

CITY COUNCIL MEETING
March 24, 2011 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 March 24th 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, Robert O. Briley, Anthony Williams, Stormy Higgins, and Councilwoman Kellie Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Jerry Liu. Jerry attends Reagan Elementary and is a 5th grader. Jerry led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

March 2011

Professional Social Work Month

Alan Lipps accepted the proclamation.

April 2011

Autism Awareness Month

Lewis and Jessica Hardin and their son Clay, Rick and Kim Wombles and their son Bobby and David Vela and son Alex accepted the proclamation.

April 11-17, 2011

The Week of the Young Child

Jeff Emery accepted the proclamation and several young children gave the council cookies and milk.

Mayor Archibald recognized Chris Kyker for her commitment to physical fitness in Abilene with the first Special award that recognizes a local fitness leader in our community.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the March 10th Regular Meeting there being no deletions, no additions, and no corrections, Councilman Price made a motion to approve the minutes as presented. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

CONSENT AGENDA

Councilman Briley made the motion to approve consent items 6.1 through 6.8 as recommended by staff. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Oral Resolutions:

- 6.1** **Oral Resolution:** Council authorized the City Manager to execute a Temporary Airport Use Agreement with Big Country AirFest, Inc.
- 6.2** **Oral Resolution:** Council authorized the City Manager to negotiate an Interlocal Agreement between Abilene, Midland and San Angelo to work together to address water management strategies to meet future water needs for each City.

Resolutions:

- 6.3** **Resolution:** Council authorized the Execution of Amendment No. 5 to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd to continue permitting and other activities associated with the regional water supply project's Cedar Ridge Reservoir.

Resolution [#5-2011](#) and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO.5 TO A
PROFESSIONAL SERVICES AGREEMENT WITH ENPROTEC/HIBBS & TODD TO
CONTINUE PERMITTING AND OTHER ACTIVITIES ASSOCIATED WITH THE
REGIONAL WATER SUPPLY PROJECTS CEDAR RIDGE RESERVOIR

- 6.4** **Resolution:** Council authorized the City of Abilene to accept improvements named the Police Education Building from the Friends of Safety City located on the grounds of the Melvin Martin Center for Children's Safety.

Resolution [#6-2011](#) and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CITY OF ABILENE TO ACCEPT IMPROVEMENTS NAMED THE
POLICE EDUCATION BUILDING LOCATED ON THE GROUNDS OF THE MELVIN
MARTIN CENTER FOR CHILDREN'S SAFETY

Ordinances:

- 6.5** **Ordinance:** **Z-2011-04** – (*First Reading*) on a request from Aaron Waldrop to rezone property from AO (Agricultural Open Space) to PH (Patio Home) zoning, located at the southwest corner of Innisbrook Dr. and Memorial Dr., being approximately 15.4 acres; and setting a public hearing for April 14, 2011.

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

- 6.6 **Ordinance: Z-2011-05** – (*First reading*) on a request from The Charter Corporation to rezone property from AO (Agricultural Open Space) to MF (Multi Family Residential) zoning, located at 2802 Old Anson Rd.; and setting a public hearing for April 14, 2011.

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

- 6.7 **Ordinance: Z-2011-06** – (*First reading*) on a request from Aaron Vannoy to rezone property from MD (Medium Density Residential) to MD/H (Medium Density Residential with Historic Overlay) zoning, located at 741 Vine St.; and setting a public hearing for April 14, 2011.

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

- 6.8 **Ordinance: Z-2011-07** – (*First reading*) on a request from Sheldon Bray to rezone property from RS-6 (Single Family Residential) to RS-6/H (Single Family Residential with Historic Overlay) zoning, located at 742 Amarillo St.; and setting a public hearing for April 14, 2011.

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

REGULAR AGENDA

- 7.1 Mindy Patterson Director of Finance briefed the City Council on the Financial Audit Review and Investment Policies.

**GENERAL FUND
BALANCE SHEET
SEPTEMBER 30, 2010**

	General Fund
FUND BALANCES:	
Reserves:	
Reserved for encumbrances	\$ 803,170
Reserved for other assets	10,048
General Fund:	
Unreserved, designated for 27th pay period	630,000
Unreserved, undesignated fund balance	<u>17,141,860</u>
Total Fund Balances	\$ <u>18,585,078</u>
TOTAL LIABILITIES AND FUND BALANCES	\$ <u><u>26,287,300</u></u>

General Fund

Revenues Exceeding Estimates:

- Property Tax = \$362,981
- Penalty and Interest = \$95,270
- Sales Tax = \$273,013
- Franchise Fees = \$135,937
- Licenses and Permits = \$91,320
- All Other Revenues = \$70,420
- Total \$1,028,941

Expenditures Below Estimates:

- Personal Services = \$155,773
- Supplies = \$126,406
- Other Services and Charges = \$1,051,544
- Maintenance = \$117,990
- Capital Outlay = \$30,302
- Total \$1,482,015

**SELF INSURANCE FUND
 BALANCE SHEET
 September 30, 2010**

	Self Insurance Fund
<u>ASSETS</u>	
Cash and cash investments	\$ 4,119,158
Investments	113,950
Accounts receivable	450
Prepaid items	95,774
Total Assets	\$ <u>4,329,332</u>
<u>LIABILITIES AND FUND BALANCES</u>	
LIABILITIES:	
Vouchers payable	\$ 101,699
Accrued wages and withholding	9,780
Estimated liability claims	2,447,814
Estimated health claims	1,040,358
Noncurrent liabilities	24,646
Total Liabilities	\$ <u>3,624,297</u>
FUND BALANCES:	
Restricted for Claims	\$ <u>705,035</u>
TOTAL LIABILITIES AND FUND BALANCES	\$ <u>4,329,332</u>

Diana Terrell with Davis, Kinard & Co., PC CPA firm, presented their findings to council and reported a clean audit.

Councilman Williams made the motion to approve the 2010 Financial Report and the Investment Policies as presented. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

7.2 David Sartor Building Official briefed the council on the final reading for the Ordinance to adopt the 2009 International Building Residential, Existing Building, Mechanical, Plumbing, and Fuel Gas Codes, with Local Amendments to each.

It is recommended that the *2009 International Building Code*, *2009 International Residential Code*, *2009 International Mechanical Code*, *2009 International Plumbing Code* and *2009 International Fuel Gas Code*, with local amendments, be adopted in order that the City's construction regulations are kept up to date. Local amendments pertain to licensing and administrative procedures with limited modifications made to the technical provisions of the International Codes. Each Code was reviewed by a citizen's ad-hoc committee, comprised of contractors, architects, engineers and suppliers.

Staff reviewed the following changes to the codes: 1) A new amendment proposed in all codes pertains to charge account customers; 2) Contractors who fail to pay accounts will no longer be allowed to obtain permits until the past due account is paid; 3) New proposed local amendment requires design by a licensed architect for NEW construction as follows: Assembly Occupancies over 5000 square feet. Business, Hazardous, Residential R-1 and R-2 Occupancy Groups over 10,000 square feet; 4) Bed and breakfast occupancies with 10 or fewer occupants can now be constructed as an R-3 building (R-3 is a single family dwelling) This means an automatic fire sprinkler system is not required; 5) New standard for the construction of Storm Shelters. Currently there are no provisions specific to this type of construction; 6) Group E Occupancies (education building up to 12th grade) now require automatic fire sprinkler system throughout when fire area exceeds 12,000 square feet. Previously the fire area was 20,000 square feet. Fire sprinklers not required when fire areas are established at a maximum of 12,000 square feet; 7) Group M Occupancies (Mercantile) used for the display and sale of upholstered furniture are required to be provided with an automatic fire sprinkler system regardless of the size. Mattresses and box springs are not considered as upholstered furniture; 8) Manually operated horizontal sliding doors are now permitted in a means of egress from spaces with an occupancy load of 10 or less in all occupancy classifications except Group H (Hazardous) Previously egress doors were required to be side hinged; 9) IRC requires automatic fire sprinkler system in all dwellings. New state law prohibits a municipality from adopting a code requiring fire sprinklers under the IRC. Therefore, this section has been deleted. An owner still has the option to have a fire sprinkler system installed; 10) Carbon Monoxide detectors are now required in one and two family dwellings with gas burning appliances and/or with an attached garage. Detectors can be combination smoke and CO detectors; 11) Concrete foundation design updated by the Foundation Ad-Hoc Committee. New design is based on the Plasticity Index of the soil Design provides specific design for PI up to 40. Soils with a PI over 40 will require a site specific engineered design. PI can be established using the USDA Soil Survey, or by site specific soil tests; 12) Standard for Waterless urinals now recognized and approved for use; and 13) New exceptions allow installation of *light duty appliances* without a Type II hood when the HVAC system is designed to handle the heat and moisture load of the appliances.

The Mechanical, Plumbing, Electrical & Swimming Pool Board of Appeals recommends approval of the 2009 edition of the IMC, IPC and IFGC by unanimous vote at their meeting held on January 11, 2011. The Board of Building Standards recommends approval of the 2009 edition of the IBC, IRC and IEBC by a vote of six to one at their meeting held on February 23, 2011.

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

- Tim McClarty, Chairman of the Planning and Zoning Commission and an architect – Mr. McClarty is for the changes in the code, he also spoke in favor of the lowered limit for the construction of new buildings by an architect.

- Steve Ellinger – Chairman of the Board of Building Standards and an architect – Mr. Ellinger isfor the changes in the code and the changes for the architect requirements for the health and safety of the citizens of Abilene.
- Rob Byrd – spoke against the new regulations.
- Pat Hippely – spoke against the regulations.
- Cecil Fain – concern on design and approval process.
- Dawn Wagner – spoke against the regulations.
- Marsha Carter – spoke against the regulations.
- Winston Ohlhausen – concern on the costs to small business.
- Phil Watkins – private inspector – spoke for the regulations.

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

Council and Staff discussion included: 1) No changes in the fees; 2) State of Texas has adopted the 2009 International Codes; 3) codes are not retroactive; and 4) Architect requirement below the State standard of 20,000 sq ft.

Councilman Williams made the motion to approve the adoption of the 2009 International Building Residential, Existing Building, Mechanical, Plumbing, and Fuel Gas Codes, with Local Amendments to each with the exception of leaving the requirement for a licensed architect for Assembly Occupancies over 5000 square ft. at the State Standard of 20,000 square feet. Councilwoman Miller seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Higgins, Councilwoman Miller

NAYS: Councilman Briley and Mayor Archibald

Ordinance [#10-2011](#) and captioned as follows:

AN ORDINANCE AMENDING: (1) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 2, "BUILDING CODE"; OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; (2) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 4, "PLUMBING CODE"; OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; (3) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 5, "MECHANICAL CODE"; OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; AND AN ORDINANCE APPROVING: (4) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 8, "RESIDENTIAL CODE"; OF THE ABILENE MUNICIPAL CODE, BY ADDING CERTAIN SECTIONS AS SET OUT BELOW; (5) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 9, "FUEL GAS CODE"; OF THE ABILENE MUNICIPAL CODE, BY ADDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY, AND CALLING A PUBLIC HEARING; (6) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 11, "EXISTING BUILDING CODE"; OF THE ABILENE MUNICIPAL CODE, BY ADDING CERTAIN SECTIONS AS SET OUT BELOW;

PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

7.4 Mayor Archibald moved the discussion and presentation of Maxwell Municipal Golf Course as the next item on the agenda.

Mike Hall Director of Community Services gave a brief over view of the golf course and then turned it over to Phil Gage the Chairman of the Maxwell Municipal Golf Committee.

Council and Staff discussion included: 1) watering of fairways; 2) free water?; 3) membership is up; 4) subsidy payments from the city; 5) more holes of golf in the area that our sister cities; 6) should we be competing against the private market; 7) quality of life issue for the children and seniors that play on the course; 8) the private market doesn't have competing recreation areas that would compete with the city's; 9) subsidy through this fiscal year only; 10) raise rates; 11) grants? 12) what about a group like the Friends of the Library – Friends of Maxwell Golf; and 12) what about the course becoming either a 9 hole course or 3 hole course.

No action was taken on this item.

7.5 Bid Award **#CB-1116** Maxwell Municipal Golf Course Pump Station Replacement. Councilman Price made the motion to take this item off the TABLE. Councilman Williams seconded the motion, motion carried.

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

Council and Staff discussion included: 1) could the pumps be used somewhere else in the city, Mike Hall Director of Community Services felt that the pump could be sold to another golf course if the status changes at Maxwell.

Councilman Briley made the motion to approve the purchase of the replacement pump at Maxwell Municipal Golf Course and awarded the bid to Sparks Pump Service in the amount of \$73,500.00. Councilwoman Miller seconded the motion, motion carried.

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

7.3 Jon James Director of Planning Development Services briefed the City Council on the Capital Improvement Program.

Significant Changes

Project #5575-01-06 Fire Apparatus Replacement, has generated the most significant amount of discussion this year. A rollover crash of a fire engine in 2010 that totaled the unit prompted graduation of this project from its previous unfunded status. The project would use the CIP as the primary funding source for fire equipment replacement on a planned unit life-cycle basis. A second significant change this year is a proposed shift by Public Works away from the reconstruction of one or two streets each year to a neighborhood area maintenance concept.

A Federal Transportation Enhancement award for \$701,675 to the City for median and sidewalk improvements along S 1st Street was not included in the 2011 CIP. This project would be eligible for inclusion in the CIP, but staff believes the timing and details are simply too preliminary and subject to change for inclusion in

the CIP this year. Review and approval of this project will be included in next year's CIP or individually this year depending on the speed of progress made in the coming months.

Certificates of Obligation for \$1,500,000 can be funded within the current certificate debt tax rate policy of 10.7¢. Water and Wastewater projects of approximately \$31,550,000 are proposed over the next 5 years. Water/Wastewater projects are enterprise fund projects capitalized primarily through utility rates. No increase in the debt tax rate will occur because of issuance of certificates of obligations (C.O.'s) if approved as recommended.

Council and Staff discussion included: 1) South downtown – Expand scope of South 1st Street median and streetscaping project (TxDOT grant funded: \$701,675 plus local match); 2) South 3rd Curb Extensions, Crosswalks, and Streetscaping; 3) Improve pedestrian underpasses (\$50,000 - \$75,000); 4) Convert N. 2nd, N. 3rd, N. 4th, and N. 5th to two-way streets (\$30,000 - \$50,000); 5) Install high visibility crosswalks across South 1st Street (\$275,000 - \$325,000); 6) Enhance Gateway intersections (\$300,000 - \$550,000); 7) South Downtown Street Resurfacing (\$200,000 - \$400,000); 8) waiting on part of the reconstruction of College Drive; 9) Bond Election; and 10) Red lights intersections – review to see if still needed at some locations.

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

- Gary Glenn – questioned the purchase of a fire truck in the CIP program.

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

Councilman Briley made the motion to approve the Resolution approving and adopting the 2011-2015 Capital Improvements Program as presented in the City Managers recommendations. Councilman Price seconded the motion, motion carried.

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

Resolution [#7-2011](#) and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF ABILENE APPROVING AND ADOPTING THE
2011-2015 CAPITAL IMPROVEMENTS PROGRAM

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 12:40 pm 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 1:15 pm and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property.

There being no further business the meeting was adjourned at 1:16 pm.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor