

CITY COUNCIL MEETING
November 16, 2006, 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 November 16, 2006, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Joe Spano, Stormy Higgins, Anthony Williams, and Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, and various members of the City staff.

Councilwoman Moore gave the invocation.

Mayor Archibald introduced Mason Tindle, a 4th grade student from Bassetti Elementary School, who led the Pledge of Allegiance. Mason's principal, Jeannie Forehand was also in attendance.

PROCLAMATION

Mayor Archibald presented a proclamation proclaiming November as "National Adoption Month" to Tiffany Smith, Supervisor for the Child Protective Services Adoption and Foster Care Program". Ms. Smith recognized families in the audience that have participated in the program.

Mayor Archibald noted today's Council meeting is being aired live for the first time on Channel 7.

DISPOSITION OF MINUTES

2.0 Mayor Archibald stated Council has been given the minutes from the October 19, 2006 Regular Council meeting and Council Workshop. The minutes from the November 2, 2006 Regular Council meeting will be submitted for consideration at the December 7, 2006 Council meeting. There being no corrections, additions, or deletions to the October 19, 2006 Regular Council Meeting and Council Workshop Minutes Councilman Spano made a motion to approve the October 19th minutes as presented. Councilwoman Davis seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

CONSENT AGENDA

Mayor Archibald stated item 3.1, *Oral Resolution ratifying the emergency purchase of influenza vaccine*, has been removed from today's agenda due to the unavailability of the vaccine.

Mayor Archibald noted he and Councilwoman Moore would be abstaining from item 3.7, **Z-2006-46** – *Request to rezone property from RM-3 (Residential Multi-family) to O (Office) zoning, property located at 1658 Hickory Street; and set a public hearing for December 7, 2006 at 8:30 a.m.*

Councilman Chase requested item 3.2, *Oral Resolution authorizing the City Manager to execute Amendment 1 of Task Order 9 of the landside engineering contract with Enprotec/Hibbs and Todd for design and bidding services for the Parking Lot Improvement project*, be removed from the Consent Agenda and be considered separately.

Councilman Spano requested item 3.3, *Resolution authorizing the continuation of a \$4.50 Passenger Facility Charge at Abilene Regional Airport*, be removed from the Consent Agenda and be considered separately.

Councilman Higgins made a motion to approve consent agenda item 3.4 and first reading of items 3.5 through 3.7, as recommended by staff. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams, Councilwoman Davis, Councilwoman Moore (abstaining from 3.7 only), and Mayor Archibald (abstaining from 3.7 only).

NAYS: None

ABSTAIN: Councilwoman Moore and Mayor Archibald (item 3.7 only)

Resolutions:

- 3.1 **Removed from the Agenda:** Oral Resolution ratifying the emergency purchase of influenza vaccine.
- 3.2 **Removed from the Consent Agenda and considered separately:** Oral Resolution authorizing the City Manager to execute Amendment 1 of Task Order 9 of the landside engineering contract with Enprotec/Hibbs and Todd for design and bidding services for the Parking Lot Improvement project.
- 3.3 **Removed from the Consent Agenda and considered separately:** Resolution authorizing the continuation of a \$4.50 Passenger Facility Charge at Abilene Regional Airport.
- 3.4 Resolution Suspending the American Electric Power Texas North Company (AEP TNC) Rate Increase; Approving participation with a group of cities; Authorizing intervention in the PUC proceeding; Requiring Reimbursement and Requiring Notice be given to AEP TNC.

The Resolution is numbered **37-2006** and captioned as follows:

RESOLUTION OF THE CITY OF ABILENE SUSPENDING THE EFFECTIVE DATE OF AEP TEXAS NORTH COMPANY'S REQUESTED RATE CHANGES TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH OTHER CITIES WITHIN AEP TEXAS NORTH COMPANY'S SERVICE TERRITORY; AUTHORIZING INTERVENTION IN THE PROCEEDING AT THE PUBLIC UTILITY COMMISSION; RETAINING COUNSEL TO REPRESENT THE CITY; REQUIRING REIMBURSEMENT OF

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CITIES' RATE CASE EXPENSES; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY.

Ordinances:

- 3.5 **TC-2006-06** – Request to abandon South 18th Street from the east line of the railroad right-of-way eastward approximately 555 feet to its eastern end; and set a public hearing for December 7, 2006 at 8:30 a.m.

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.

- 3.6 **Z-2006-45** – Request to rezone property from LI (Light Industrial) and HI (Heavy Industrial) to HC (Heavy Commercial) zoning, property located at 2009 Industrial Boulevard; and set a public hearing for December 7, 2006 at 8:30 a.m.

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

- 3.7 **Z-2006-46** – Request to rezone property from RM-3 (Residential Multi-family) to O (Office) zoning, property located at 1658 Hickory Street; and set a public hearing for December 7, 2006 at 8:30 a.m.

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

Item 3.2 removed from the Consent Agenda at the request of Councilman Chase to be considered separately.

3.2 Councilman Chase stated it is his understanding that in regards to the funding and fiscal impact of this project Task Order 9 and Amendment 1 will be funded by the 2002 CO's (Certificates of Obligation), costing \$123,000. Dan Weber, Director of Aviation explained the total cost of the combined Task Order 9 "Design Services" plus Amendment 1, which expands the scope of the project, is \$200,000 and that amount will be funded by the 2002 CO's (Certificates of Obligation). Mr. Weber noted \$77,000 of the \$200,000 is eligible for reimbursement under the PFC (Passenger Facility Charge). Councilman Chase questioned why the 2002 CO's (Certificates of Obligation) were being used for this project. Mr. Weber stated the 2002 CO's included funds for parking lot rehabilitation and expansion and that is what these funds are being used for. Mr. Weber further stated once the \$200,000 is utilized there will be funds remaining in the 2002 CO's in the approximate amount of \$300,000, which have been issued and will be used for the final construction project.

Item 3.3 removed from the Consent Agenda at the request of Councilman Spano to be considered separately.

3.3 Councilman Spano questioned if the \$77,000 eligible for reimbursement from the PFC (Passenger Facility Charge) is the same PFC referenced in agenda item 3.2. Dan Weber, Director of Aviation stated it is. Councilman Spano stated on agenda item 3.2 in regards to the 527 parking spaces referenced in the Preliminary Design Report that it is obvious 527 will not be enough and Councilman Spano questioned approximately how many more would be needed. Mr. Weber explained the design this will fund incorporates the entire available space in the terminal area with a total of approximately 718 parking spaces. The project will be designed for the 718 spaces and the project will then be sized to fit the available funding. Mr. Weber noted the project does include straightening Airport Dr. Councilman Spano reiterated the fact that the Passenger Facility Charge does provide some funding for Airport projects.

Councilman Chase made a motion to approve **item 3.2**, *Oral Resolution authorizing the City Manager to execute Amendment 1 of Task Order 9 of the landside engineering contract with Enprotec/Hibbs and Todd for design and bidding services for the Parking Lot Improvement project*, and **item 3.3**, *Resolution authorizing the continuation of a \$4.50 Passenger Facility Charge at Abilene Regional Airport*. Councilwoman Moore seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Resolution is numbered **38-2006** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING CONTINUATION OF A \$4.50 PASSENGER FACILITY CHARGE AT
ABILENE REGIONAL AIRPORT.

REGULAR AGENDA

4.1 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered on second and final reading to extend a Temporary Suspension on the issuance of permits for certain off-premise signs.

Mr. James stated Council adopted an ordinance suspending the issuance of permits for off-premise signs on June 22, 2006 for a period of 180 days, expiring December 19, 2006. Over the past few months, staff has worked with the Planning and Zoning Commission on a recommendation for revisions to the off-premise sign section of the City's Sign Ordinance. Staff is prepared to move forward with ordinance revisions based on the Commission's direction that have provided during three previous meetings. However, in the last few weeks questions have arisen over the public participation process and many have suggested that more time is needed to allow for additional review and public comment prior to a draft ordinance being presented to the Commission and the

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City Council. Therefore, staff is recommending extending the suspension of permits for an additional 180 days to allow for this additional public input and adoption of these ordinance changes. Staff recommends approval of the proposed ordinance.

Council and staff discussion included: 1) staff noting the billboard companies that have contacted them are in agreement with the ordinance; 2) the Planning & Zoning Commission's initial recommendation having been for much stricter billboard regulations that essentially would only allow new billboards along the interstate and other freeways. The sign community is concerned about the P&Z Commission's recommendation and have asked staff to review the possibility of a more compromised solution that is not quite as restrictive, and; 3) staff noting the Land Development Code Review Committee will assure that the community is involved and has the opportunity to provide input on any recommendations that are made.

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

Councilwoman Davis made a motion to approve an ordinance considered on second and final reading to extend a Temporary Suspension on the issuance of permits for certain off-premise signs. Councilwoman Moore seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered **62-2006** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS EXTENDING A TEMPORARY SUSPENSION ON THE ACCEPTANCE OF APPLICATIONS AND THE ISSUANCE OF PERMITS FOR CERTAIN OFF-PREMISE SIGNS.

Mayor Archibald noted Item 4.2 is being considered for first reading with no public hearing at today's meeting and further noted the public hearing on the item is scheduled for the December 7th Council meeting.

4.2 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered for first reading to adopt an updated Three-Year Annexation Plan; with second reading and a public hearing being set for December 7, 2006 at 8:30 a.m.

Mr. James stated state law requires cities to maintain a current Three-Year Annexation Plan in accordance with the requirements of the Texas Local Government Code. The city's current Annexation Plan states that there are no specific plans for future annexations that are required to be in an Annexation Plan. Staff is proposing to update the current policy to remain in compliance with state law and to begin addressing the recommendations of the Comprehensive Plan by annexing areas to protect Abilene Regional Airport and Dyess Air Force Base. Staff has prepared a Three-Year

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Annexation Plan in accordance with the requirements of Section 43.052 of the Texas Local Government Code. The Comprehensive Plan specifically addresses the use of annexation as a tool to “manage future growth, ensure fiscal responsibility, and plan for cost-effective expansion of infrastructure systems”. In addition, Strategy 42 provides the following recommendation:

Annex areas to the south and west of Dyess Air Force Base and to the south and east of Abilene Regional Airport, all as shown on the Future Land Use and Development Plan, as a means for controlling incompatible encroachment.

Additionally, in order to guide the discussion and determination of annexation areas, Strategy 44 of the Comprehensive Plan provides the following criteria to determine the costs and benefits of particular areas:

- A fiscal impact analysis of the area to be annexed
- The negative impacts a development area may impose upon the City if it is not annexed
- Any necessary capital improvements and anticipated revenues generated by the proposed development
- Employment opportunities and diversification of the economic base
- The efficiencies of adding the annexation to the City
- The ability to protect future development by enforcing land use regulations, development standards, and environmental regulations
- A need to close gaps or enclaves within current city limits

Staff utilized these criteria to determine the areas to recommend for inclusion in the Three-Year Annexation Plan and has compiled detailed information on each of these areas. This will be the first phase of a long-term annexation policy, which will involve periodic amendments over the next 15-20 years to include additional areas identified on the Comprehensive Plan. The Annexation Plan may be amended at any time per Section 43.052 of the Texas Local Government Code, which provides for the following:

1. Areas added to the Plan may not be annexed until the third anniversary of their inclusion in the Plan.

2. If an area is removed from the Plan before the end of the 18th month after the month the area was included in the Plan, the City may not again include the area in the Annexation Plan for 1 year.

3. If an area is removed from the Plan after the end of the 18th month after the month the area was included in the Plan, the City may not again include the area in the Annexation Plan for 2 years.

4. If an area is not removed from the Plan, but is also not annexed before the 31st day after the third anniversary of the date the area was included in the Plan, the City may not annex the area for 5 years.

Staff recommends approval of the proposed ordinance.

Council and staff discussion included: 1) staff’s recommendation of all area’s (Area’s A, B, C and D) to be included in the Three-Year Annexation Plan and the summary of some of the considerations associated with each area; 2) area’s studied by staff but not included in the Staff Recommendation; 3) staff’s review of why cities annex; 4) three year timeline that the plan will

allow to study issues and determine if property will be annexed; 5) consequences of not annexing at end of three year period; 6) binding arbitration issues; 7) standards set for new development and ETJ

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areas; 8) the Three-Year Annexation Plan having been implemented by the Comprehensive Plan recommendations; 9) staff noted recommendations to extend standards into the ETJ are being made in order to set regulations and standards in place before developments would require services be to extended, also assuring future annexed land is up to city standards; 10) staff's explanation of the exempt annexation process; 11) status of the committee that will review city standards in the ETJ; 12) staff noting the importance of ETJ standards versus annexation standards; 13) Council noting the critical need to annex Area A (property around Dyess Air Force Base); 14) Council's concerns that the land (with an estimated annual revenue of \$143,000) that includes the Blackhawk subdivision is not included in the plan. Staff noted the expense involved in bringing the streets in the subdivision up to city standards would exceed a half million dollars. Staff stated an exact amount will be provided to Council at the next Council meeting when the second reading of the ordinance is held. Council noted that there may be a cash flow issue where the city can't afford to bring the streets up to standard but if in 3 to 5 years they are brought in it will be more expensive, and; 15) Council considered the possibility of removing Area's C and D from the proposed plan and beginning annexation procedures immediately due to the largely undeveloped properties having few households that would be impacted and with no known significant cost issues. Staff noted if Area's C&D are removed from the plan now they cannot be placed back in on second reading of the ordinance. Councilman Chase voiced concerns about removing the areas now before the possible negative cost impact is known instead of waiting two weeks until the next meeting where staff will provide the cost information.

Councilwoman Davis made a motion to approve first reading of the ordinance adopting an updated a Three-Year Annexation Plan, deleting the area's shown as Area C (approximately 439 acres east of Abilene Regional Airport) and Area D (approximately 659 acres near Dyess Air Force Base) from the Plan and directing staff to initiate annexation procedures on those properties as expediently as possible as allowed by law, and to add to the Plan the area referenced as Area Green (approximately 1300 acres which includes the Blackhawk subdivision), and set a public hearing for December 7, 2006 at 8:30 a.m. Mayor Archibald seconded the motion, and the motion carried.

AYES: Councilmen Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: Councilman Chase

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ADOPTING A THREE-YEAR ANNEXATION PLAN IN COMPLIANCE WITH SECTION 43.052 OF THE TEXAS LOCAL GOVERNMENT CODE; REPLACING THE ANNEXATION PLAN ADOPTED DECEMBER 16, 1999; AND PROVIDING AN EFFECTIVE DATE.

4.3 Jon James, Director of Planning and Development Services briefed the Council on an ordinance considered for first reading to revise and update Chapter 19, "Nuisances", and to amend and move Chapter 18, Motor Vehicle and Traffic, Article III, Junked Cars, of the City of Abilene Municipal Code; and set a public hearing for December 7, 2006 at 8:30 a.m.

Mr. James stated this is a comprehensive revision to the City's Nuisance Ordinance. These revisions reflect changes in state law, as well as incorporating prior directives from the City Council,

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neighborhood groups, citizens, and peer cities to enhance our ability to make a difference in the community on code enforcement issues. Staff held two (2) two-hour work sessions with representatives from the City of Abilene, Keep Texas Beautiful, Board of Building Standards, BFI, Texas Forest Services, Downtown Association, Amarillo Highland Neighborhood Association, Cedar Creek Neighborhood Association, Old Town Abilene Neighborhood Association, and Ft. Phantom Lake Neighborhood Association. In these sessions staff presented information to the groups outlining the areas of most concern to code enforcement officers and City staff. Staff received input from these groups on what they see as the biggest problems and what they think any ordinance changes should accomplish. Continuing dialogue has occurred with neighborhood association presidents and other interested citizens as staff developed the draft ordinance language. Staff recommends approval of the proposed ordinance.

Council and staff discussion included: 1) staff reviewed the timeline, and actions that have been taken, since Council's directive in October 2005 for staff to update the nuisance chapter of the City Code and to strengthen regulations; 2) staff reviewed the proposed changes to the ordinance which include outside storage, graffiti, illegal dumping, junked vehicles, dead/diseased trees, vehicles in yards; 3) staff reviewed the procedures (notice, abatement and penalties); 4) staff noted they could provide Council with abatement collection rate information at the Dec. 7 meeting; 5) Council noted the importance of aggressively enforcing the nuisance ordinance but also stated the need for the city to offer options to citizens and to inform them of those options; 6) staff reviewed the current enforcement process and the flexibility/creativity built into the abatement process but stated once a citation has been issued there is no longer room for flexibility due to the situation then being one of "no compliance" or a "repeat of non-compliance", and; 7) Councilwoman Davis requested staff provide information concerning the percentage of complaints that come from the code enforcement officers and the percentage that come from citizens. Jon James stated 90%+ come from citizen complaints.

Councilwoman Davis stated for the record in the future the concern of neighbors complaining against neighbors need to be addressed. Councilwoman Davis further stated a more aggressive approach by the city, perhaps utilizing city employees (i.e. meter readers) in code enforcement, needs to be considered in order to address the uncomfortable situation of a neighbor issuing a complaint against a neighbor.

Councilman Chase noted concerns from a technical standpoint, the following items that staff may want to consider prior to the second reading of the proposed ordinance:

- * Item (e) states "All unnecessary or unauthorized noises and annoying vibrations, including animal noises". **Concern:** Is that wording specific enough to understand how to enforce it and the subjective position code enforcement officers are placed in.

- * Item (k) states "Dead or diseased trees when such trees constitute a hazard to life or property, or harbor insects or disease that constitute a potential threat to other trees within the City". **Concern:** the portion that reads "or harbor insects or disease that constitute a potential threat to other trees within the City". Does the city want to be tree monitors involved in this type of nuisance enforcement?

- * Item (l) states "Fences in a deteriorated condition or subject to falling down due to lack of maintenance or damage". **Concern:** What is deteriorated? Careful

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consideration needs to be given to this language in order to not put enforcement officers in a position of having to defend a subjective opinion.

City Attorney Sharon Hicks stated guidelines, although not included in the ordinance, are being prepared for items (k) and (l) that will take the subjectivity out, and if staff needs to be that inclusive in the ordinance that can be brought to Council for the next reading.

* Item (m) states "Graffiti that is visible from public view or any private property other than that on which the same exists". **Concern:** Does the definition of graffiti include such paintings as sunsets?

Jon James stated if the property owner authorizes it then it is not graffiti. Authorization is not given by the City but by the property owner. Ms. Hicks noted if the painting offends decency then it may come under another provision in the ordinance other than graffiti.

* Item (n) states "Accumulation of items intended for use outdoors that are not screened from the public view". **Concern:** What is accumulation? Enforcement officers are placed in an arbitrary, subjective decision position that then puts citizens in a position of having to defend that decision with very little definitive criteria. This needs to be more definitive.

Ms. Hicks noted this has been provided to the court for the Judge to review and provide input on his concerns from his standpoint. Ms. Hicks stated more thought process information will be provided to Council prior to the next Council meeting.

Councilman Chase reiterated, as stated previously by Councilwoman Moore, the need to in writing, provide to citizens the options and help available to them on code enforcement issues.

Councilman Williams made a motion to approve first reading of an ordinance revising and updating Chapter 19, "Nuisances", and to amend and move Chapter 18, Motor Vehicle and Traffic, Article III, Junked Cars, of the City of Abilene Municipal Code; and set a public hearing for December 7, 2006 at 8:30 a.m. Councilman Spano seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 19, "NUISANCES", AND CHAPTER 18, "MOTOR VEHICLES AND TRAFFIC", ARTICLE XII, OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

Council recessed for a break at 10:25 a.m. and reconvened at 10:30 a.m.

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4.4 Jo Moore, City Secretary briefed the Council on a resolution canvassing returns and declaring results of the November 7, 2006 Special Election.

Ms. Moore stated the Special Election that was held on November 7, 2006 was for the purpose of allowing voters to recommend whether or not the Council should adopt an ordinance to prohibit smoking in all public places and places of employment in the City of Abilene; it was also held to allow the voters to consider a Disabled or Senior (65 Years of Age or Older) Tax Freeze; and to allow the voters to consider amending five (5) sections of the Charter of the City of Abilene to comply with state law. Returns of the election have been canvassed and the results show that the two (2) measures and five (5) propositions passed with:

- The recommendation on adopting an ordinance prohibiting smoking in all public places and places of employment having received **68.62%** of the votes cast;
- The Disabled or Senior Tax Freeze received **79.51%** of the votes cast;
- Proposition No. 1: Amending Section 9 of the City Charter to read that all vacancies on the Council shall be filled by election received **90.99%** of the votes cast;
- Proposition No. 2: Amending Section 24 of the City Charter to read that all elections shall be held on the date as prescribed by the election laws of the State of Texas received **91.23%** of the votes cast;
- Proposition No. 3: Amending Section 27 of the City Charter to read that election results shall be canvassed on the date as prescribed by the election laws of the State of Texas received **91.00%** of the votes cast;
- Proposition No. 4: Amending Section 28 of the City Charter to read that runoff elections shall be held on the date as prescribed by the election laws of the State of Texas received **92.13%** of the votes cast, and;
- Proposition No. 5: Amending Section 122 of the City Charter to read that all meetings of the Council and Boards and Commissions appointed by the Council shall be held in accordance with the laws of the State of Texas received **94.81%** of the votes cast.

Ms. Moore further stated the Council has been provided the Resolution that canvasses the returns and declares the results of the Special Election and that it is staff's recommendation that Council approve the Resolution.

Councilwoman Davis made a motion to approve the resolution canvassing the returns and declaring the results of the November 7, 2006 Special Election. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

ABSENT: Councilman Chase

The Resolution is numbered **39-2006** and captioned as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE SPECIAL
ELECTION HELD IN THE CITY OF ABILENE ON NOVEMBER 7, 2006.**

4.5 Tommy O'Brien briefed the Council on an oral resolution authorizing the City Manager to execute an amendment to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd Engineering to continue work associated with a Regional Water Supply Project.

Mr. O'Brien stated on May 11, 2006 the City Council authorized execution of a Professional Engineering Services Agreement with Enprotec/Hibbs & Todd, and its team of consultants, to perform a Regional Water Supply project. In general, the work included evaluating the operations of raw water delivery; the reuse of wastewater effluent as a future water supply; and the economic impact of varying lake levels at Fort Phantom Hill Reservoir. Prior to selecting the Enprotec/Hibbs & Todd Team to perform the work, staff requested Statements of Qualifications from several qualified firms, including minority/woman/small business enterprises. The total contract amount for the first phase of the project is \$457,100. Recent completion of the Brazos G Regional Water Planning Group's Regional Water Plan indicates the City of Abilene will experience a water supply shortage in the future. Therefore, staff seeks to continue the work associated with the Regional Water Supply Project (Project) to provide the Abilene City Council with sufficient information to allow it to decide how to proceed with addressing future water supplies. Continuation of the Project will be managed by Enprotec/Hibbs & Todd, who will work with HDR Engineering; Alan Plummer Associates; Solo Engineering; and Nelson Farm & Ranch Properties. The continued Project will be an extension of the project authorized by the City Council on May 11, 2006. Amending the Enprotec/Hibbs & Todd contract will allow the City the opportunity to request reimbursement from the Environmental Protection Agency (EPA) for much of the work. With the proposed Amendment, Enprotec/Hibbs & Todd's total contract amount will be \$782,100. It is anticipated that the City will receive reimbursement for approximately \$335,000 of this total contract amount through the EPA's State and Tribal Assistance Grants Program. Staff recommends approval by oral resolution of an amendment to the contract with Enprotec/Hibbs & Todd, for a not-to-exceed cost of \$325,000, to provide engineering services associated with the Regional Water Supply Project, and authorize the City Manager or his designee to execute all necessary documents related to the contract and its amendments.

Council and staff discussion included: 1) the options evaluated over the past few years for acquiring future water supplies to meet its future needs, with the two having emerged as options worthy of further consideration being: (1) Construction of Cedar Ridge Reservoir; and (2) Purchasing water from the Brazos River Authority's (BRA) Possum Kingdom Reservoir; 2) the work associated with the continued Project will involve several components including: (1) updating future water requirements (demands) and safe yields of current water supplies; (2) optimizing water management strategies, and; (3) providing project support; 3) the ten year time frame addressed in the BRA contract that was entered into in March 2005 (staff noted the city is a couple of years into that ten year period); 4) the options Council will have associated with the Cedar Ridge Reservoir site; 5) basis for recent reduction in the yield of Ivie Reservoir on Abilene's total water supply; 6) the amendment including providing engineering support services to the City for the reuse permit pending with the Texas Commission on Environmental Quality (TCEQ), including the impact of the reuse permit on current/future water supplies, including Cedar Ridge, and; 7) staff noting what the original contract with Enprotec provided and what the Carter Burgess study looked at.

Councilwoman Davis made a motion to approve by oral resolution authorizing the City Manager to execute an amendment to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd Engineering to continue work associated with a Regional Water Supply Project. Councilwoman Moore seconded the motion, and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.074, and 551.072 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, and to consider the purchase, exchange, lease or value of real property.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

5.4 Councilman Williams made a motion to approve the appointment of Assistant City Manager David Vela to the Frontier *Texas!* Board, term expiring February 2007. Councilman Higgins seconded the motion and the motion carried.

AYES: Councilmen Chase, Spano, Higgins, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

Mayor Archibald announced an Executive Session would be held to consider item 5.5, *Discussion and possible action related to annual performance evaluations of the City Manager, City Attorney, City Secretary, and Municipal Judge* following the Council Workshop.

Mayor Archibald stated Council will now recess and then reconvene at 1:30 p.m. in the Council Chambers for the Council Workshop. The Mayor noted the workshop is being held for the purpose of discussing Legislative concerns and no Council action will be required.

COUNCIL WORKSHOP

5.6 Mayor Archibald reconvened the Council at 1:30 p.m. in the Council Chambers for a workshop for discussion with City of Abilene Legislative Consultants concerning the legislative agenda. Councilmembers present were Councilmen Sam Chase, Joe Spano, Stormy Higgins, Anthony Williams (arrived at 2: 05 p.m.) and Councilwomen Celia Davis and Laura Moore. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore and various members of the City staff.

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Mayor Archibald noted Council will convene into Executive Session for the purpose of conducting an employee performance evaluation for City Attorney Sharon Hicks following the Council Workshop. The Mayor further noted Councilman Williams would be arriving late for the Council Workshop.

Mayor Archibald recognized the attendance of House District 71 representative-elect Susan King.

City Manager Larry Gilley welcomed everyone in attendance and stated the Legislature will convene in the Spring of 2007 and the City of Abilene is represented by two (2) groups, Martin Rochelle of Lloyd Gosselink Attorneys at Law and the Winstead Consulting Group. Mr. Gilley noted Lloyd Gosselink represents the City on the issues of Water/Cedar Ridge Reservoir project and the Winstead Consulting Group represents the City on the potential Legislative program/bills.

Mr. Gilley introduced Martin Rochelle of the Lloyd Gosselink Attorneys at Law. Mr. Rochelle stated that he has worked with the City of Abilene for a number of years and the current primary task has been the Cedar Ridge Reservoir project. Mr. Rochelle distributed and reviewed information on the following issues:

- Legislation to designate the Cedar Ridge Site as unique
- Other legislation that may be helpful in Cedar Ridge permitting, funding, and construction
- Potential environmental flows legislation during the next Regular Legislative Session
- Other water-related legislation that may be of interest considering the City's development of water supplies and its provision on water to its customers

Discussion included: 1) the State Water Plan recommending 19 sites throughout 16 Regions and Cedar Ridge being one of those sites; 2) the author of HB 2876, and; 3) the need for legislation to assist the city in laying the ground work now for a future reservoir.

Councilman Williams arrived at 2: 05 p.m.

Mr. Gilley introduced Mr. Lynn Sherman of the Winstead Consulting Group. Mr. Sherman provided professional background information on himself and on the Consulting Group. Mr. Sherman distributed a presentation handout and then briefed the Council on:

- How a Bill Becomes a Law
- The Legislative Process 101
- Legislative Statistics, Report Date: 11/14/2006

Joe Valenzuela provided his professional background information and then briefed the Council on:

- Political Landscape of the Texas Senate, Texas House and the Speaker's Race

Janis Carter provided her professional background information then briefed the Council on:

- Appropriations Outlook
- Appraisal Caps.

Wendy Foster provided her professional background information then briefed the Council on:

- Parks and Wildlife Funding
- Conflict Disclosure – HB 914
- Eminent Domain and Public Purpose (SB 7)

Other issues presented by the Group included:

- Water
- Utilities
- Other Potential Police and Fire Department Issues
- Sovereign Immunity (HB2039)
- Procurement
- Other Local Issues to Watch
 - Appropriations
 - Taxes
 - Civil Service
- Other Major Issues
 - Health Care Services
 - Appropriations
 - Taxation
 - Transportation
 - Insurance
 - Energy
 - Other

Discussion included: 1) the city's recently adopted resolution in support of additional funding for Parks & Wildlife; 2) the city's local parks grant program and the fact that the city recently updated the Parks Plan to better qualify for grant funding; 3) the agreement the city has entered into with Parks and Wildlife for land around the Abilene State Park, but limited funding won't allow land to be developed . Ms. Foster noted if funded is allocated she can assist with regulatory issues; 4) Ms. Carter pursuing specific legislation concerning the city's Veteran cemetery project. Ms. Carter noted the Group would do that under their current contract with no additional cost to the city; 5) The Group will research the Financial Reporting (for cities with populations of 100,000 or more) law and report their findings back to Council; 6) the Group clarified the sovereign immunity intent, and; 7) the Group noted the benefit to the city in having consultants is their ability to craft the city's own message on legislative issues.

Mayor Archibald noted there are many legislative issues that will impact the city and he stated appreciation to Martin Rochelle of Lloyd Gosselink Attorneys at Law and to the Winstead Consulting Group for today's presentations.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.074, and 551.072 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, and to consider the purchase, exchange, lease or value of real property.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

5.5 No action was taken on the performance evaluations for the City Manager, City Attorney, City Secretary, and the Municipal Judge.

There being no further business, the meeting was adjourned at 4:40 p.m.

Jo Moore
City Secretary

Norm Archibald
Mayor