

**CITY COUNCIL MEETING
November 18, 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 18th, 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.

Joe Spano gave the invocation.

Mayor Archibald introduced McKenzie McPherson. McKenzie attends Wylie Jr. High and is a 6th grader. McKenzie 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 2010

National Home Care and Hospice Month

Adell Stokes, Hendrick HouseCalls, accepted the proclamation

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the Regular Meeting on November 4th there being no deletions, no additions, and no corrections, Councilman Price made a motion to approve the minutes as presented. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

CONSENT AGENDA

Councilman Williams made the motion to approve consent items 6.1 through 6.9 except 6.2 pulled by a citizen. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Resolutions:

6.1 **Resolution:** Approving Financing by the Stamford Higher Education Facilities Corporation for the Benefit of Hardin-Simmons University. Hardin-Simmons University (HSU) has requested financing by the Stamford Higher Education Facilities Corporation, which is a higher education finance corporation. HSU is issuing approximately \$2.3 million in taxable and tax exempt obligations for the purpose of financing the cost of acquiring, constructing, renovating, remodeling and equipping education and

housing facilities, and facilities incidental, subordinate, or related thereto or appropriate in connection therewith, including 1) heating, ventilating, and air conditioning (HVAC) improvements on the campus at 2200 Hickory, including the Johnson Building, the Logsdon Building and Moody Center; 2) renovating and waterproofing including repairing roofs and drains to, Ferguson Hall, Nix Hall, the Logsdon Building and the Van Ellis Theatre on the Campus and 3) other improvements to the Campus including sidewalks, ramps, grounds and lighting. A portion of the proceeds will be used to pay certain expenses in connection with the issuance. Financing has been arranged by the Bank of America. The Bank of America's offer is conditioned upon the financing being "Bank Qualified" which means that the issuer and the City on whose behalf it was created may not issue more than \$10 million in tax-exempt securities in any year. For this reason, HSU has opted to have the Stamford Higher Education Facilities Corporation issue the obligation instead of the Abilene Higher Education Facilities Corporation (AHEFC) since the City's bond and certificates of obligation sale will exceed the \$10 million bank qualified cap.

The Federal Income Tax code contains a provision, Section 147(f), that will require the chief elected officer of the City of Abilene to sign an approval of the financing and the project, since the project is located in the City.

The City will have no liabilities for the payment of the obligations nor shall any of its assets be pledged to the payment of the obligations. Council approved the Resolution as presented.

Resolution **#29-2010** and captioned as follows:

RESOLUTION RELATING TO A PUBLIC HEARING AND APPROVING FINANCING BY THE STAMFORD HIGHER EDUCATION FACILITIES CORPORATION FOR THE BENEFIT OF HARDIN-SIMMONS UNIVERSITY AND RELATED MATTERS.

- 6.2** **Resolution:** Authorizing the Cities Aggregation Power Project, Inc. (CAPP) to Negotiate an Extension to the Current Electric Supply and Necessary related Services Agreement. *Item pulled by Citizen.*
- 6.3** **Oral Resolution:** Accepting the 2011 State Legislative Program. In January 2011, the Texas Legislature will convene the 82nd Texas Legislative Session. Because a significant number of bills filed by State legislators have fiscal and operational impact on the City of Abilene, the City has established a general legislative policy and has determined specific legislative initiatives that it supports and opposes through this 2011 State Legislative Program.

2011 State Legislative Program

- Support the passage of legislation that will provide the City greater flexibility with regards to retirement options and benefits provided by the Texas Municipal Retirement System.
- General Legislative Issues Include:
 - Water Supply, Infrastructure, and Conservation
 - Preserve Local Land Use Authority
 - Protection of Local Economic Development Authority
 - Parks Funding
 - Library Funding
 - Unfunded Mandates
 - Open Government
 - Controlled Substances

City Council approved the 2011 State Legislative Program as presented.

Ordinances:

- 6.4 Ordinance:** Appealed Item: **Z-2010-16** – (*First Reading*) on a request from Tina Hershaw to rezone property from MD (Medium Density) to PD (Planned Development) zoning, located at 1101 Palm St; and setting a public hearing for December 2, 2010. First Reading approved.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-134 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Location: 1101 Palm Street

- 6.5 Ordinance:** (*First Reading*) on a ordinance to amend the Land Development Code, Section 2.4.4 (Accessory Uses and Structures) regarding Accessory Dwelling Units; and setting a public hearing for December 2, 2010. First Reading approved.

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.

Amend: Section 2.4.4.1 (b)(4) Accessory Dwelling Units

Award of Bids:

- 6.6 Bid Award - CB-1102** Purchase of Various Bulk Chemicals for the Water and Wastewater Treatment Process. City Council approved the purchase of the following bulk chemicals.

Item:	Company	Unit Price
Liquid Aluminum Sulfate	General Chemical	\$248.00 Dry Ton
Anhydrous Ammonia	DPC Industries, Inc	\$1,920.00/Liquid Ton
Liquid Caustic Soda	FSTI Inc.	\$ 487.00/Dry Ton
Liquid Chlorine	DPC Industries, Inc.	\$614.00/Liquid Ton
Sodium Bisulfate	Dimmitt Sulfur Products, Ltd	\$451.25/Dry Ton
Hydrated Lime	Texas Lime Co.	\$142.00/Dry Ton
Fluorosilicic Acid	Harcross Chemicals	\$2,900.00/Dry Ton
Liquid Ammonium Sulfate	Altivia Corporation	\$397.50/Dry Ton
Ferric Sulfate	Kemira Water Solutions Inc	\$375.00/Dry Ton
Sodium Chlorite	Siemens Water Tech. Corp.	\$3,177.88/Dry Ton
Ferrous Chloride	Hydro Plus, Ltd.	\$926.00/Dry Ton
Dry Polyacrylamide	SNF Polydyne	\$2,900.00/Dry Ton
Cationic Polymer		

- 6.7 Bid Award:** Authorization to Purchase Cardiac Monitors/Defibrillators and Associated Software Program. 34 firefighters are now trained and certified as EMS-Paramedics, with 7 more waiting to test. The Fire Department now looks to purchase 9 cardiac monitor/defibrillators and associated software to equip each front-line fire engine. The Fire Department's goal is to respond paramedic engines to medical emergencies no later than 1 Jan. 2011. Total costs are \$254,275.81 to be funded by the equipment replacement fund. Council approved the purchase.

- 6.8 Bid Award: CB-1106** – Water Department Street & Miscellaneous Repair Work 2010-2011. This contract involves the on demand repair to existing portions of streets that have been damaged by the replacement of water lines. This work is an ongoing contract. Council approved the bid to Bontke Construction Co. for the amount of \$375,825.00.
- 6.9** Purchase of Ammunition for the Abilene Police Department – This purchase is to provide both practice ammunition for firearms qualifications and duty ammunition to be issued to Abilene Police Officers through FY 2011. The purchase will include 142,000 rounds of practice ammunition in various calibers for qualifications and 26,000 rounds of ammunition in various calibers to be issued for duty ammunition. Council approved the purchase through Precision Delta Corp. in the amount of \$51,158.70.

CONSENT ITEM PULLED

- 6.2 Resolution:** Authorizing the Cities Aggregation Power Project, Inc. (CAPP) to Negotiate an Extension to the Current Electric Supply and Necessary related Services Agreement.

- Linda Collins Regional Sales Manager for West Texas GDF SUEZ Energy Resources – Ms. Collins suggested that the council go out for competitive bids and look at other options separate from CAPP.

Odis Dolton Assistant Director of Finance gave a brief background in to CAPP. Mr. Dolton explained that other companies have been invited to bid. CAPP represents 154 cities and numerous non-profit organizations.

The current energy supply agreement with Next Era previously negotiated by CAPP expires December 31, 2013. Energy prices for each year of the current five-year contract were locked in at the time the contract was signed in the fall of 2008.

Next Era, has offered to liquidate the natural gas futures contracts it secured in 2008 to give CAPP and STAP members fixed electric rates for 5 years. Next Era would then purchase new gas futures contracts to secure fixed pricing for an eight-year period at rates less than rates that must be paid next year under the existing terms and conditions of the contract with Next Era. This would lower the contract prices for that are currently set for 2011-2013.

Councilman Williams made the motion to approve the Resolution that authorizes CAPP to act as an agent to negotiate and execute a contract with Next Era for the City's electricity needs for the period of 2011-2018. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Resolution # **30-2010** and captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AND NECESSARY RELATED SERVICES AGREEMENT WITH NEXT ERA FOR A FIXED PRICE PER KWH THAT IS LOWER THAN CONTRACT RATES FOR 2011-2013, SAID EXTENSION TO CONTINUE UNTIL DECEMBER 31, 2018; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING THE CHAIRMAN OF AGREEMENT FOR DELIVERIES OF

ELECTRICITY EFFECTIVE JANUARY 1, 2011 OR AS SOON AFTER FINALIZATION OF A CONTRACT AS POSSIBLE; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS THROUGH DECEMBER 31, 2018.

REGULAR AGENDA

7.1 Jon James Director of Planning and Development Services briefed the council on the appeal of a denial of a sidewalk waiver for property located at 6449 Buffalo Gap Road.

The Hamil Family Funeral Home is in the site plan process for their property, which has triggered sidewalk construction per the City's Sidewalk Master Plan and the Land Development Code. Per the appeal provisions, the owner's agent sought a waiver of the sidewalks along Champions Drive, along the north boundary of the property. This request was reviewed by both the Planning Director and City Engineer and both were in agreement that there was not reasonable justification for granting the waiver along Champions Drive.

Summary

- Sidewalk construction triggered by new development on the property (building and parking lot expansion)
- Existing trees & light poles make a standard sidewalk difficult and costly.
- However, alternative placement of the sidewalk within an easement on the property is an allowable alternative under the ordinance.
- Issues regarding the driveway cross-slope can also be resolved by moving the sidewalk closer to the parking lot.
- In addition, modifications to the sidewalk standards (minimum width, etc.) based on site conditions are possible by seeking a "deviation" authorized in the ordinance, rather than a complete waiver.

Staff recommends denial of the waiver of the sidewalk along Champions Drive.

Council and Staff discussion included: 1) sidewalk to nowhere; 2) what is practical for this area; 3) to serve the overall transportation of the area; 4) if a business builds on the property north of Hamil Family Funeral Home the new business would be required to build a sidewalk; 5) traffic patterns; and 6) being fiscally responsible.

Mayor Archibald opened the public hearing and council heard from:

- David Todd Engineer with Enprotec/Hibbs & Todd – spoke in favor of the waiver.
- Mary Kindrick with the Federation of the Blind – spoke in support of the denial of the waiver.
- Mike Vandervoort with the Federation of the Blind – spoke in support of sidewalks.

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

Councilman Price made the motion to approve the sidewalk waiver for property located at 6449 Buffalo Gap Road. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 9:33 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 10:32 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel and Section 551.071 Consultation with City Attorney. Councilman Williams left during Executive Session.

There being no further business the meeting was adjourned at 10:32 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor