

**CITY COUNCIL MEETING
July 9th 2015, 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 9th 2015, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Bruce Kreitler, Anthony Williams, and Steve Savage. Councilmen Jay Hardaway and Kyle McAlister were absent. Also present were City Manager Robert Hanna, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Anthony Williams gave the invocation.

Mayor Archibald introduced DiNae and Alexis Dolton they are students at Taylor Elementary School. Their grandfather is Odis Dolton Assistant Director of Finance. DiNae and Alexis led the Pledges of Allegiance to the Flag of the United States of America and the State of Texas Flag.

SCHOLARSHIP AWARDS

Mayor Archibald and City Manager Robert Hanna recognized the Scholarships recipients:

Qinton Melnick, is the son of Tony Lassetter, Sergeant II in the Youth Division of the Police Department. Qinton graduated from Abilene Christian High School, ranked 11th in his class of 27, with a 92.02 grade point average.

Aaxis Ward, is the daughter of Lori Ann Ward, Guest Services at Zoological Gardens, in Community Service. Alexis graduated from ATEMS High School, ranked 32 in her class of 66, with a 93.35 grade point average. She was unable to attend.

Peyton Hill, is the son of Scottie A. Hill, Sergeant II in the Patrol Division of the Police Department. Peyton graduated from Cooper High School, ranked 64 in his class of 410, with a 95.48 grade point average.

Jacy Andrews, is the daughter of Leslie Andrewes, Assistant Director of Community Services. Jacy graduated from Wylie High School, ranked 34 in her class of 229, with a 95.54 grade point average.

Amanda Cusson, is the daughter of David Cusson, Plant and Equipment Mechanic II in Water Utilities. Amanda graduated from Jim Ned High School, ranked 8th in her class of 67, with a 99.03 grade point average.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

National Therapeutic Recreation Proclamation was accepted by Barbara Liggett Supervisor Adaptive Recreation Services

Parks and Recreation Month Proclamation was accepted by James Childers Director of Community Services

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the June 24th Special Called Meeting and the June 25th Regular Meeting there being no deletions, no additions, and no corrections. Councilman Williams made a motion to approve the minutes as presented. Councilman Savage seconded the motion, motion carried.

AYES: Councilmen Price, Kreitler, Williams, Savage and Mayor Archibald
NAYS: None

CONSENT AGENDA

All consent items were pulled from the agenda by Council.

Resolutions:

6.1 **Resolution:** Directing publication of notice of intention to issue combination tax and revenue certificates of obligation to provide funds for municipal improvements and facilities; and resolving other matters relating to the subject. *Item pulled by Councilman Kreitler.*

At the June 11, 2015, City Council meeting, staff recommended \$1,900,000 in projects for the annual certificates of obligation sale. These projects are for the purpose of constructing, reconstructing and improving streets and roads, sidewalks, bikeway system, and alleys including related drainage, intersections, signalization, landscaping, lighting, and signage; constructing and equipping improvements, and renovations to existing municipal buildings, including primarily the animal shelter and municipal library; and constructing and equipping parks and recreation improvements, including ball field concession buildings and Nelson Festival Gardens Pavilion.

If approved, staff will complete preparation of the Official Statement and set August 13, 2015 as the sale date.

Council and Staff discussion included: 1) the date of the sale of the CO's - August 13th; 2) if sale doesn't happen this year we will have to wait until next year (FY17); 3) the sale of the CO's are being sold at the same time that we are selling General Obligation Bonds; 4) the city saves money by selling the CO's and GO's at the same time; 5) CIP projects have been vetted through citizen input and the Planning and Zoning Commission; 6) the past CIP projects have been paid for through cash the last 4 years, but this year the funds will not be available to pay for these projects with year-end money; and 7) the Certificates of Obligation will not raise the debt.

Councilman Savage made the motion to approve the Resolution directing the publication of notice of intent to issue combination tax and revenue certificates of obligation to provide funds for municipal improvements and facilities. Councilman Price seconded the motion, motion carried.

AYES: Councilmen Price, Williams, Savage and Mayor Archibald
NAYS: Councilman Kreitler

Resolution: **#43-2015**

DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION

6.2 **Resolution:** Amending the By-Laws of the Development Corporation of Abilene. *Item pulled by Councilman Savage.*

On November 16, 1989, City Council approved Resolution No. 65-1989 authorizing the creation of the Development Corporation of Abilene, Inc. (DCOA) pursuant to the Texas Development Corporation Act, as defined in Chapters 501 and 504 of the Texas Local Government Code, as amended, (formerly Art. 5190.6 of the Texas Revised Civil Statutes), hereinafter referred to as the "Act". The Act allows municipalities to create a nonprofit corporation that will promote the creation of new and expanded industry and manufacturing activity within the municipality and its vicinity. The development corporation is to operate separately from the municipality, with a board of directors that oversees the efforts. The DCOA exists under the City's federal tax identification number. Abilene was the first in Texas to adopt the additional Y2 cent sales tax.

Prior to 1989, development corporations could not legally receive funding from the state or local governments because of a Texas constitutional prohibition against the expenditure of public funds to promote private business activity. In 1989, the Texas Legislature amended the Act by adding Section 4A, which allowed the creation of a new type of Development Corporation. A 4A development corporation could be funded by the imposition of a local sales and use tax dedicated to economic development for projects that primarily promote new and expanded industrial and manufacturing activities. The DCOA exists under Section 4A. In 1991, the legislature authorized a new type of sales tax, Section 4B, which allows cities to promote a wide range of civic and commercial projects.

The Abilene City Council is the governing body and the Mayor appoints the five directors of the DCOA for three-year terms. The DCOA is charged with administering the economic development sales tax revenue and formulating an economic development plan for future efforts. In the event the public rescinds the 4A tax and the DCOA is dissolved, the City of Abilene will assume ownership of all DCOA assets. The annual audit of the City of Abilene separates the sales tax revenue and expenses as a special fund. The DCOA contracts annually with the City of Abilene to provide staff and services required for its operations through the Department of Economic Development. Recently, the DCOA board assumed the responsibility of hiring, evaluating and firing the CEO, which is also a City employee.

The DCOA and City Council do not work alone. The Develop Abilene team also includes the City's Department of Economic Development, Abilene Industrial Foundation, Chamber of Commerce Military Affairs Committee, and the Texas Tech University Small Business Development Center.

Since the DCOA was created, sales tax collections have grown from just under \$4 million in 1990 to \$10.1 million in FY 2014. The bylaws have not been revised since 1995, and changes are needed to better reflect current business conditions and procedures as outlined in the Act. Jeff Moore, attorney with Brown & Hofmeister, LLP in Richardson, provided sales tax training to the DCOA and City Council during a joint meeting on March 25, 2015, in the City Council Chambers. In addition to general "clean-up" language, Mr. Moore has proposed changes to the bylaws as provided in the attached. Some of the proposed changes will:

1. Provide for the direct hiring of employees and provide benefits, should the board desire to do so,
2. Streamline the committee appointment process to allow the President to appoint committees as needed, and
3. Require City Council approval of all incentive packages, borrowing of funds or other projects approved by the board that exceed \$249,999.99.

Council and Staff discussion included: 1) Section 4.06 the number of councilmembers needed to remove a board member; 2) the threshold of the amount of projects that will come to the city council for approval (\$250,000); and 3) discussion of having a joint DCOA and Council workshop to work out the

questions that council has on various sections of the by-laws.

Councilman Savage made the motion to approve the amendment to the by-laws of the Development Corporation of Abilene. Councilman Kreitler seconded the motion, motion carried.

AYES: Councilmen Kreitler, Williams, Savage and Mayor Archibald

NAYS: Councilman Price

Resolution: **#44-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING REVISIONS TO THE BYLAWS OF THE DEVELOPMENT CORPORATION OF ABILENE, INC. ("DCOA").

Award of Bid:

6.3 Bid Award: #CB-1537 Executive Search Firm Services. *Item pulled by Councilman Savage.*

The City of Abilene issued Request for Proposal (RFP) CB-1537 requesting responses from executive search firms to provide services associated with one or more candidate searches for senior level and/or key management positions within the organization for the remainder of 2015. Currently, the City needs to identify the best candidate for two positions: Director of Water Utilities and Director of Planning and Development Services. Responses were received from four firms: Chris Hartung Consulting, Colin Baenziger & Associates, CPS HR Consulting and Waters & Company. Services provided by the firms include development of candidate profile and recruitment strategy, recruitment of candidate pool, screening of applicants, assistance with interview and selection, background checks and assistance with employment negotiations. The RFP requested the respondents to provide the fee structure for an initial search, as well as for subsequent searches for the remainder of 2015 (i.e., intended to be structured in the form of an agreement for executive search services on demand).

All respondents were in compliance with the RFP as reflected on the attached document. As outlined in the RFP, staff reviewed and evaluated the submissions based upon the respondents overall qualifications and experience (30%), the respondent's demonstrated experience in effective recruitment and selection in similar sized cities (40%) and the cost of services (30%).

Council and Staff discussion included: 1) hiring from within; 2) the search firm will be used to hire the best person for the position; 3) research done by the firm; 4) HR department doing the search; 5) saves the city money; and 6) supportive of deferring to the City Manager to hire the best person for the job with the use of search firm.

Councilman Price made the motion to approve the Executive Search Firm Services. Councilman Williams seconded the motion, motion failed.

AYES: Councilmen Price, Williams, and Mayor Archibald

NAYS: Councilmen Kreitler and Savage

Council took a short break. Upon return council and staff discussed procedures with voting.

Councilman Price made a motion to TABLE this item to the next meeting. Councilman Williams seconded the motion, motion failed.

AYES: Councilmen Price, Williams, and Mayor Archibald
NAYS: Councilmen Kreitler and Savage

REGULAR ITEMS

7.1 Ben Bryner Planning Services Manager, briefed the council on the Ordinance for Case #**Z-2015-14** a request from Carla Varner Knight, to rezone property from GC (General Commercial) & MF (Multi-Family Residential) to GR (General Retail) zoning, located at 3450 N. 10th St.

Currently the property is undeveloped. It is zoned MF on the north portion of the lot & GC on the south portion of the lot. The surrounding area is developed generally with retail uses to the south & east, multi-family and single-family uses to the west, and churches to the north. The purpose of the zoning is to have a consistent zoning on the entire lot and to allow for retail uses to include a 'washateria'. The GR zoning is requested as it provides a better transition to the residential uses to the west than the GC zoning while still permitting the desired uses.

The Future Land Use section of the Comprehensive Plan designates the property as 'commercial'. It is near a 'Local Community Center' designated at the intersection of N. 10th St and N. Mockingbird Ln. North 10th St is designated as an 'enhancement corridor'. A retail node currently exists at the intersection of N. 10th St and N. Willis St, of which this is a contributing part. The area is primarily developed with retail uses and the requested zoning is deemed compatible with the Future Land Use Map and the adjacent properties.

Staff recommends approval as requested.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Calk, Dunnahoo, Ellinger, McClarty, & 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 the Ordinance for Case #**Z-2015-14** a request from Carla Varner Knight, to rezone property from GC (General Commercial) & MF (Multi-Family Residential) to GR (General Retail) zoning, located at 3450 N. 10th St. Councilman Savage seconded the motion, motion carried.

AYES: Councilmen Price, Kreitler, Williams, Savage and Mayor Archibald
NAYS: None

Ordinance: **#30-2015**

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: 3450 N. 10th St

7.2 Ben Bryner Planning Services Manager, briefed the council on the Ordinance for Case #**Z-2015-15** a request from LWMW Management, LLC, agent Harris Acoustics, Ltd., to rezone property from LI (Light

Industrial) to GR (General Retail) zoning, located at 981 E. Hwy 80.

Currently the property is zoned LI and is developed with a car wash. The surrounding area is developed generally with commercial uses. The purpose of the zoning is to allow for retail uses. The GR zoning is requested as it provides a wide range of allowable uses and is compatible with the adjacent properties.

The Future Land Use section of the Comprehensive Plan designates the property as 'commercial'. Both E. Hwy 80 and Judge Ely Blvd are designated as an 'enhancement corridor'. A commercial node currently exists at this intersection. The other 3 corners are zoned for commercial uses. The area is primarily developed with retail & commercial uses and the requested zoning is deemed compatible with the Future Land Use Map and the adjacent properties.

Staff recommends approval as requested.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Calk, Dunnahoo, Ellinger, McClarty, & Famble) and none opposed.

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

- Kevin Phillips with Harris Acoustics, who supported the zone change

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

Councilman Savage made the motion to approve the Ordinance for Case **#Z-2015-15** a request from LWMW Management, LLC, agent Harris Acoustics, Ltd., to rezone property from LI (Light Industrial) to GR (General Retail) zoning, located at 981 E. Hwy 80. Mayor Archibald seconded the motion, motion carried.

AYES: Councilmen Price, Kreitler, Williams, Savage and Mayor Archibald
NAYS: None

Ordinance: **#31-2015**

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: 981 E. Hwy 80

7.3 Ben Bryner Planning Services Manager, briefed the council on the Ordinance for Case **#Z-2015-16** a request from Neldon & Anna Watson, agent Derek Peterson, to rezone property from HI (Heavy Industrial) to HC (Heavy Commercial) zoning, located at 158 Tannehill Dr.

Currently the property is zoned HI and is undeveloped. The surrounding area is developed generally with industrial uses. The property to the south recently was rezoned to the GC & HC districts. The purpose of the zoning is to allow for a food truck court and outdoor concert venue. The HC zoning is requested as it would allow for these uses and is compatible with the adjacent properties.

The Future Land Use section of the Comprehensive Plan designates this general area for heavy commercial/light industrial development. The requested zoning would be to specifically allow for entertainment

and restaurant uses not allowed in the HI zoning. The area has not developed with the heavy industrial uses that were anticipated when rezoned in 1980. The requested HC zoning in this location is deemed compatible with the Future Land Use Map and the adjacent uses in the area. Additionally, the frontage along Loop 322 would be more suitable for commercial development.

Staff recommends approval as requested.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Calk, Dunnahoo, Ellinger, McClarty, & Famble) and none opposed.

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

- Don Anderson – attorney for about 27 homeowners from across Loop 322, against the zone request
- Derek Peterson – agent for the requestor, for the zone request
- Bruce Bixby – Planning and Zoning Commissioner – had concerns
- Andy Nuncio – future owner and developer of the property
- Elizabeth Nuncio – wife of Andy and spoke in favor of the zone request
- Winston Ohlhausen – spoke on the request

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

Council and Staff discussion included: 1) noise levels and hours; 2) food truck court is the main purpose; 3) outdoor concert venue will not be every night; 4) location of neighbors; 5) location of PrimeTime and nose associated with it; and 6) the city doesn't have anything like this.

Councilman Price made the motion to approve the Ordinance for Case #**Z-2015-16** a request from Neldon & Anna Watson, agent Derek Peterson, to rezone property from HI (Heavy Industrial) to HC (Heavy Commercial) zoning, located at 158 Tannehill Dr. Councilman Savage seconded the motion, motion carried.

AYES: Councilmen Price, Kreitler, Williams, Savage and Mayor Archibald

NAYS: None

Ordinance: **#32-2015**

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: 158 Tannehill Dr

7.4 Ben Bryner Planning Services Manager, briefed the council on the Ordinance for Case No. **TC-2015-03**, a request from Dempsey D. Peterson and the City of Abilene to abandon an unimproved alley along the rear (north side) of the properties located at 2650, 2658, 2666, 2674, 2682 & 2690 Madison Ave and 2650, 2654, & 2660 Garfield Ave.

This is an unimproved section of alley that exists to the rear of properties along the north side of Madison Ave & Garfield Ave. The alley right-of-way (ROW) was dedicated with the plat for the subdivision but was never improved. A few accessory buildings have been built within this alley area. The original request is to

abandon the alley behind 2650 Madison Ave so that improvements may be made to an accessory building. However, the alley does not provide any service and does not connect to the adjoining streets, so staff is recommending closure of the entire alley.

The abandonment of this alley would not create any block or traffic issues. There are some utilities within the alley ROW and any existing utilities will require an easement. Additionally, Cedar Creek runs just to the west. Drainage is accommodated from Madison Ave in an existing concrete drainage flume. However, if drainage is required in the alley ROW area, appropriate drainage easements may be needed.

PLAT REVIEW COMMITTEE

The Plat Review Committee recommends approval of the requested closure with the following conditions:

1. Provide appropriate drainage easements and utility easements.
2. The adjacent properties must be replatted within 12 months. The replat must not create any non-conforming lots.

STAFF RECOMMENDATION

Approval per the Plat Review Committee with the addition that an individual property owner may plat their section only rather than the entire alley at once, eliminating the 12 month limitation. The request would not create a block or traffic issues.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval per staff recommendation by a vote of 6 in favor (Bixby, Calk, Dunnahoo, Ellinger, McClarty, and Famble) and none opposed.

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

- Dempsey Peterson – land owner requesting the change

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

Councilman Williams made the motion to approve the Ordinance for Case No. **TC-2015-03**, a request from Dempsey D. Peterson and the City of Abilene to abandon an unimproved alley along the rear (north side) of the properties located at 2650, 2658, 2666, 2674, 2682 & 2690 Madison Ave and 2650, 2654, & 2660 Garfield Ave. as recommend by Staff that eliminates the 12 month limitation on the replat. Councilman Savage seconded the motion, motion carried.

AYES: Councilmen Price, Kreitler, Williams, Savage and Mayor Archibald

NAYS: None

Ordinance: **#33-2015**

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: to abandon an unimproved alley along the rear (north side) of the properties located at 2650, 2658, 2666, 2674, 2682 & 2690 Madison Ave and 2650, 2654, & 2660 Garfield Ave.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 11:39 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 in Open Session at 1:30 pm. and reported no votes or action was taken in Executive Session in regards Personnel Matters Section 551.074, Real Property Section 551.072, Consultation with Attorney Section 551.071 and Economic Development Section 551.087.

10. Discussion and possible approval of the appointment of an assistant city attorney. City Attorney Dan Santee is recommending the approval of Assistant City Attorney Chase Craig.

Councilman Williams made the motion to approve the appointment of Assistant City Attorney Chase Craig. Councilman Price seconded the motion.

AYES: Councilmen Price, Kreitler, Williams, Savage and Mayor Archibald
NAYS: None

11. Resolution: Appointing Members to Various Boards and Commissions as required by the Charter of The City of Abilene and Statues of The State of Texas.

Mayor Archibald made the motion to appoint/reappoint the following members to the 2015 Spring Board Appointment process. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Kreitler, Williams, and Mayor Archibald
NAYS: None
ABSTAINED: Councilman Savage

Resolution: **#45-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AS REQUIRED BY THE CHARTER OF THE CITY OF ABILENE AND STATUES OF THE STATE OF TEXAS

Betty Hardwick Center, MH/MR

Member	Term Expires
• Rita Johnson	Aug. 2017

CityLink ADA Advisory Board

Member	Term Expires
• Kelly Young	May 2018
• Pam Barnhill	May 2018
• Bill Daniel	May 2018

Civic Abilene, Inc.

Member

- Clint Rosenbaum
- David Gist
- Joe Alcorta Sr.
- Laura Donaway
- Rick Waldraff
- Charles Perkins
- Rev. Izair Lankford

Term Expires

May 2018
 May 2018
 May 2018
 May 2018
 May 2016
 May 2018
 May 2017

Library Board

Member

- Clint Buck

Term Expires

Nov. 2016

Mayor's Council on Physical Fitness

Members

- Randy Harriman
- Heather Williams
- Aaron Wesson
- Tracey Anderson

June 2018
 June 2018
 June 2018
 June 2016

MPE/Swimming Pool Board of Appeals

Members

- | | | |
|--------------------|-----------|----------|
| • Melissa Sparks | Regular | May 2017 |
| • Rick Weatherl | Alternate | May 2017 |
| • Robert Seballos, | Alternate | May 2017 |
| • Bobby Gilbreth | Alternate | May 2017 |
| • Paula Beall | Alternate | May 2017 |
| • Gene Isenburg | Regular | May 2017 |
| • Vacancy | Alternate | May 2016 |

May 2017
 May 2017
 May 2017
 May 2017
 May 2017
 May 2017
 May 2016

Municipal Golf Course Advisory Board

Members

- Sherry Webb
- Phil Gage
- Lawayne Harris
- Joe Roberts

April 2018
 April 2018
 April 2018
 April 2016

Parks and Recreation Board

Members

- Terry Johnson May 2018
- Garry Grubbs May 2018
- Marc Orner May 2016

Senior Citizens Advisory Board

Members

- Cynthia Cooke May 2017
- Joe Lopez May 2017
- Sydnye Moore May 2017
- Sara Jane Vancil May 2017

There being no further business the meeting was adjourned at 1:33 pm.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor