

**CITY COUNCIL MEETING**  
**November 19<sup>th</sup>, 2009, 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 19<sup>th</sup>, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Anthony Williams, Robert O. Briley, Stormy Higgins and Councilwoman Laura Moore. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Higgins gave the invocation.

Mayor Archibald introduced Jacob Hovey attends Allie Ward Elementary and is a 5<sup>th</sup> grader. Jacob led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**PROCLAMATION**

Mayor Archibald presented the following proclamation:

**November 2009**

**National Adoption Month**

Bit Whitaker and Tiffani Smith with Child Protective Services accepted the proclamation.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the Regular Meeting on November 5<sup>th</sup> there being no deletions, no additions, and no corrections, Councilman Williams made a motion to approve the minutes as presented. Councilman Price seconded the motion, the motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

**CONSENT AGENDA**

Mayor Archibald announced that item 6.12 is pulled to be considered separately. Councilman Price pulled item 6.8. Councilwoman Moore made the motion to approve consent items 6.1 through 6.11 with the exception of 6.8 as presented. Councilman Spano seconded the motion, the motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

ABSTENTION: Councilman Williams on item 6.10

**Ordinances:**

**6.1** (First Reading) Replacing Chapter 2, "Administration", Article IV "Records and Information management Program" of the Abilene Code of Ordinances in its entirety as set out; and setting a public hearing for December 3, 2009.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE REPLACING CHAPTER 2, "ADMINISTRATION" ARTICLE IV "RECORDS AND INFORMATION MANAGEMENT PROGRAM" OF THE ABILENE CODE OF ORDINANCES IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND CALLING FOR A PUBLIC HEARING.

- 6.2** (First Reading) Ordinance for Case No. **Z-2009-16**, a request from the Landmarks Commission to rezone property from RM-3 (Multi Family residential) to RM-3/H (Multi Family residential with Historic Overlay) zoning, located at 702 Meander Street; and setting a public hearing for December 3, 2009.

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.

**Location: 702 Meander Street**

- 6.3** (First Reading) Ordinance for Case No. **Z-2009-17**, a request from Aaron Waldrop to rezone property from AO (Agricultural Open Space) to RS-6 (Single Family Residential) zoning, located adjacent to the west side of Indian Wells Subdivision and south of Dakota Springs Section1; and setting a public hearing for December 3, 2009.

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.

**Location: Adjacent to the west side of Indian Wells Subdivision and south of Dakota Springs Section1**

- 6.4** (First Reading) Ordinance for Case No. **Z-2009-18**, a request from Charles Barbee to rezone property from RS-6 (Single Family Residential) to MH (Mobile Home) zoning, located at 6009 Pueblo Dr. and 933 Baker Street; and setting a public hearing for December 3, 2009.

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.

**Location: 6009 Pueblo Drive and 933 Baker Street**

- 6.5** (First Reading) Ordinance for Case No. **TC-2009-03**, a request from the City of Abilene to abandon Rose Street beginning at the north right of way of S. 3<sup>rd</sup> Street and extending approximately 328 ft to the north; and setting a public hearing for December 3, 2009.

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: Rose Street partial**

- 6.6** Oral Resolution approving amendments to the Thoroughfare Plan in an area generally described as being east of Potosi Road, north of Buckskin Road, and south of Old Elmdale Road at Hwy 36. Set a public hearing for December 3, 2009.

The amendment will shift the alignment of the future expressway to the south, to allow for development of the property. The alignment will shift the right-of-way of the expressway onto properties to the east and south that currently have no such obligation.

- 6.7** (First Reading) Ordinance setting out the City of Abilene's Standards of Care Program; and setting a public hearing for December 3, 2009.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE, YOUTH PROGRAMS; REPEALING ALL ORDINANCES OF PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; AND CALLING A PUBLIC HEARING.

- 6.8** Oral Resolution – Acceptance of Energy Efficiency and Conservation Block Grant (EECBG) Program Funds. *Item pulled by Councilman Price.*

- 6.9** **Oral Resolution** - Amend Contract between City of Abilene and Schneider Electric (formally TAC) to complete energy measures under the Energy Efficiency and Conservation Block Grant (EECBG).

Schneider Electric is currently completing phase I of the long term energy conservation plan developed for the City of Abilene. This amendment will allow them to continue the work to further improve the overall mechanical systems within the City.

- 6.10** **Resolution** – Supporting the award of funds through the Neighborhood Stabilization Program to Abilene Neighborhoods in Progress.

Abilene Neighborhoods In Progress has applied for funding through Texas Department of Housing and Community Affairs (TDHCA).

Resolution **#35-2009** and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF ABILENE, TEXAS TO AUTHORIZE ABILENE NEIGHBORHOODS IN PROGRESS, INC. TO SUBMIT AN APPLICATION FOR THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP) TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.

- 6.11** Oral Resolution – Approved a request to advertise City owned land and an oil and gas lease. Property is 91.92 acre “Lake Tract #3”

#### **ITEMS PULLED FROM CONSENT**

- 6.8** Oral Resolution – Acceptance of Energy Efficiency and Conservation Block Grant (EECBG) Program Funds. *Item pulled by Councilman Price.*

Abilene submitted an application for a non-competitive stimulus grant on June 26<sup>th</sup>, 2009 in the amount of \$1.132 million. The Energy Efficiency and Conservation Block Grant (EECBG) were approved by the Department of Energy on September 28<sup>th</sup>, 2009.

The projects funded through this grant program include two major initiatives:

1. City Facility Energy Efficiency Upgrades, Phase II.
2. Community Energy Efficiency Incentive Program.

Councilman Price asked about who would qualify for the community energy program. Jon James Director of Planning and Community Development explained that the city didn't have any rules in place currently for qualifications. The State is working on rules for the program and the City will piggyback on the state guidelines.

Councilman Price made the motion to approve the acceptance of the Energy Efficiency and Conservation Block Grant Program Funds. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

- 6.12** Resolution – Supporting and Joining the City of Alpine, Texas in litigation to determine whether a local government officials free speech made pursuant to official duties enjoys the same Constitutional protections that the 1<sup>st</sup> amendment to the United States Constitution Grants to other speech. *Item pulled by Mayor for special consideration.*

Dan Santee, City Attorney briefed the Council on the background of this Resolution and how it relates to the Open Meetings Act. The City doesn't have to join in the litigation, but the outcome of the litigation will have an effect on council members/board members everywhere.

Council and Staff discussion included: 1) the current proposed litigation by the City of Alpine has only to do with the penalty portion of the open meetings act; 2) clarity in the law is very much needed – will have to happen on the State level; and 3) council members are not trying to dodge open meetings, they want to be able to hear from the citizens that voted for them into office and then be able to represent them.

Mayor Archibald opened up the meeting for comments and the council heard from:

- Keith Elkins with the Freedom of Information Foundation of Texas – who asked that the council not join the City of Alpine.
- Barton Cromeens – Abilene Reporter News – asked that council not join the City of Alpine.

Councilman Williams made the motion to TABLE this item. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Spano, Williams, Higgins, Mayor Archibald

NAYS: Councilmen Briley, Price and Councilwoman Moore

## **REGULAR AGENDA**

- 7.1** Mindy Patterson, Director of Finance briefed the Council on the Ordinance authorizing issuance of General Obligation Refunding Bonds, Series 2009B.

The City has the potential opportunity to realize debt service savings from refunding (refinancing) callable maturities at a lower interest rate. These maturities include certificates of obligation Series 2001 and general obligation bonds Series 2001.

Pricing approval for the sale of the refunding issue would be delegated to the City Manager, subject to the parameters established by the ordinance.

Councilman Briley made the motion to approve the Ordinance Authorizing the Issuance of General Obligation Refunding Bonds, Series 2009B. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

Ordinance #35-2009 and captioned as follows:

AUTHORIZING THE ISSUANCE OF CITY OF ABILENE, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009B; ESTABLISHING PROCEDURES FOR THE SALE AND DELIVERY OF THE BONDS; LEVYING AN ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID BONDS; PROVIDING AN EFFECTIVE DATE; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT **(\$2,285,000)**

**7.2** Richard Burdine, Assistant City Manager for Economic Development, briefed the Council on the Annual Report of Activities for the Development Corporation of Abilene, Inc.

#### Progress Made Toward Goals

1. The DCOA approved assistance for four different companies. Two are local companies: Run Energy and Coca-Cola. A total of 174 jobs are to be retained and 45 jobs created.
2. The DCOA approved funds for training as follows: a) up to \$50,000 for the first four sessions of a wind tech pilot training program for Global Energy Services, b) \$37,500 job training grant to Run Energy, and c) \$60,000 to continue support of the Texas Manufacturing Assistance Center through FY2011.
3. The DCOA approved funds to begin construction of the Abilene Life Sciences Accelerator on Pine Street, which is an area near downtown that is very blighted and part of the Pine Street Corridor initiative. Space will be leased temporarily by the DCOA at 302 Pine Street to AISD for the newly created STEM high school.
4. The DCOA provides \$195,000 annually to the Small Business Development Center for counseling services provided free of charge to Abilene residents and businesses. In addition, the SBDC can assist businesses desiring to sell products or services to any level of government. For the second year in a row, the DCOA approved a sponsorship of ACU's Springboard Idea Challenge competition designed to promote entrepreneurial drive and spirit in Abilene.
5. During the report period (10/1/08 through 9/30/09) the DCOA approved \$2,417,000 in funding to assist companies with growth and retention in Abilene, anticipating new employment of 45 jobs and retained employment of 174 positions. The Abilene Life Sciences Accelerator is being constructed as part of a \$10 million project to enhance Abilene's new biotech research industry sector.

Councilman Williams made the motion to accept by Oral Resolution the DCOA's FY2009 Annual Report. Councilman Price seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

**7.3** Tommy O'Brien, Director of Water Utilities, along with Scott Hibbs with Enprotec/Hibbs & Todd Inc. briefed the Council on the status of Cedar Ridge Reservoir permitting and Geologic Investigations.

**Recommended Key  
Water Management Strategies**

- I. **Develop Cedar Ridge Reservoir as the Recommended Water Management Strategy**
  - Proceed with Water Rights Permitting through the Texas Commission on Environmental Quality (TCEQ)
  - Proceed with Section 404 Permitting through the Corps of Engineers
  - Proceed with Supporting Activities (Geotechnical; Environmental Studies; Surveying; Mapping; etc.)
- II. **Continue Planning for Alternative Water Management Strategies**
  - Purchase and Use of Water from Possum Kingdom Reservoir
  - Recycled (Reclaimed) Water into Lake Fort Phantom Hill

**Future Key Dates**

**Interlocal Agreement dated March 10, 2005, between Abilene, the WCTMWD and the BRA establishes:**

- **Cedar Ridge Reservoir**

**March 10, 2015:** Cedar Ridge Reservoir TCEQ Water Rights Permit deemed administratively complete with public notice issued.

**March 10, 2018:** Cedar Ridge Reservoir TCEQ Water Rights Permit issued.

- **Water Supply from Possum Kingdom Reservoir**

**March 10, 2015:** End of a preferential right and option to purchase 20,000 acre-feet per year of BRA system water from Possum Kingdom Reservoir. There is no cost to the City during this period for this option to purchase.

**March 10, 2025:** End of an extension of the preferential right and option to purchase 20,000 acre-feet per year of BRA system water from Possum Kingdom Reservoir. The cost of this extended option period will be at a Reservation Rate (i.e., a rate established by the BRA to reserve water prior to actual diversion and use of the water). Extensions to this date can be obtained by mutual agreement.

Council heard a report on Gypsum from Kenneth S. Johnson, Ph.D., Geologist. Gypsum was found at the original dam site.

Summary

Gypsum is soluble and typically contains cavities, sinkholes, and caves ("karst").

**Dams built upon gypsum karst generally are not able to retain water.**

Although not mentioned in the geologic literature, gypsum was discovered at original CR dam site.

**Gypsum is present in the Clear Fork Valley from the original CR dam site upstream to borehole SB-4.**

Best location for dam is upstream from SB-4.

**Two alternative dam sites were considered.**

Site A – top of gypsum is within 20 feet of bottom of reservoir  
– two narrow ridges are additional concern for seepage

Site B – top of gypsum is more than 50 ft below reservoir  
bottom – no narrow ridges at site B

Council then heard a report in regards to the updated size of the Cedar Ridge Reservoir due to the alternate site B for the dam. Site B is located further south upstream and will change the capacity of the Reservoir.

Council then heard a report on the Water Demands of 2060 based on the Brazos G and the Texas Water Development Board 2011 Plan. These demands are not a City issue, these are set out by the State for our Region.

### **Cedar Ridge Reservoir Upcoming Activities**

- **Continued Coordination with Ranches / Property Owners**
- **Develop Project Management Plan with Corps of Engineers (COE)**
- **Continued Inter-agency Coordination (Water Development Board)**
- **Continued Coordination with Brazos G Planning Group**
- **Continued Environmental Analyses**
  - **Brazos Water Snake Surveys**
  - **Aquatic Life Monitoring Surveys**
  - **Vegetation Mapping**
  - **Wetlands Survey**
- **Water Rights Permit Application Submission to TCEQ**
- **Initial Cultural Resources Evaluation**
- **Federal Section 404 Permitting and Mitigation Plan Preparation**
- **Installation of New USGS Stream gage at Lueders**

This item was for discussion only no action needed on this item.

### **EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session at 11:21 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 from Executive Session at 12:21 p.m. and reported no votes or action was taken in Executive Session in regards to Section 551.071 Consultation with the City Attorney, Section 551.072 Real Property and Section 551.074 Personnel Matters.

**10. Resolution** casting votes for the Board of Directors of the Central Appraisal District in proportion to the City's tax levy.

Mayor Archibald made the motion to cast votes for the following: David Copeland 834, Yvonne Batts 28, Dr. Colleen Durrington 28, and Cecil Davis 347. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Moore and Mayor Archibald

NAYS: None

Resolution **#36-2009** and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, VOTING FOR THE FOLLOWING INDIVIDUALS TO THE BOARD OF DIRECTORS OF THE CENTRAL APPRAISAL DISTRICT OF TAYLOR COUNTY FOR 2010-2011.

11 **Resolution** casting votes for the Board of Directors of the Jones County Appraisal District in proportion to the City's tax levy.

Mayor Archibald made the motion to cast all 81 votes for the following: Stormy Higgins Councilman Spano seconded the motion, motion carried.

Resolution **#37-2009** and is captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, VOTING FOR THE FOLLOWING INDIVIDUALS TO THE BOARD OF DIRECTORS OF THE JONES COUNTY APPRAISAL DISTRICT OF JONES COUNTY FOR 2010-2011.

AYES: Councilmen Price, Spano, Williams, Briley, Councilwoman Moore and Mayor Archibald

NAYS: None

ABSTAINED: Councilman Higgins

12 **Oral Resolution** approving the appointment/reappointments to the following boards and commissions.

**Abilene-Taylor County Public Health Advisory Board**

3 Year Terms

Re-appoint:

- Peter K. Norton M.D.

Appoint:

- Maureen Trotter, M.D.

**Abilene-Taylor County Venue District Board**

2 Year Terms

Re-appoint:

- Mayor Norm Archibald

**Airport Development Board**

3 Year Terms

Re-appoint:

- Stan Egger
- Woody Gilliland
- David Lynn

**Animal Services Advisory Board**

3 Year Terms

Re-appoint:

- Leah Herron
- Aaron Vannoy
- Tom Rigsby

**Board of Adjustment**

2 Year Terms

Re-appoint:

- Brad Carter
- Roger Huber
- Col. Morton Langholtz
- Bob Beerman (Alternate)

**Board of Building Standards**

2-Year Term

Re-appoint:

- Marvin Barber
- David Beard
- Lloyd Turner
- Matt Loudermilk

Appoint:

- Randy Halstead (Social Worker)

**Civil Service Commission**

3 Year Terms

Re-appoint:

- Hubert Pickett

**Abilene Housing Authority**

2 Year Terms

Re-appoint:

- Patricia Hippely



- Kiddy Boswell
- Vanessa Faz

- Vanessa Roberts
- Linda Carleton (at-large)

**Landmarks Commission**

**3 Year Terms**

**Re-appoint:**

- Laura Waldroup
- Dr. Michael McClellan
- Phil Miller

**Appoint:**

- Doug McIntyre

**Planning and Zoning Commission**

**3-Year term**

**Re-appoint:**

- Clint Rosenbaum

**Library Board**

**2-Year term**

- Stan Chapman
- John Williams
- Robert Carleton
- Brian Scalf
- Joe Specht

**Keep Abilene Beautiful Board**

**3-Year term**

**Re-appoint:**

- Malcolm Bramlett
- Carolyn Cockrell
- Martin Garcia
- JoAnn Szech

**Appoint**

- Jim Potts

**Child Advocacy Center**

**3-Year term**

**Appoint:**

- Craig Shaw
- Anthony Williams
- Nikki Favors

**Office of Neighborhood Services Advisory Council**

**2-Year term**

**Re-appoint:**

- Bill Culp

Councilman Price made the motion to approve the Mayor's recommendation for the Boards and Commissions. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Higgins, Briley, Councilwoman Moore and Mayor Archibald.

NAYS: None

There being no further business the meeting was adjourned at 12:25 p.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor