with Big Brothers Big Sisters

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the January 9th regular meeting there being no deletions, no additions, and no corrections. Councilman Williams made a motion to approve the minutes as presented. Councilman Price seconded the motion, motion carried.

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

NAYS: None

CONSENT AGENDA

Councilmen Price and Briley pulled item 6.2. Councilman Briley made the motion to approve consent item 6.1 and 6.3 as recommended by staff. Councilman McAlister seconded the motion, motion carried.

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

NAYS: None

Oral Resolutions:

6.1 **Oral Resolution:** City Council approved the Professional Services Contract with Dr. Peter K. Norton to perform duties of Medical Director and Health Authority..

Historically, the Abilene/Taylor County Public Health District has entered into a contractual agreement with a local physician to perform the duties of the Medical Director & Health Authority. The Health Authority is responsible for assisting the District with its medical responsibilities in areas such as quarantine, inspections, food safety, disease prevention, vital statistics and general sanitation in the District's jurisdiction. The Medical Director is the chief administrative officer of the District. Additionally, the Medical Director serves as the medical doctor over the COACH Health Clinic which services City of Abilene employees, retirees and their families.

Staff recommends that the City Council approve an oral resolution authorizing the City Manager to execute the contract with Peter Norton M.D., and designating him Medical Director and Health Authority for the Abilene-Taylor County Public Health District.

The approved agreement will also be presented for approval to the Taylor County Commissioners' Court at their January 28, 2014 meeting.

6.2 Oral Resolution: Maxwell Golf Course Contract Extension. *Item 6.2 pulled from consent by council.*

Bid Award:

6.3 Award of Bid: Annual purchase of fuel products, Bid #CB-1414. Council approved the following fuel purchases: Tanker Loads: Johnson Oil Company, Regular Unleaded +.0030, Undyed #2 Ultra-Low Sulfur Diesel +.0230, Centergas Fuels Inc. Undyed #2 Ultra-Low Sulfur Diesel, Up To B5 Biodiesel +.1000; Bobtail Loads: Johnson Oil Company - Regular Unleaded, +.0570, Red-Dyed #2 Ultra-Low Sulfur Diesel, +.0725, Centergas Fuels Inc. Red-Dyed #2 Ultra-Low Sulfur Diesel, Up To B5 Biodiesel +.1500.

ITEMS PULLED FROM CONSENT

6.2 Oral Resolution: Maxwell Golf Course Contract Extension. *Item pulled by Council.* Council had questions regarding the lease terms that include up to \$40,000 in reimbursement for effluent water costs as part of the contract extension with West Texas Golf LLC.

James Childers Director of Community Services, briefed the council on the City paying for up to \$40,000 of West Texas Golf Systems' effluent water use for golf course irrigation the last three fiscal years. The contract extension provides that City will continue to pay this same amount for affluent water pending City Council's approval of the distribution of funds as part of the annual budget.

Council and Staff discussion included: 1) Highest and best use clause; 2) discussion of the revenue sides; 3) subject to review at budget; 4) does the change in the wording create an expectation that the city will continue to provide the subsidy; 5) Maxwell is City asset; 6) fees; 7) water contracts with other effluent customers; and 8) use of effluent water.

Council postponed the discussion and vote to the end of the Regular session to allow for staff and Dave Hand with West Texas Golf to have further discussion of the contract.

REGULAR ITEMS

7.1 Tommy O'Brien Director of Water Utilities, briefed the council the payment to Pepper Lawson Waterworks, LLC for construction services proposal #2 for the Hamby Wastewater Treatment Plant Improvements (Phase II).

On September 12, 2013 the City Council approved an oral resolution authorizing the City Manager to negotiate an Agreement, and subsequent associated Agreements, with Pepper Lawson Waterworks, LLC (Pepper Lawson) to serve as the Construction Manager at Risk (CMAR) for the Hamby Wastewater Treatment Plant Improvements (Phase II) (Project). Pursuant to such negotiations, an Agreement has been executed between the City of Abilene and Pepper Lawson to serve as the CMAR.

Under the Agreement, the Contract Price for the Hamby Wastewater Treatment Plant Improvements (Phase II) is established based on the CMAR's Fee and Guaranteed Maximum Price (GMP) Proposals accepted

by the City. The Agreement establishes the CMAR's Fee as: \$550,000 for Preconstruction Phase Services; 2.6% for Major Equipment Packages; and 4.6% for Construction Phase Services. On September 26, 2013 the City Council approved an oral resolution authorizing the funds in the amount of up to \$550,000 to Pepper Lawson for preconstruction phase services, and on November 21, 2013 the City Council approved an oral resolution authorizing the funds in the amount not to exceed \$41.4 million for Guaranteed Maximum Price (GMP) Proposal No. 1.

This Oral Resolution authorizes funds in the amount not to exceed \$17.25 million for GMP Proposal No. 2 which provides funding for:

- CMAR Fee \$737,190
- Mechanical Piping Packages \$7,351,159
- Minor Equipment Packages \$1,885,281
- Site Civil – Minor Excavations \$285,524
- Final Structural Concrete Packages \$2,903,023
- Buildings and Finishes Packages \$3,600,885
- Contingency \$486,938

Primary work associated with this GMP Proposal No. 2 includes: mechanical piping packages (piping between/within structures, and the new outfall pipeline to Lake Fort Phantom Hill); minor site work and equipment packages (gates, chemical storage and feed systems, small pumps, etc.); final concrete work (process/reverse osmosis structure); and buildings and finishes packages (precast concrete wall panels and standing seam metal roof systems).

Staff recommends approval.

Councilman Price made the motion to approve the payment to Pepper Lawson Waterworks, LLC for construction services proposal #2 for the Hamby Wastewater Treatment Plant Improvements (Phase II). Councilman Williams seconded the motion, motion carried.

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

7.2 Jon James Director of Planning & Development Services, briefed the council on an ordinance for **Case No. Z- 2014-01**, a request from Sitzes Treadaway, LLC, agent Enprotec/Hibbs & Todd, Inc., and the City of Abilene to rezone property from HI (Heavy Industrial) to LI (Light Industrial) zoning, located at 2433, 2449, & 2479 S. Treadaway Blvd.

Currently the properties are zoned HI and are developed with self-storage, an auto repair business, and an office building. The surrounding properties are also zoned HI and are being used with industrial and commercial uses. With adoption of the Land Development Code (LDC) the HI zoning became much more restrictive and no longer allows for uses that previously were allowed. The requested zoning would allow for expansion of the self-storage use and allow for a wider range of uses. The original request was for 2433 & 2449 S. Treadaway Blvd. The corner property at 2479 S. Treadaway Blvd was added to provide for consistency on the map. The zoning change would not affect the current use of the property.

The Future Land Use section of the Comprehensive Plan designates the area as 'heavy commercial/light industrial'. The properties are along S. Treadaway Blvd, which is an enhancement corridor. The requested zoning would allow for expansion of the existing uses and allow for a wider range of uses. The requested zoning is compatible with the adjacent uses and the Comprehensive Plan.

Staff recommends approval.

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

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

Councilman Briley made the motion to approve the Ordinance for **Case No. Z-2014-01**, a request from Sitzes Treadaway, LLC, agent Enprotec/Hibbs & Todd, Inc., and the City of Abilene to rezone property from HI (Heavy Industrial) to LI (Light Industrial) zoning, located at 2433, 2449, & 2479 S. Treadaway Blvd. Councilman Williams seconded the motion, motion carried.

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

Ordinance **#8-2014**

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: 2433, 2449, & 2479 S. Treadaway Blvd.

7.3 Jon James Director of Planning & Development Services, briefed the council on an ordinance for **Case No. Z-2014-02** – a request from Dub Wright Blvd, LLC, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at 3533 Dub Wright Blvd;

Currently the property is zoned AO and developed with a house. The surrounding properties to the west are zoned AO and are undeveloped. The properties to the north and east are zoned GC and developed with a self-storage facility and a gas station. The requested zoning would allow for expansion of the self-storage use.

The Future Land Use section of the Comprehensive Plan designates the area as ‘low density residential’. The property is located near an existing highway interchange with existing commercial development and property zoned for future commercial development. Commercial development is recommended to be developed at nodes and concentrated at major intersections. The property is adjacent to an existing self-storage facility and near an existing gas station. The requested zoning would allow for expansion of the existing use. The requested zoning is compatible with the adjacent uses and the Comprehensive Plan.

Staff recommends approval.

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

Mayor Archibald opened the public hearing and B. J. Prichard with Enprotec/Hibbs & Todd was available to answer any questions, there being no one present and desiring to be heard the public hearing was closed

Councilman McAlister made the motion to approve the ordinance for **Case No. Z-2014-02** – a request from Dub Wright Blvd, LLC, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at 3533 Dub Wright Blvd. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

Ordinance **#9-2014**

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: 3533 Dub Wright Blvd

7.4 Jon James Director of Planning & Development Services, briefed the council on an ordinance for **Case No. Z-2014-03** – a request from the City of Abilene to rezone property from RS-6 (Single-Family Residential) to NO (Neighborhood Office) zoning, being approximately 1 acre located on a portion of 2726 N. 18th St.

Currently the property is zoned RS-6 and developed with a school and the previous location of a Boys & Girls Club. The surrounding properties in all directions are also zoned RS-6 and developed with single-family homes. The requested zoning would allow for the re-use of the Boys & Girls Club to be a health clinic. The NO zoning was created to be compatible adjacent to residential uses. The zoning restricts the maximum size of buildings to 15,000 square feet. It also restricts the hours of operation to be between 7 am and 11 pm. The proposed use will not require expansion of the building or any substantial changes to the building or site.

The Future Land Use section of the Comprehensive Plan designates the area as ‘low density residential’. The property is located in the middle of a single-family residential area. The site is the location of Fannin Elementary School and a Boys & Girls Club. The requested zoning would allow for re-use of the Boys & Girls Club to allow for a neighborhood health clinic. The requested zoning is compatible with the adjacent uses and the Comprehensive Plan.

Staff recommends approval.

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

Council and Staff discussion included: 1) hours of operations will be during the week. 4 days a week they will be open from 8-5 and 1 day from 8-8;and 2) city received a grant for women’s health care.

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

Councilman Price made the motion to approve the Ordinance for **Case No. Z-2014-03** – a request from the City of Abilene to rezone property from RS-6 (Single-Family Residential) to NO (Neighborhood Office) zoning, being approximately 1 acre located on a portion of 2726 N. 18th St. Councilman Williams seconded the motion, motion carried.

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

Ordinance **#10-2014**

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 a portion of 2726 N. 18th St

7.5 Jon James Director of Planning & Development Services, briefed the council on an ordinance for **Case No. CUP-2014-01** – A request from Amber Massey for a Conditional Use Permit to allow for Day Care Operation – Home-Based on property zoned RS-6 (Single-Family Residential), located at 3274 White Wing Way..

Currently the property is zoned RS-6 and has been developed with a home. The adjacent properties are developed as part of a large subdivision with similar homes. The homeowner currently runs a home-based day care at the home. The current regulations for home-based day cares limit the number of children receiving care to 6. However, with approval of a Conditional Use Permit, the number of children can be increased to more than 6 under the regulations provided by state law up to a maximum of 12 children. The request is to allow for a ‘Day Care Operation - Home-Based’ to allow for the home-based day care to care for more than 6 children. No changes to the home are needed/requested by the applicant.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential uses. The request would allow for expansion of an existing home-based day care. The Conditional Use Permit request would be compatible with the surrounding uses.

Staff recommends approval.

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

Mayor Archibald opened the public hearing and council heard from the applicant Amber Massey who explained her set up for a day care operation in her home, there being no one present and desiring to be heard the public hearing was closed.

Councilwoman Miller made the motion to approve the ordinance for **Case No. CUP-2014-01** – a request from Amber Massey for a Conditional Use Permit to allow for Day Care Operation – Home-Based on property zoned RS-6 (Single-Family Residential), located at 3274 White Wing Way.. Councilman Williams seconded the motion, motion carried.

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

Ordinance #11-2014

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.

6.2 Council came back to the discussion of the contract extension of Maxwell Golf Course. Staff reviewed the water contract that is separate from the lease extension contract.

Council and Staff discussion included: 1) Fee structure; 2) staff comfortable with the contract extension; 3) concern for the Golf course as a City asset – needs to be maintained in a way that we have a quality Golf course; and 4) controls in place and add highest and best use clause in the contract.

Mayor Archibald made the motion to approve the lease extension contract with West Texas Golf with the added wording “highest and best use clause” regarding the use of effluent. Councilman McAlister seconded the motion, motion carried.

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

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 10:22 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 11:33 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel and Section 551.072 Real Property.

No action taken in executive session.

10. Oral Resolution: Discussion and possible action related to annual performance evaluations of City Manager, City Attorney, City Secretary and Municipal Judge.

Mayor Archibald made the motion to adjust the salaries of the City Manager, City Attorney, City Secretary and Municipal Judge and they will be on file with the city secretary and administrative services to be effective January 1st. Councilman Price seconded the motion, motion carried.

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

There being no further business the meeting was adjourned at 11:34 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor