

CITY COUNCIL MEETING
September 8, 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 September 8th, 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, Stormy Higgins and Councilwoman Kellie Miller. Absent Councilman Robert O Briley. 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 Griffin Cooke a 5th grader at Austin Elementary School. Griffin led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

EMPLOYEE SERVICE AWARDS

Mayor Archibald assisted by City Manager Larry Gilley honored the following City Employees for their years of service.

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|----------------------------------|---|-----------------|
| <i>Thomas "Cole" Edmondson</i> | <i>Animal Control Officer I</i> | <i>20 Years</i> |
| <i>Russell A. Clark</i> | <i>Police Criminal Invest</i> | <i>20 Years</i> |
| <i>James P. Craft</i> | <i>Police Officer – Patrol</i> | <i>20 Years</i> |
| <i>Bradley P. McGary</i> | <i>Police Lieutenant – Patrol</i> | <i>20 Years</i> |
| <i>Patrick Perez</i> | <i>Police Officer – Patrol</i> | <i>20 Years</i> |
| <i>Lance Vines</i> | <i>Police Officer – Patrol</i> | <i>20 Years</i> |
| <i>Melinda "Mindy" Patterson</i> | <i>Director of Finance</i> | <i>20 Years</i> |
| <i>Mary Anne Sides</i> | <i>Supervisor II, Call for Help</i> | <i>25 Years</i> |
| <i>George W. Hollingsworth</i> | <i>Firefighter – Fire Tactical Operations</i> | <i>30 Years</i> |

ANNOUNCEMENT

Mayor Archibald announced that the City would be participating in the 911 Moment of Remembrance at City Hall.

The 9/11 National Moment of Remembrance, organized by the U.S. Senate, is calling on all Americans to pause and remember the 10th anniversary of the tragedies of September 11, 2001.

Citizens are asked to meet at the Walnut St. entrance of City Hall at 11:50 a.m. for a brief, commemorative gathering. At noon, Abilene first responders from the Abilene Police Department, the Abilene Fire Department and MetroCare will sound their sirens for one minute as those gathered reflect on a day that forever changed America.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the August 25th regular meeting there being no deletions, no additions, and no corrections. Councilman Higgins made a motion to approve the minutes as presented. Councilwoman Miller seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Higgins, Councilwoman Miller and Mayor Archibald
NAYS: None

CONSENT AGENDA

Councilman Price made the motion to approve consent items 6.1 through 6.13 as recommended by staff. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Higgins, Councilwoman Miller and Mayor Archibald
NAYS: None
ABSTAIN: Councilman Higgins on item 6.1

Oral Resolutions:

6.1 Oral Resolution - Approved a Street Use License from Hardin-Simmons University for the 2011 Football Season. For the purpose of controlling vehicular access to Simmons Avenue between Ambler and Vogel Avenue during football games.

6.2 Oral Resolution – Accepted the 9-1-1 Emergency Communications District Revised FY 2011 and Proposed FY 2012 Budget. Highlights in the District's budget include:

- Projected wireless revenue increase (proposed)
- Anticipated compensation adjustments for both City and County positions for which the District provides funding, in accordance with those entities' budgets (proposed)
- Annual funding for CODE RED reverse 9-1-1 notification system
- Annual funding for 9-1-1 system software maintenance

6.3 Oral Resolution – Ratified the Meet and Confer Agreement between the City of Abilene and the Abilene Police Officers Association.

The agreement provides for overrides to Chapter 143 Civil Service requirements to enhance the hiring and promotional processes for the police department. Additionally, the agreement provides for some updating of previous agreement language to align with current practices and processes of the department.

The proposed fiscal year 2012 budget under consideration by Council provides for a 3% across-the-board compensation increase for all employees, effective March 25, 2012. The agreement reflects this compensation adjustment. Additionally, in year two of the agreement, the longevity pay structure changes to reward more tenured officers. The agreement contains "reopener" language to allow for discussion regarding salary and benefits during the City's fiscal year 2013 and 2014 budget processes (for years two and three of the agreement).

6.4 Oral Resolution – Authorized the City Manager to execute Task Order 28 of the URS Corp Engineering Contract.

This Task Order provides authorization for URS to provide construction management and testing services for the Taxiway C and Taxilane EASI Reconstruction Projects. The fee for this service is a fixed fee in the amount not to exceed **\$302,870.96**.

6.5 Oral Resolution – Bid Award **CB-1134** – Authorized the City Manager to execute the Construction Contract with Epic construction for Taxilane EASI, which provides access to American Eagle's maintenance facility. This contract is funded 95% by AIP Grant 41. The city's 5% share for is **\$61,967.00**.

6.6 Oral Resolution – Bid Award **CB-1133** – Authorized the City Manager to execute the Construction Contract with Duninick, Inc. for Taxiway C and replace the lighting system in that portion with energy-efficient LED lights. This contract is funded 95% by AIP Grant 41. The city's 5% share for is **\$257,546.00**.

Ordinances

6.7 Ordinance (*First Reading*) – Case **#Z-2011-19** - A request from the City of Abilene and Larry and Sandra McCright to rezone property from AO (Agricultural Open Space) to RS-8 (Single Family Residential) zoning, located at 3049, 3041, 3033, 3025, 2941, and 2825 Antilley Rd.; and setting a public hearing for September 22, 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: 3049, 3041, 3033, 3025, 2941, and 2825 Antilley Rd

6.8 Ordinance (*First Reading*) Case **#Z-2011-20** - On a request from Nick Coates to rezone property from AO (Agricultural Open Space) and GC (General Commercial) to HC (Heavy Commercial) zoning, located at 3642 W Lake Rd.; and setting a public hearing for September 22, 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: 3642 W Lake Rd

6.9 Ordinance (*First Reading*) **CUP-2011-01** - On a request from Christian Service Center for a Conditional Use Permit for a Social Service Facility in MD (Medium Density Residential) zoning, located at 2121 N. 6th St.; and setting a public hearing for September 22, 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.

Location: 2121 N 6th St.

6.10 Ordinance (*First Reading*) **CUP-2011-02** - On a request from InSite Towers, LLC for a Conditional Use Permit for an Antenna Tower-Commercial in GR (General Retail) zoning, located at 1434 Grape St.; and setting a public hearing for September 22, 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.

Location: 1434 Grape St.

6.11 Ordinance (*First Reading*) Amending Chapter 10, Section 10-29 of the Code "Inspection of premises"; and setting a public hearing for September 22, 2011

AN ORDINANCE AMENDING CHAPTER 10, "FIRE PROTECTION AND PREVENTION", OF THE ABILENE CITY CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; AND CALLING A PUBLIC HEARING.

Award of Bids

6.12 Bid Award - **CB#1141** for construction of a proposed ADA compliant pedestrian route from Mesquite St. to Treadaway Blvd. along the North side of North 7th St. Council approved the construction contract with Bontke Brothers Construction Co in the amount of \$56,848.00.

6.13 Bid Award - **CB#1143** to purchase truckload quantities of 300-gallon automated Poly refuse containers. Council approved the purchase of 300 gallon automated Poly refuse containers from Rotational Molding Inc.

REGULAR AGENDA

7.1 Jon James briefed the council on the Ordinance Creating a Municipal Setting Designation for the Pine Street Corridor and South Downtown Area and adjacent properties.

As part of an overall effort to encourage infill development, the City of Abilene has been taking steps to facilitate the redevelopment of properties located in areas in and around the downtown, including both the north and south downtown areas, the Warehouse District, the Carver Neighborhood, and the Pine Street Corridor. Due to the historic residential, commercial, and industrial uses of properties located in those areas, the ground water has been contaminated to levels making it unsuitable for potable use. This type of contamination is commonly found in urban areas and can make redevelopment of properties difficult and expensive for developers.

Subchapter W "Municipal Setting Designations" of Chapter 361 "Solid Waste Disposal Act" of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality (TCEQ) to create municipal setting designations (MSDs). Section 401.05(a) of the Texas Local Government Code allows the governing body of a municipality to establish and enforce an MSD to regulate the pumping, extraction, or use of groundwater to prevent the use of or contact with groundwater that presents an actual or potential threat to human health. While the creation of an MSD does not alleviate all requirements for the cleanup of contaminated property, it does make the clean up process much more manageable for developers.

This item is for adoption of an MSD Ordinance prohibiting the potable use of shallow groundwater up to 150 feet below ground surface (“designated groundwater”) beneath properties in and around the Pine Street Corridor and South Downtown Area (“designated property”) and supports certification of an MSD for the designated property by the TCEQ. Passing the ordinance will encourage the further redevelopment of the designated property.

Staff recommends approval.

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

- David Whitten Environmental Attorney – spoke for the passage of the Ordinance
- Albert Pittman – spoke against the ordinance
- Pat Hippely – spoke against the ordinance
- Gary Corpian – spoke in favor of the ordinance
- Glynn Self – spoke against the ordinance
- Petty Hunter – spoke in favor of the ordinance
- Lydia Long – spoke in favor of the ordinance

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

Councilman Spano made the motion to approve the Ordinance Creating a Municipal Setting Designation for the Pine Street Corridor and South Downtown Area and adjacent properties. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance # 31-2011 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH CERTAIN PROPERTY LOCATED IN AND AROUND THE PINE STREET CORRIDOR AND THE SOUTH DOWNTOWN REDEVELOPMENT AREA IN ABILENE, TEXAS AND SUPPORTING CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; CALLING A PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

Location: Beginning at the intersection of Lowden Street and Treadaway Blvd., continuing south along Treadaway Blvd. to its intersection with South 7th Street, continuing west along South 7th Street to its intersection with Butternut Street, continuing west approximately 190 feet to the intersection with the north-south alley between Butternut and Poplar Streets, continuing north along the alley to its intersection with South 3rd Street, continuing west along South 3rd Street to its intersection with Poplar Street, continuing north approximately 770 feet to the intersection of Poplar Street and South 1st Street, continuing east along South 1st Street to its intersection with Hickory Street, continuing north along Hickory Street to its intersection with North 18th Street,

continuing west along North 18th Street to its intersection with Grape Street, continuing north along Grape Street to its intersection with Lowden Street, and continuing east along Lowden Street to its intersection with Treadaway Blvd.

7.2 Mindy Patterson, Director of Finance briefed the council on the final reading for the Ordinance to approve the Revised 2010 – 2011 Budget and Proposed 2011 – 2012 Budget.

During the budget work sessions, the City Council approved a General Fund Revised 2010-11 Budget of \$71,722,150 and a Proposed 2011-12 Budget of \$71,577,560. The Proposed Budget can be funded at the tax rate of 69.32¢.

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

- Charles Coody – who spoke on Maxwell Golf Course.
- Albert Pittman – agreed with the comments of Charles Coody
- J. C. Gibson – made a few suggestions regarding – 1)take home vehicles; 2) pay raises to stop over \$50,000 and trash pickup

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

Council and Staff discussion included: 1) Councilman Spano withdrew his request from the last council meeting regarding unfunded projects; and 2) the amount of holes of golf that can be played in the area.

Councilman Price made the motion to approve the Ordinance adopting the Revised Budget for 2010 – 2011 and approving the Budget for 2011 – 2012. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance **#32-2011** and captioned as follows:

AN ORDINANCE APPROVING REVISED BUDGET FIGURES FOR FISCAL YEAR 2010-2011; APPROVING AND ADOPTING BUDGET FOR THE FISCAL YEAR OCTOBER 1, 2011, THROUGH SEPTEMBER 30, 2012, FOR THE CITY OF ABILENE; APPROPRIATING FUNDS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CALLING A PUBLIC HEARING.

7.3 Mindy Patterson, Director of Finance briefed the council on the final reading for the Ordinance setting the FY 2011 – 2012 Tax levy.

The FY 2012 Budget approved by Council on July 27, 2011 set the tax rate at 69.32¢. State law requires that two (2) public hearings must be held prior to the final public hearing and vote. The first public hearing was held on August 11, 2011, and the second public hearing was held on August 25, 2011. This is the final public hearing and vote.

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

Mayor Archibald made the motion to move that the property tax rate be increased by the adoption of a tax rate of 69.32 per \$100 valuation, which is effectively a .697269 % increase in the tax rate. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

Ordinance #33-2011 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, APPROVING THE ASSESSMENT ROLL FOR 2011, LEVYING AN AD VALOREM TAX FOR THE CITY OF ABILENE, TEXAS, FOR THE YEAR 2011; PROVIDING FOR THE ASSESSMENT AND COLLECTION THEREOF; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CALLING A PUBLIC HEARING; PROVIDING AN EFFECTIVE DATE.

7.4 Workshop Item

Chad Carter City Engineer briefed the council on the Pine Street Medians.

The City Engineer's office and the Abilene Police Department would like to express why we believe that construction of medians along Pine Street is appropriate. Medians provide several benefits to a city, including aesthetics and safety. While it is our hope that the medians constructed along Pine Street are attractive, their greatest value lies in improving safety by reducing the number of conflict points to well defined locations at intersections. A conflict point is anywhere a collision is likely to occur between two vehicles on the roadway. Medians also reduce the severity of accidents because they encourage right hand turning movements which are less likely to produce a head-on or broad-side collision.

An analysis of Pine Street between North 21st Street and Ambler Avenue showed that there were 161 conflict points prior to the construction of concrete medians. Construction of medians reduced the conflict points on this portion of roadway from 161 to 30.

Our understanding is customers of the Lawrence Brothers IGA retail grocer would like for an opening to be left in front of one of the existing driveways fronting Pine Street. Construction an opening at the south drive way would increase the conflict points from 30 to 63 and cost approximately \$20,000.

The medians do not prevent access to the property for south bound traffic on Pine Street. Access on Ambler Avenue is also unaffected by the medians. While there is some inconvenience to drivers, overall our motorists and the City of Abilene Police Department are already observing a safety benefit. The Police Department has a record of vehicle accidents that occurred in the 2100 block of Pine Street and the Pine Street intersection with Ambler. In 2010 there were three accidents in the 2100 block. In 2011 that number decreased to zero. In 2010 there were six accidents at the Pine Street and Ambler Avenue intersection. In 2011 that number decreased to four.

Based upon data and observations the City Engineer's office and the City of Abilene Police Department recommend that an additional median opening not be constructed on Pine Street adjacent to the Lawrence Bros. IGA retail grocer.

Mayor Archibald opened the meeting to those that would like to speak on this subject and council heard from the following citizens:

- Jay Lawrence – owner of Lawrence Brothers IGA – would be in support of the city adding an additional turn access from the north bound traffic on Pine Street.
- Woody Reid – has concern on how the median has been designed and installed as it relates to the turn into Lawrence Brothers
- Albert Pittman – has concern on how the median has been designed and installed as it relates to the turn into Lawrence Brothers
- Glynn Self – has concern on how the median has been designed and installed as it relates to the turn into Lawrence Brothers
- Gary Corpian – supports Lawrence Brothers request

Council and Staff discussion included: 1) main concerns are from the north bound traffic on Pine Street not being able to turn left into Lawrence Brothers prior to reaching the intersection at Ambler; 2) traffic counts – high volume intersection Ambler & Pine; 3) protected left turn at the light on Pine Street; and 4) review of the wrecks and the impacts in the area.

Mayor Archibald announced that no action would be taken today that this item would be on the next agenda for September 22.

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 12:03 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 12:29 pm and reported no votes or action was taken in Executive Session in regards to 551.071 Consultation with City Attorney, 551.074 Personnel.

Councilman Williams left after executive session.

10 Oral Resolution – Reappointment to the Betty Hardwick MH/MR Board.

Councilwoman Miller made the motion to approve the Mayor's reappointment of Rita Johnston to the Betty Hardwick MH/MR Board. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

There being no further business the meeting was adjourned at 12:30 pm.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor