

CITY COUNCIL MEETING
April 28th 2016, 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 April 28th 2016, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Bruce Kreidler, 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 Anthony Williams gave the invocation.

Mayor Archibald introduced Nicklas Garcia who is a 5th grade student at Jane Long Elementary School. Nicklas Garcia led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATIONS AND PRESENTATIONS

Mayor Archibald presented the following proclamations:

May 2016

National Bike Awareness Month and Ride of Silence Day, E'Lisa Smetana accepted the proclamation.

May 15-21, 2016

National Police Week, Chief of Police Stan Standridge accepted the proclamation.

May 6, 2016

Provider Appreciation Day, Cynthia Person accepted the proclamation.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the April 14th 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, Kreidler, Williams, Hardaway, McAlister, Savage and Mayor Archibald

NAYS: None

Mayor announced that item 7.3 was pulled prior to the start of the meeting.

CONSENT AGENDA

Councilman Savage pulled items 6.5 and 6.6. Councilman Hardaway made the motion to approve item 6.1 through 6.4 as presented by staff. Councilman Savage seconded the motion, motion carried.

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

NAYS: None

Ordinances:

6.1 **Ordinance:** (*First Reading*) **CUP-2016-02** A request from Joe Frazier for a Conditional Use Permit to allow for 'Freight Containers' on property zoned AO (Agricultural Open Space), located at 3750 Old Anson Rd; and setting a public hearing for May 12, 2016.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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 **Ordinance:** (*First Reading*) **Z-2016-15** A request from Jack Fuqua & Pat Andrews to rezone property from NR (Neighborhood Retail) & MF (Multi-Family Residential) to GR (General Retail) zoning, located at 3349 N. 12th St & 1141 N. Willis St; and setting a public hearing for May 12, 2016.

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.

- 6.3 **Ordinance:** (*First Reading*) **Z-2016-14** A request from Sherry I. Maloney to rezone property from HC (Heavy Commercial) & GC (General Commercial) to PD (Planned Development) zoning, located at 2549 & 2657 Shirley Rd; and setting a public hearing for May 12, 2016

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-152 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

- 6.4 **Ordinance:** (*First Reading*) **Z-2016-16** A request from Ax Properties, agent Tal Fillingim, to rezone property from RS-8 (Single-Family Residential) to PD-4 (Planned Development) zoning, located at 3702 Antilley Rd; and setting a public hearing for May 12, 2016.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-4 AND ORDINANCE NO. 1045 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.5 **Ordinance:** (*First Reading*) An amendment to the Land Development Code (LDC) to create and adopt standards for a Lake Fort Phantom Hill (LFPH) Overlay zone; and setting a public hearing for May 12, 2016. *Item pulled by Councilman Savage.*

- 6.6 **Ordinance:** (*First Reading*) **Z-2016-17** A request from the City of Abilene to apply Lake Fort Phantom Hill (LFPH) Overlay zoning to all properties located within the city limits north of Taylor/Jones County line; and setting a public hearing for May 12, 2016. *Item pulled by Councilman Savage*

ITEM PULLED FROM CONSENT

- 6.5 **Ordinance:** (*First Reading*) An amendment to the Land Development Code (LDC) to create and adopt standards for a Lake Fort Phantom Hill (LFPH) Overlay zone; and setting a public hearing for May 12, 2016. *Item 6.5 pulled by Councilman Savage*

AN ORDINANCE AMENDING CHAPTER 23, "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.

- 6.6** **Ordinance:** (*First Reading*) **Z-2016-17** A request from the City of Abilene to apply Lake Fort Phantom Hill (LFPH) Overlay zoning to all properties located within the city limits north of Taylor/Jones County line; and setting a public hearing for May 12, 2016. *Item 6.6 pulled by Councilman Savage*

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "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.

Council and Staff discussion included: 1) Gun Club – excluded from the overlay per State Statue; 2) State law is referenced in the Ordinance; 3) how residents were notified – the city is required to use the Jones County Appraisal District records to make notifications.

Councilman Savage made the motion to approve the first reading of both Ordinances for 6.5 and 6.6. Councilman Williams seconded the motion, motion carried.

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

REGULAR ITEMS

- 7.1** Dana Schoening Director of Planning & Development Services briefed the council on Ordinance for Case #**Z-2016-09** A request from Stellar Development Company to rezone property from LI (Light Industrial) to GR (General Retail) zoning, located at 11 & 15 Windmill Cir.

The adjacent properties are halfway developed with industrial uses to the south & west and a mix of retail & services uses to the north. The newer Sam's Club business is located due north from this site. Abilene Regional Hospital is located nearby to the south. The applicant is proposing to develop a tax-credit apartment complex

This area is slowly transitioning away from the industrial zoning to a retail/commercial area. The location just off the highway and its proximity to the Sam's Club and the hospital lends itself to future multi-family, office & retail uses.

STAFF RECOMMENDATION

Staff recommends approval as requested.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends **denial** by a vote of 5 in favor (Calk, Dunnahoo, McClarty, Rosenbaum, & Famble) and none opposed.

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

- Tom Choate – Attorney for the proponent. Spoke in favor of the zone request.
- Tony Conder – developer. Spoke against the zone request
- Jason Heurman – Spoke against the zone request
- Don Whitehead – Spoke against the zone request
- Greg Glass – Spoke against the zone request

- Kevin Smith – Concerned about traffic, keep Light Industry zoning.
- Michael Osborn – Traffic Engineer – talked about the traffic patterns
- Tom Choate – Spoke in favor of the request.

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

Mayor Archibald recessed the Council into Executive Session at 10:38 a.m. pursuant to the Open Meetings Act for Consultation with Attorney - Sections 551.071. Mayor announced that no votes or action was taken during the Executive Session council returned to the open meeting at 10:56 a.m. A supermajority will be required for approval of this item.

Councilman Williams made the motion to approve the Ordinance for Case # **Z-2016-09** A request from Stellar Development Company to rezone property from LI (Light Industrial) to GR (General Retail) zoning, located at 11 & 15 Windmill Cir. Councilman Price seconded the motion, motion failed.

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

NAYS: Councilmen Kreitler and Savage

7.2 Larry Bell Fire Chief briefed the council on Resolution authorizing the City Manager to execute an agreement with Hasen Design Build and Development to provide Design Build services for the Fire Department Maintenance facility.

This item grants the authority to the City Manager to execute an agreement not to exceed \$1,990,000 with Hasen Design Build and Development to provide design build services for the maintenance facility. The location for this facility will be on Airport property.

Councilman Savage made the motion to approve the Resolution authorizing the City Manager to execute an agreement with Hasen Design Build and Development to provide Design Build services for the Fire Department Maintenance facility. Councilman Hardaway seconded the motion, motion carried.

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

NAYS: None

Resolution **#57-2016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH HASEN DESIGN BUILD AND DEVELOPMENT TO PROVIDE DESIGN BUILD SERVICES FOR THE FIRE DEPARTMENT MAINTENANCE FACILITY

7.3 **Resolution:** Authorizing the City Manager to expend Public, Education & Government funds for the meeting room at the South Branch Library. *Item was pulled prior to the start of the meeting.*

7.4 Lesli Andrews Director of Community Services, briefed the council on the Resolution allowing the Abilene Cultural Affairs Council to use the lawn of the Abilene Civic Center for a sculpture garden and authorizing the City Manager to negotiate a Memorandum of Understanding for the use.

In 2015, the Texas Legislature designated Abilene as the Storybook Capital of Texas. In keeping with that designation, Cultural Affairs requests permission to use the southeast lawn of the Abilene Civic Center for a

permanent sculpture garden. The 2017 Children's Art and Literacy Festival will highlight the works of Garth Williams. Mr. Williams illustrated many popular "Golden Books" as well as Charlotte's Webb, Stuart Little and many of Laura Ingalls Wilder's "Little House" books. To honor this celebrated illustrator, several sculptures are proposed to be placed at the Civic Center.

Council and Staff discussion included: 1) Lynn Barnett told how many sculpture are already downtown and on display; 2) whether or not the sign will be moved on the Civic Center property to enable a better display of sculptures; and 3) city funds are not used in the purchase of the statues.

Councilman Savage made the motion to approve the Resolution allowing the Abilene Cultural Affairs Council to use the lawn of the Abilene Civic Center for a sculpture garden and authorizing the City Manager to negotiate a Memorandum of Understanding for the use. Councilman Hardaway seconded the motion, motion carried.

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

Resolution: **#58-2016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS ALLOWING THE ABILENE CULTURAL AFFAIRS COUNCIL TO USE THE LAWN OF THE ABILENE CIVIC CENTER FOR A SCULPTURE GARDEN AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE A MEMORANDUM OF UNDERSTANDING FOR THE USE.

7.5 Lesli Andrews Director of Community Services, briefed the council on the Resolution approving acceptance of the donated Good Night Dinosaur sculpture for placement on the lawn of the Abilene Civic Center.

The Abilene Cultural Affairs Council (Cultural Affairs) has commissioned the Good Night Dinosaur sculpture. The sculpture will become a permanent addition to Abilene's Outdoor Sculpture Storybook Collection. The sculpture is based upon the book, How Do Dinosaurs Say Good Night? written by Jane Yolen and illustrated by Mark Teague. It is a bronze sculpture that will stand approximately eight feet tall.

Councilman Hardaway made the motion to approve the Resolution approving acceptance of the donated Good Night Dinosaur sculpture for placement on the lawn of the Abilene Civic Center. Councilman Price seconded the motion, motion carried.

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

Resolution **#59-2016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING ACCEPTANCE OF THE DONATED GOOD NIGHT DINOSAUR SCULPTURE FOR PLACEMENT ON THE LAWN OF THE ABILENE CIVIC CENTER.

7.6 Ronnie Kidd Managing Director of Administration, briefed the council on the Resolution Authorizing the City Manager to enter into a Subscription License and Services Agreement for Infor Cloudsuite.

Infor has proposed its cloud-based solution ("Cloudsuite") which provides a hosted environment for version 10 of the software and eliminates the need for our local onsite premise-based servers. Future upgrades to the

hardware and software are included in the Cloudsuite subscription license and service agreement at no additional charge during the life of the agreement. Database and hardware maintenance, disaster recovery, and all technical support is also included in the agreement.

The contract includes an upgrade and conversion fee of \$198,240 to convert from version 9 to version 10 in Cloudsuite. It also includes a prorated annual service fee for the 7-month period from May to November, 2016 of \$136,608 and then an annual service fee of \$233,000 over the remaining 5 years of the contract for a total cost of \$1,499,848 (through November 2021). The City's current annual maintenance fee of \$150,260 will be replaced by the above terms.

Council and Staff discussion included: 1) fee is prorated; 2) budget module will be later; 3) server will be retired; 4) CAD and RMS not suited for the cloud; and 4) staff looked at various other options in software, in the market place.

Councilman Price made the motion to approve the Resolution authorizing the City Manager to enter into a Subscription License and Services Agreement for Infor Cloudsuite. Councilman Hardaway seconded the motion, motion carried.

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

Resolution **#60-2016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING A SUBSCRIPTION LICENSE AND SERVICES AGREEMENT FOR INFOR CLOUDSUITE

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 11:38 a.m. pursuant to the Open Meetings Act for the following:

Consultation with Attorney - Sections 551.071

- 7) Gary Lee and Marilu Lee Corpian v. City of Abilene, Cause No. 48,766-A in the 42nd District Court 2015
- A) Consultation with Attorney regarding American Electric Power (AEP) North Texas Company's Application for Distribution Cost Recovery Factor to Increase Distribution Rates within the City of Abilene.

The Council reconvened in Open Session at 12:02 p.m. and reported no votes or action was taken in Executive Session.

10.1 Robert Hanna City Manager, briefed the council on the Resolution for the Denial of AEP Texas North Company's (TNC) Application for Distribution Cost Recovery Factor to increase distribution rates within the City of Abilene and approve the Steering Committee's efforts

The resolution authorizes the City to participate in the Steering Committee as a party in the Company's DCRF filing, Public Utility Commission of Texas (PUC) Docket No. 45788; authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City

regarding reasonable rates. Additionally, it authorizes the Steering Committee to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.

The resolution will also find that the Company's application is unreasonable and should be denied, will state that the Company's current rates shall not be changed, the Company will reimburse the cities for their reasonable rate case expenses, and that legal counsel and consultants approved by the Cities will submit monthly invoices that will be forwarded to TNC for reimbursement.

Councilman Williams made the motion to approve the Resolution for the Denial of AEP Texas North Company's (TNC) Application for Distribution Cost Recovery Factor to increase distribution rates within the City of Abilene and approve the Steering Committee's efforts. Councilman Savage seconded the motion, motion carried.

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

Resolution: **#61-2016**

A RESOLUTION OF THE CITY OF ABILENE, TEXAS FINDING THAT AEP TEXAS NORTH COMPANY'S APPLICATION FOR APPROVAL OF A DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

There being no further business the meeting was adjourned at 12:05 p.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor