

**CITY COUNCIL MEETING**  
**August 11, 2011 5:30 p.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 August 11<sup>th</sup>, at 5:30 p.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, Assistant City Secretary Tiffni Hererra, and various members of the City staff.

Councilman Price gave the invocation.

Mayor Archibald introduced Mary Catherine and Joshua Santee. They both attend Wylie Elementary School and are the children of Dan Santee, City Attorney and Megan Santee, Public Works Director. Mary Catherine and Joshua led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

Mayor Archibald and Mr. Gilley recognized the loss of a valued city employee, David Marshall who worked in the Building Inspection Division as an electrical inspector.

Mayor Archibald announced the dates and times of the public hearings that are scheduled for the proposed tax rate for FY 2012.

**DISPOSITION OF MINUTES**

- 5.0** Mayor Archibald stated Council has been given the minutes from the July 27<sup>th</sup> workshop and July 28<sup>th</sup> regular meeting there being no deletions, no additions, and no corrections, Councilman Briley made a motion to approve the minutes as presented. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

**CONSENT AGENDA**

Councilman Williams made the motion to approve consent items 6.1 through 6.7 as recommended by staff. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

ABSTAIN: Mayor Archibald and Councilman Price for Item 6.3

**Oral Resolutions:**

- 6.1 Oral Resolution** – Authorized the City Manager to sign a Charitable Solicitation Agreement between the Muscular Dystrophy Association and the City of Abilene for “Fill the Boot” Campaign to take place on August 19<sup>th</sup> & 20<sup>th</sup> by the firefighters from Dyess Air Force Base.
- 6.2 Oral Resolution** – City Council acknowledged receipt of Abilene-Taylor County Events Venue District Budget for Revised FY 2011 and Approved FY 2012. All funds are generated from the 2% hotel/motel venue tax.

**Ordinances:**

- 6.3 Ordinance** – (*First Reading*) Case # **Z-2011-16** a request from Hendrick Medical Center to rezone property from MU/COR (Medical Use with Corridor Overlay) to CU/COR (College University with Corridor Overlay) zoning located at 1718 Pine St. and a portion of 1117 N. 18th St.; and setting a public hearing for August 25, 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.

**Location: 1718 Pine Street, and a portion of 1117 N 18<sup>th</sup> Street**

- 6.4 Ordinance** - (*First Reading*) Case #**Z-2011-17** - a request from Chick-Fil-A to rezone property from LI (Light Industrial) to GR (General Retail) zoning located at 1750 HWY 351; and setting a public hearing for August 25, 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.

**Location: 1750 Hwy 351**

- 6.5 Ordinance** - (*First Reading*) Case #**TC-2011-02**- a request from Abilene Independent School District to abandon Clinton St. and the north to south alley rights-of-way, between N. 8th St. and State St.; and setting a public hearing for August 25, 2011

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: Clinton St and the N to S alley rights-of-way between N. 8<sup>th</sup> and State St.**

- 6.6 Ordinance** – (*First reading*) on an Ordinance Amendment to Section 2.4.2.1 (Land Use Matrix) concerning Antenna Tower-Commercial; and setting a public hearing for August 25, 2011.

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.

**Change: Amend Chart for ‘Antenna Tower – Commercial’ in the GR Zoning District**

- 6.7 Ordinance** – (*First Reading*) approving a Negotiated Resolution between the Atmos cities steering committee (“ACSC” or “Steering Committee”) and Atmos Energy Corp., MID-TEX Division (“Atmos MID-TEX” or “company”) regarding the company’s Fourth Annual rate review mechanism (“RRM”) filing in all cities exercising original jurisdiction; declaring Existing rates to be unreasonable and setting a public hearing for August 25<sup>th</sup>, 2011.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, (“CITY”) APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC” OR “STEERING COMMITTEE”) AND ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX” OR “COMPANY”) REGARDING THE COMPANY’S FOURTH ANNUAL RATE REVIEW MECHANISM (RRM) FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE RATEMAKING EXPENSES; REPEALING CONFLICTING RESOLUTION OR ORDINANCES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE’S LEGAL COUNSEL.

## REGULAR AGENDA

- 7.1** Tommy O’Brien, Director of Water Utilities briefed the council on the Resolution that authorizes the filing and prosecution of the necessary State and Federal Permit Application process for the Cedar Ridge Reservoir Project.

The Professional Service Agreements with the consulting engineers involved in the work associated with Cedar Ridge for the preparation of applications for the necessary water rights permit, water quality certification, and the Section 404 Permit have been executed by the City and are being completed. Any needed additional contract(s) will be presented to the City Council for approval prior to beginning any new work. The City will continue to employ outside legal counsel for support in pursuing these applications, as necessary. Funding for such professional services will be from the City’s Water and Sewer Fund.

The Staff is requesting, through a written resolution, that the City Council authorize the City Manager to proceed with: (i) preparing, filing and prosecuting all applications to the TCEQ to obtain necessary permits and authorizations for the Cedar Ridge Reservoir; (ii) preparing, filing and prosecuting all applications to the COE to obtain a Clean Water Act Section 404 permit for the Cedar Ridge Reservoir; (iii) making all expenditures necessary in order to prepare, file and prosecute the applications for the Cedar Ridge Reservoir; and (iv) taking any and all actions deemed necessary and appropriate to successfully pursue the evaluation and permitting of the Cedar Ridge Reservoir. This Resolution, and accompanying information, will be submitted to state and federal agencies and to all interested persons, as appropriate.

Mayor Archibald gave an overview of the future water supply for our area, and gave the importance of the establishment the Reservoir for our area. This is a long process and this is the beginning.

Council and Staff discussion included: 1) the permit schedule; 2) the drought conditions and 3) the city vision, along with managing our water resources.

Councilman Price made the motion to approve the Resolution authorizing the filing and prosecution of the necessary State and Federal Permit applications for the Cedar Ridge Reservoir Project. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Resolution #14-2011 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE FILING AND PROSECUTION OF THE NECESSARY STATE AND FEDERAL PERMIT APPLICATIONS FOR THE CEDAR RIDGE RESERVOIR PROJECT.

**7.5** Mayor Archibald moved item 7.5 up to the next item on the agenda.

Mindy Patterson, Director of Finance briefed the council on the required public hearing on the proposed 2011-2012 tax rate for the City. The FY 2012 Budget approved by Council on July 27, 2011 set the tax rate at 69.32¢. State law requires that 2 public hearings must be held prior to the final public hearing and vote. Another public hearing will be held on August 25, 2011, with the final public hearing and vote to be held on September 8, 2011.

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

No action needed for this item.

**7.2** Mayor Archibald announced that this item had been Tabled and will take a motion to take the item off of the Table.

Councilman Price made a motion to remove item 7.2 from the Table – Marketing Agreement with Utility Service Partners Private label, Inc., d/b/a Service Line Warranty America. Councilman Williams seconded the motion, and the motion carried.

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

NAYS: None

Larry Gilley, City Manager briefed the city council on the additional information that had been requested from the last council meeting. Council has been provided the financial information on the company and the Request for Proposal with the North Central Texas Council of Government.

Staff has performed significant research on the company, and it is staff's opinion that the company is financially stable at this time. Additionally, USP has an A+ rating from the Better Business Bureau and they have obtained all the requisite licenses, permits, etc., to operate in the State of Texas. Staff recommends approval of these agreements.

Council and Staff discussion included: 1) could the citizens of Abilene participate if the City didn't enter into a marketing agreement – answer is no the company wouldn't go directly to the citizens; 2) costs of line replacement for water and sewer lines on private property; 3) optional program citizens must choose to opt-in; and 4) annual agreement with the City.

Questions from the audience included: 1) Helen Hickman – question on fees; 2) Steve Walker with Flournoy Plumbing – had made contacts in other cities where the program is currently being run – just had concerns about only 1 plumber getting all the jobs; 3) Lewis Bergman – Mayor of Winters – owns property in Abilene and is for the program; 4) Pat Hippely – voiced her concern over the program; 5) Johnny Bevills – owner of Bevills Plumbing had concerns; 6) Charles Caldwell – homeowner had questions about what is the home owner’s responsibility. Mr. Gilley explained that the homeowner is responsibility from the water meter tap to the foot print of the home and on the sewer from the sewer main (tap) to the foot print of the home; 7) Joe Cordo – checked with his insurance company and they didn’t cover this type of coverage. Looking forward to having this program in place; 8) Dan Symonds – doesn’t understand why the city has to get involved in this.

Councilwoman Miller made the motion to authorize the City Manager to execute all documents necessary to enter into a marketing agreement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

**7.3** Jon James Director of Planning and Development Services briefed the council on the Ordinance for Case No. Z-2011-15, a request from Minda Street Church of Christ to rezone property from RS-6 (Single Family Residential to NR (Neighborhood Retail) zoning, located at 855 Minda Street.

Currently the property is zoned RS-6 and has been developed as a church facility. The subject property is at the intersection of two collector streets. The properties to the north and east are developed with single family residential dwelling units. The property to the west has been developed as a park. The property to the south has been developed as an industrial use.

Staff recommends approval as requested. The Planning and Zoning Commission recommended approval of a smaller portion of the request by a vote of five (5) in favor to none (0) opposed and one (1) abstention.

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

- Tony Roach – Minister of Minda Street Church of Christ. Church has been there 32 years and they plan on staying there.

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

Councilman Price made the motion to approve the smaller portion as set out by the Planning and Zoning Commission for the Ordinance for Case No. Z-2011-15, a request from Minda Street Church of Christ to rezone property from RS-6 (Single Family Residential to NR (Neighborhood Retail) zoning, located at 855 Minda Street. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

ABSTAINED: Councilman Williams

Ordinance **#25-2011** and captioned as follows:

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.**

**Approximately 1.12 acres, being a portion of Williams Estate Sub Cont 1, Block A, Lot 129 Rep as shown.**

**Location: 855 Minda Street**

**7.4** Jon James Director of Planning and Development Services briefed the city council on the Resolution for the approval of FY 2011/2012 One-Year Action Plan for CDBG and HOME programs.

As an entitlement city receiving funds from the U.S. Department of Housing and Urban Development (HUD), the City of Abilene is required to submit a Consolidated Plan that strategically addresses the City's goals and objectives for housing and community development over the course of a five-year period. The City of Abilene is also required to submit a One-Year Action Plan outlining specific uses of Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funds planned for the coming fiscal year. The Office of Neighborhood Services Advisory Council was instrumental in the development of the goals and objectives of the Consolidated Plan, which were adopted by Council on May 22, 2010. The One-Year Action Plan must be submitted to HUD by August 11, 2011.

FY 2011 CDBG and HOME funds have been reduced by 16% and 11% respectively, which preclude funding for city public services and outside agencies. There will be no impact on local taxes. Projects are to be funded using FY 2011 entitlement of \$983,773 CDBG, \$67,505 CDBG reprogrammed funds, entitlement of \$544,262 HOME and \$34,487 HOME reprogrammed funds. In addition, the City anticipates that it will receive \$13,500 from HOME program income during FY 2011/2012.

**Complete Sources of Federal Funds Program Year 2011  
Community Development Block Grant (CDBG)**

**Sources of Funds**

2011Entitlement	\$983,773
2011 Projected Program Income	0
Prior Year Reprogrammed Funds	<u>67,505</u>
<b>Total Funds Available</b>	<b>\$1,051,278</b>

**Proposed Uses of Funds**

**Non-Public Service Activities**

CDBG Housing Administration	\$80,640
CDBG Planning & Development Services Administration	116,110
Section 108 Debt Repayment	851,980
Section 108 Debt Reserve	<u>2,548</u>
<b>Total Use of CDBG Funds</b>	<b>\$1,051,278</b>

**HOME Investment Partnerships Program (HOME)**

**Sources of Funds**

2011 Entitlement	\$544,262
2011 Potential Program Income	13,529
Prior Year Reprogrammed Funds	<u>34,487</u>

**Total Funds Available** **\$592,278**

**Proposed Uses of Funds**

General Administration	\$29,520
Housing Rehab Administration	26,260
Single Family Rehabilitation 409,858	
First-Time Homebuyer	45,000
Community Housing Dev Organization 15% Set Aside	<u>81,640</u>
<b>Total Use of HOME Funds</b>	<b>\$592,278</b>

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

- Aaron Shaver – had questions about how citizens apply for funds – Office of Neighborhood Service has applications in their office for the various programs. Lives in the Stevenson Area Neighborhood. Federal rules will not allow for the funds to be used in a Flood Plan area.
- Hattie Washington – live in Carver Area, house was flooded in 1981. Councilman Williams explained that CDBG funds cannot be used for her home.
- Pat Hippely – doesn't believe that we should have the Office of Neighborhood Service Office.
- Helen Hickman – Stevenson Area – working to get it safer now. Asking for a little bit of help.
- Robert Lilly – with Stevenson Neighborhood Coalition – supports the CDBG & HOME Funds Budget and the work they do.
- Kevin Christian – served on non-profit boards that have received monies from the Funds and had questions on Administrative costs.
- Jon James and Sandy Bowen - Administrative cap has decreased. Staff has decreased throughout the years as funding has decreased.
- Hester Woods – Nixon – Believes that the tax monies need to be spent in neighborhood where people benefit.
- Steven Leggett – Habitat for Humanity – Support the ONS Staff and the funding the city receives from CDBG & HOME.

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

Councilman Higgins made the motion to approve the Resolution approving the FY 2011/2012 One-Year Action Plan for CDBG and HOME Programs. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Resolution **#15-2011** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING THE FY 2011/12 ACTION PLAN FOR THE CONSOLIDATED PLAN AND PROJECTED USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUNDS

## EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 7:40 p.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 8:10 p.m. and reported no votes or action was taken in Executive Session in regards to 551.072 Real Property.

**10** Appointments to the following Board:

Abilene Public Library Advisory Board

Councilman Price made the motion to approve the Mayor's appointment to the Abilene Public Library Advisory Board. Councilman Higgins seconded the motion, motion carried.

- Nancy Stephenson
- Carrie Casada

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

NAYS: None

There being no further business the meeting was adjourned at 8:15 p.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor