**CITY COUNCIL MEETING**

**November 4, 2010 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 4th, 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 Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Stormy Higgins gave the invocation.

Mayor Archibald introduced Ben Dobery. Ben attends Wylie Jr. High and is a 6th grader. Ben 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 14-20, 2010**

**National Hunger and Homelessness Awareness Week**

Alana Jeter, Executive Director Abilene Hope Haven, Inc., accepted the proclamation

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the Regular Meeting on October 26th there being no deletions, no additions, and no corrections, Councilman Price made a motion to approve the minutes as presented. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

**CONSENT AGENDA**

No items on the consent agenda.

**REGULAR AGENDA**

**7.1** Jon James Director of Planning and Development Services briefed the council on the Ordinance for case No. **CUP-2010-02** (*Final Reading*) on a request from NTCH NM, LLC for a Conditional Use Permit request for an Antenna Tower-Commercial, located at 1002 Elm Street.

The property is currently zoned HC. The properties to the north, south and west are developed as commercial uses. The property to the east is the Travis School, which is still owned by AISD and is in use as a school for secondary students. Across Elm Street approximately 100 feet to the south of the subject lot are residential uses.

Staff & Planning and Zoning Commission recommend approval.

Mayor Archibald opened the public hearing and council heard from:

* Michael Feigenbaum - spoke in favor on behalf of the Tower Company

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

Councilman Higgins made the motion to approve the Conditional Use Permit Ordinance CUP-2010-02 on a request from NTCH NM, LLC for a request for an Antenna Tower-Commercial, located at 1002 Elm Street. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance **#32-2010** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, PROVIDING FOR THE APPROVAL OF A CONDITIONAL USE PERMIT AS PROVIDED FOR IN CHAPTER 23, SUBPART B, “LAND DEVELOPMENT CODE,” OF THE ABILENE MUNICIPAL CODE; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH CONDITIONAL USE PERMIT; CALLING A PUBLIC HEARING; AND PROVIDING A PENALTY AND AN EFFECTIVE DATE.

**Location: 1002 Elm Street**

**7.2** Jon James Director of Planning and Development Services briefed the council on the Ordinance to amend the Land Development Code, Section 2.4.2.1 (Land Use Matrix) and Section 2.4.3 (Requirements Applicable to Specific Land Uses), regarding Petroleum or Gas Wells.

Staff is proposing to allow Petroleum or Gas Wells as a permitted use by right where a Conditional Use Permit is currently required. Additionally, staff is proposing that a condition be added to the Land Development Code stating that a drilling permit approved by City Council shall be required.

Staff recommends approval. Planning & Zoning Commission recommended approval of the amendments to Sections 2.4.2.1 and 2.4.3 with a modification that the use be permitted in all districts by a vote of 6-1 (Campos against). The majority of the Commission felt that the use should be permitted in all districts, subject to approval of the Oil & Gas Permit by City Council.

There are several requirements that have to be reviewed and signed by multiple departments when reviewing a drilling permit. All of the City’s requirements for the Oil and Gas Permit are in addition to those that the Railroad Commission requires. There is a public hearing and a notification area with City Council for the Oil and Gas Permits as well. This has been the past practice and has worked well. The City Council has complete discretion in approving or denying drilling permits. The requirement for a Conditional Use Permit only adds another layer of review to the approval process and does not add any additional zoning controls. This action would also void the only such Conditional Use Permit since it would no longer be necessary.

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

* Larry Wellhausen (Bullet Development) – for the change in the Code.

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

Councilman Briley made the motion to approve the Ordinance amending the Land Development Code, Section 2.4.2.1 (Land Use Matrix) and Section 2.4.3 (Requirements Applicable to Specific Land Uses), regarding Petroleum or Gas Wells. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Ordinance **#33-2010** and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 23, “PLANNING AND COMMUNITY DEVELOPMENT,” SUBPART B, “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.

**Amend: Section 2.4.2.1 Land Use Matrix**

**Section 2.4.3 Requirements Applicable to Specific Land Uses**

**7.3** Danette Dunlap City Secretary briefed the council on the Ordinance adopting and enacting a new Code of Ordinances. The Ordinance allows for the City to change vendors for the City’s Codification process from MuniCode to Franklin Legal.

The City entered into an agreement with Franklin Legal in May 2010 for the republication of the City Code. The Code now includes the Land Development Code adopted earlier this year by council.

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 to adopt and enacting a new Code of Ordinances. Councilwoman Miller seconded the motion, motion carried.

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

NAYS: None

Ordinance **#34-2010** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ADOPTING AND ENACTING A NEW CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE AMENDMENT OF SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

**Franklin Legal Publishing**

**EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 9:03am 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 11:17 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel.

**10** Action related to annual performance evaluations of the City Manager, City Attorney, Municipal Judge and City Secretary.

Mayor Archibald made the motion and stated that all four appointees had a favorable evaluation and recommended a 3% performance raise for all four and is retroactive back to October 1, 2010. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

There being no further business the meeting was adjourned at 11:18 a.m.

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Danette Dunlap, TRMC Norm Archibald

City Secretary  Mayor