

CITY COUNCIL MEETING
October 22nd 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 October 22nd 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, Jay Hardaway, Kyle McAlister and Steve Savage. Also present were City Manager Robert Hanna, Interim City Attorney Stanley Smith, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Williams gave the invocation.

Mayor Archibald introduced Kylie Cox who is a 5th grade student at Allie Ward Elementary School. Kylie led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the October 8th Regular Meeting there being no deletions, no additions, and no corrections. Councilman Williams made a motion to approve the minutes as presented. Councilman Hardaway seconded the motion, motion carried.

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

CONSENT AGENDA

Councilman Savage pulled item 6.1. Councilman Price made the motion to approve item 6.2 through 6.4 as presented by staff. Councilman Williams seconded the motion, motion carried.

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

Ordinances:

6.1 **Ordinance:** *(First Reading)* **Z-2015-24** - On a request from 1049 Industrial Abilene, LP, agent Tal Fillingim, Jacob & Martin, to rezone property from LI (Light Industrial) to GC (General Commercial) zoning, located at 1049 Industrial Blvd; and setting a public hearing for November 5, 2015. *(Item pulled by Councilman Savage)*

6.2 **Ordinance:** *(First Reading)* **Z-2015-25** - On a request from Whistle Stop RV Resort, LLC, agent David Todd, EH-T, to amend PD-148 (Planned Development) zoning specifically to allow for 2 freight containers closer than 200' from any property line, located at 695 E. Stamford St; and setting a public hearing for November 5, 2015.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-148 AND ORDINANCE NO. 09-2015 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

6.3 **Ordinance:** *(First Reading)* **Z-2015-26** - On a request from Glen Weatherbee, agent David Todd, EH-T, to amend PD-104 (Planned Development) zoning specifically to allow for a church or place of worship use in

the western portion of the property (Tract 3), located at the northwest corner of Oldham Ln & Loop 322; and setting a public hearing for November 5, 2015.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-104 AND ORDINANCE NO. 24-2006 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

Oral Resolution:

- 6.4 Oral Resolution:** City Council authorized the City Manager to execute the Contract for Professional Engineering Services for the design, testing and construction inspection of the Elm Creek Pedestrian Bridge project.

The successful completion of this project will result in the installation of a pedestrian bridge across Elm Creek, providing a safe means for pedestrians to cross Elm Creek on the West side of Highway 83/84 between Nonesuch Road and S. 14th Street (HWY 277 S). The Professional Services Contract includes the necessary surveying, design testing, design, bidding, construction inspection, construction testing, and record drawings, all as necessary. This project is estimated to take 14 months, based upon an estimated 6 month construction period.

The City of Abilene previously advertised a request for a design build proposal for this project with a submittal deadline date of March 23, 2015. The design build process is a new process for the City of Abilene, and the process must follow the requirements of the Government Code, specifically Chapter 2269 of Title 10-General Government. One proposal was received in response to the request. After a detailed review of the request and the proposal received, staff identified several issues of concern, and it was determined that it was in the best interest of the City of Abilene to follow the traditional design, bid, build process for this project.

This engineering services agreement has a not to exceed total of \$60,000, and funding for this project was approved in the 2013-2014 CIP budget with a total budget amount of \$500,000 for design and construction.

ITEM PULLED FROM CONSENT

- 6.1 Ordinance:** (*First Reading*) **Z-2015-24-** On a request from 1049 Industrial Abilene, LP, agent Tal Fillingim, Jacob & Martin, to rezone property from LI (Light Industrial) to GC (General Commercial) zoning, located at 1049 Industrial Blvd; and setting a public hearing for November 5, 2015. (*Councilman Savage pulled item 6.1*)

Councilman Savage had questions about the current use at this location. Staff informed council that the performing arts school was a legal non-conforming use from a change in the Land Development Code a few years ago; this will bring the property into the conforming use.

Councilman Savage made the motion to approve the first reading of Ordinance for Case **Z-2015-24** a request from 1049 Industrial Abilene, LP, agent Tal Fillingim, Jacob & Martin, to rezone property from LI (Light Industrial) to GC (General Commercial) zoning, located at 1049 Industrial Blvd; and setting a public hearing for November 5, 2015. Councilman Hardaway seconded the motion, motion carried.

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

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.

REGULAR ITEMS

7.1 Ben Bryner Planning Services Manager, briefed the council on the Ordinance for Case **#Z-2015-22** - A request from Terry & Susan Lankford to rezone property from RS-6 (Single-Family Residential) to HC (Heavy Commercial) zoning, located at 442, 450, & 460 N. 11th St and 1109 & 1127 Ash St.

Currently the property is undeveloped. The applicant also owns 2 lots to the east that currently have the HC zoning. The surrounding area is developed with single-family homes to the north, west, and south. The old location of the Day Nursery of Abilene exists to the northwest of the subject property. There are some existing businesses along N. Treadaway Blvd to the north & south. The eastern lots have been used as storage for cedar wood waiting to be used and turned into furniture. However, the use is being removed. The purpose of the rezoning is to have a consistent zoning for all the lots owned by the applicant to help market the property for a single user.

The Future Land Use section of the Comprehensive Plan designates this general area as 'low density residential'. The property is just north of the Central Business District. Just to the east, N. Treadaway Blvd is designated as an 'enhancement corridor'. The area transitions quickly east to west from the HC zoning to residential zoning. Due to the presence of residential uses, many of which are single-family homes, commercial zoning would not be appropriate for all of the lots. The requested zoning is deemed incompatible with the Future Land Use Map and the adjacent properties for the western lots.

STAFF RECOMMENDATION

Staff recommends approval as requested for 442 & 450 N. 11th St only and recommends MD (Medium Density Residential) zoning for 460 N. 11th St and 1109 & 1127 Ash St.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of HC zoning on all properties by a vote of 6 in favor (Bixby, Calk, Dunnahoo, Ellinger, Rosenbaum, & Famble) and none opposed.

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

- Bob Thomas – against the zone request

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 **#Z-2015-22** - A request from Terry & Susan Lankford to rezone property from RS-6 (Single-Family Residential) to HC (Heavy Commercial) zoning, located at 442, 450, & 460 N. 11th St and 1109 & 1127 Ash St. Councilman Hardaway seconded the motion, motion carried.

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

Ordinance **#52-2015**

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: at 442, 450, & 460 N. 11th St and 1109 & 1127 Ash St

7.2 Ben Bryner Planning Services Manager, briefed the council on the ordinance for Case #Z-2015-23 - A request from John Treanor, agent Paul Johnson, & the City of Abilene to rezone property from LI (Light Industrial) to GR (General Retail) zoning, being approximately 11.36 acres on the east side of Treanor Dr (including properties at 4102 Loop 322 & 4373 Treanor Dr) and approximately 12.06 acres on the west side of Treanor Dr.

Currently the majority of the property is undeveloped. The surrounding area is developed with various industrial & office uses. The Blue Cross Blue Shield office is located to the north. Various businesses and offices exist to the south. The Cisco Junior College exists to the east across Loop 322. The applicant indicates the purpose of the rezoning is to allow for the possibility of a mix of uses to include retail, restaurants, offices, & even assisted living. The City included the 2 smaller lots adjacent to Loop 322 as part of the rezoning request to ensure continued compatibility of land uses on these sites along this high visibility corridor. One is the existing gas station on the northeast corner. The other is a medical office currently under construction. Both uses are permitted in the GR zoning district so rezoning them will not result in any legal non-conforming status.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a 'Major Commercial/Business Center' centered on the intersection of Loop 322 and Industrial Blvd. Staff is concerned about the transition from GR zoning to the existing LI zoning to the west. A site plan for a sign manufacturer is currently in process and would not be compatible with the GR zoning. Staff feels that the GR zoning would not be appropriate on the west side of Treanor Dr. Otherwise, the requested zoning is deemed compatible with the Future Land Use Map and the adjacent properties.

At the Council meeting for the 1st reading, staff was directed to send certified letters to the 2 smaller lots to assure that they are aware of the zoning change. Both letters were received with one property owner requesting to remain included in the rezoning request.

STAFF RECOMMENDATION

Staff recommends approval as requested for the properties east of Treanor Dr and the north portion on the west side of Treanor Dr per the P&Z Commission.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of GR zoning per the staff recommendation with 2 modifications: 1) to include the north portion on the west side of Treanor Dr.; 2) removing the 2 City initiated properties (4102 Loop 322 & 4373 Treanor Dr.), by a vote of 6 in favor (Bixby, Calk, Dunnahoo, Ellinger, Rosenbaum, & Famble) and none opposed.

Council and Staff discussion included: 1) staff received only a verbal ok from the Skinny's store management; and 2) received a "in favor" response from the other contacted land owner 4373 Treanor.

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

- Paul Johnson – Realtor and agent for Mr. Treanor. He spoke on the zoning of the property and the desire of the owner to change all of the property to GR with the exception of where the Sign Co was going into.

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

Council and Staff discussion included: 1) the request of the owner to have all the property GR with the exception of the portion where the Sign Company would be going in at.

Councilman Kreitler made the motion to approve the Ordinance for Case #Z-2015-23 - A request from John Treanor, agent Paul Johnson, & the City of Abilene to rezone property from LI (Light Industrial) to GR (General Retail) zoning, being approximately 10.24 acres on the east side of Treanor Dr and approximately 9.61 acres on the west side of Treanor Dr. excluding 4102 Loop 322 (Skinnys) and the location of the Sign Company. Councilman Hardaway seconded the motion, motion carried.

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

Ordinance #53-2015

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: being approximately 10.24 acres on the east side of Treanor Dr and approximately 9.61 acres on the west side of Treanor Dr. excluding 4102 Loop 322 (Skinnys) and location of Sign Co.

7.3 Jim Moore Fire Marshall briefed the council on the Ordinance on amending Chapter 20 Article II. Offenses against Public Safety; Section 20-25 Fireworks.

The changes would make the Fire Marshal's Office as the permitting authority for a public fireworks display, and replace the City Council as the current permitting authority. The proposed ordinance also provides an appeal mechanism to the City Council in the event an applicant is denied.

It is important to note that under the proposed ordinance, the Fire Marshal's Office cannot permit a public fireworks display unless the applicant meets the same requirements as the current ordinance. The requirements do not change, just the permitting authority. Staff believes these proposed changes will streamline the approval process for applicants.

Council and Staff discussion included: 1) leaving the ordinance as it is, where the applicant comes before the city council for the permit; 2) State rules and regulations pertaining to the possession and transportation of fireworks; and 3) whether to remove possess and keeps out of the ordinance language.

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 Amending Chapter 20 Article II. Offenses against Public Safety; Section 20-25 Fireworks. Councilman Hardaway seconded the motion, motion carried.

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

Ordinance: #54-2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AMENDING SECTION 20-25, FIREWORKS

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 9:40 am 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 11:34 am and reported no votes or action was taken in Executive Session in regards Personnel Section 551.074, Consultation with Attorney Section 551.071 and Business Prospect/Economic Development 551.087.

10.1 Resolution: Nominations for person(s) on the Board of Directors of the Taylor County Appraisal District.

Mayor Archibald made the motion to nominate Bob Benham to the Board of Directors of the Taylor County Appraisal District. Councilman Price made the second, motion carried.

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

Resolution: **#62-2015**

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, 2016.

10.2 Kent Sharp CEO of the DCOA briefed the council on the Resolution for the approval of a DCOA assistance package for AbiMar.

The DCOA has assisted the company since 1992 with many of its expansion and capital investment projects. Employment has grown from 27 in 1992 to over 400. In 2004, the company began leasing Warehouse A totaling 70,000 sq ft at 4009 Vine St. from the DCOA for its warehousing operation. In 2011, when Affiliated Foods ceased operations in the remainder of the warehouses, AbiMar began leasing the adjacent Warehouse B totaling 40,429 sq ft. In 2013, the company picked up Warehouse C totaling 29,044 sq ft and in 2015, they began leasing the final Warehouse D totaling 34,215 sq ft.

In October 2013 the company began its \$30 million expansion into crackers in the former Sam's Club on S. 1st St. The DCOA is currently under an agreement with the company to provide \$4,500,000 for capital investment, facility improvements, and equipment purchases. Also included is \$623,000 for creation of 105 new jobs in excess of the existing cookie production jobs at the N. 1st St. facility.

In 2014, the board assisted the company in the amount of \$200,000 with a capital project at the cookie production facility on N. 1st St., which included automated equipment, updated equipment, energy efficiency upgrades, employee safety upgrades, and environmental safety upgrades.

The focal point of the project is to: 1) Increase capacity in wirecuts and crèmes, 2) increase productivity, 3) reduce conversion costs and 4) consolidate some of their operations. The new line will produce wirecut cookies at the South 1st facility and will be composed of completely new production equipment. It will also include state of the art packaging technology that will be the means by which the company increases efficiency and high volume production.

The company will also modify two existing cookie production lines at their North 1st facility. The first line will be modified in order run crème sandwich cookies instead of wirecut. Though this modification will utilize some existing equipment, it will require the purchase of several new pieces to fully accomplish the upgrade. The second modification at the North 1st facility will be accomplished by adding an additional oven zone that will provide a necessary increase in capacity for special rotary products. As a result of these additional and modified lines, the company will increase bulk material storage in both the North 1st and South 1st plants.

Staff recommends an incentive not to exceed 10% capital investment for an estimated \$1,500,000 in total value. The incentive would be paid to the company in Year 1 for the first \$1.5 million in expenditures. The money would be granted as a forgivable loan and backed by a lien against the company's plant on South 1st with terms to be provided in the Agreement for Financial Assistance that is reduced on an annual basis in the amount of \$300,000 for a term of 5 years.

Councilman Hardaway made the motion to approve the assistance package for AbiMar. Councilman McAlister seconded the motion, motion carried.

AYES: Councilmen Price, Kreitler, Williams, Hardaway, McAlister, and Mayor Archibald

NAYS: None

ABSTAINED: Councilman Savage

Resolution: **#63-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING DEVELOPMENT CORPORATION OF ABILENE, INC. ("DCOA") FUNDING FOR ABIMAR FOODS, INC. ("ABIMAR").

10.3 Resolution: Approving Members to Various Boards and Commissions as Required by the City Charter of the City of Abilene and Statues of the State of Texas. "Frontier Texas!"

Mayor Archibald made the motion to approve the appointment of Col. Wistaria Joseph – Dyess Air Force Base as an Ex-Officio board member for Frontier Texas Board. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Resolution: **#64-2015**

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

Frontier Texas! Board - Col. Wistaria Joseph – Dyess Air Force Base as an Ex-Officio

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

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor