

**CITY COUNCIL MEETING**  
**September 22, 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 22<sup>nd</sup> 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.

Councilman Price gave the invocation.

Mayor Archibald 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 to Leigh Ann Fry Executive Director of the Noah Project:

Domestic Violence Awareness Month.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the September 8<sup>th</sup> regular meeting 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**

The following items were pulled from the consent agenda 6.2, 6.3 & 6.9. Councilman Briley made the motion to approve consent items 6.1 through 6.11 except 6.2, 6.3 & 6.9 as recommended by staff. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

ABSTAIN: Councilman Williams on item 6.1, Councilman Price on item 6.1 & 6.6, Mayor Archibald 6.6

**Oral Resolutions:**

**6.1 Oral Resolution** – Council approved a permit to A. M. Pyrotechnics for a Fireworks Display to be held at Abilene Christian University on October 14<sup>th</sup>, 2011.

**6.2 Oral Resolution** – authorizing the City Manager to sign the amended Maxwell Golf Course Lease Agreement. *Item pulled by Councilman Price.*

**6.3 Oral Resolution** – authorizing the contract renewals for the Development Corporation with the City of Abilene for Business Services and the Airport Business Development Management Program. *Item pulled by Councilman Price.*

**6.4 Oral Resolution** – Approved the amended by-laws of the Abilene-Taylor County Events Venue District.

At the July 25, 2011 Abilene-Taylor County Events Venue District Board meeting, the Board agreed to place a cap on the maximum percentage change to allocations at 2.5% for any fiscal year for the entities receiving operational funds, which are the Expo Center and Frontier Texas!, and to start the approval of the new language in the Bylaws. State law requires thirty (30) days written notice to change the Bylaws and 4/5<sup>th</sup> majority vote of the Board. The Venue District debt is always paid first before any money is distributed to the entities.

The Board met on September 12, 2011 to discuss this item, which was approved unanimously. The Board members are Mayor Norm Archibald, County Judge Downing Bolls, Jr., Councilman Robert Briley, County Commissioner Stan Egger, and Glenn Dromgoole.

**6.5 Oral Resolution** – Council approved the Fund Balance Policy as presented by staff.

In February 2009, Governmental Accounting Standards Board (GASB) issued Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, which is effective for periods that begin after June 15, 2010. The objective of GASB 54 is to enhance the usefulness of fund balance information by 1) clarifying existing governmental fund type definitions and 2) providing clearer fund balance classifications that can be more consistently applied.

Instead of reserved, designated, or unreserved, financial statement preparers will now use five basic categories: **Non-spendable** – cannot ever be spent (inventories, prepaids), cannot currently be spent (long-term portion of receivables); **Restricted** – externally enforceable legal restrictions (grants, debt covenants, contributors, etc); **Committed** – use is limited by the City and imposed by the City Council (highest level of decision making. May only be changed or lifted by City Council. Commitment must be made prior to year end; **Assigned** – intended use of resources set by the City Council or an official designated by the City Council; **Unassigned** – remaining fund balance after all other categories.

**6.6 Oral Resolution** – Council approved the purchase of property particularly described as Original Town of Abilene TIF #1, Block 73, Lots 1-6.

The Chisholm Trail Council of the Boy Scouts of America has offered to sell its property located at 1208 North 5<sup>th</sup> Street to the City. The acquisition of this property will allow for the continued redevelopment of downtown Abilene and provide much needed additional parking for the Abilene Civic Center. Based on an appraisal of the property, the purchase price has been established at **\$462,000.00**.

**6.7 Oral Resolution** – Council authorized the City Manager to execute the Task Order 25 – with URS Corp Engineering Contract.

This Task Order provides authorization for URS to design a reconstruction project for Taxiways M, N and P. The fee for this service is a fixed fee in the amount not to exceed **\$212,440.95**. The anticipated date for this reconstruction project being bid in mid FY12

The fee for Task Order 25 is funded 95% by AIP Grant 41. The city's 5% share for this task order is **\$10,623.00**.

## **Ordinance**

**6.8 Ordinance** (*First Reading*) – Creating a Municipal Setting Designation for the North First Street Corridor; and setting a public hearing October 11<sup>th</sup>, 2011.

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

## **Award of Bids**

**6.9 Bid Award** - #APD118.2 the purchase of 20 digital video system, for the Police Department. *Item pulled by a citizen.*

**6.10 Bid Award** – Approved the Uniform Rental Agreement. The City of Abilene has been under contract with Unifirst Corporation for the past five (5) years and has received excellent customer service. The new Buyboard contract will be for a period of three (3) years. The new contract unit prices will be equal or less than the current contract unit prices.

**6.11 Bid Award** – Approved the Online Auctioneering Service Agreement. The new Buyboard contract will be for a period of one (1) year with automatic annual renewal by Rene Bates Auctioneers, Inc. and Buyboard. The commission fee is 5% paid by the City to Rene Bates Auctioneers, Inc.

## **ITEMS PULLED FROM CONSENT**

**6.2 Oral Resolution** – Council authorized the City Manger to sign the amended Maxwell Golf Course Lease Agreement.

In May of 2004 the City entered into an agreement with West Texas Golf Systems, Inc. for operation of Maxwell Municipal Golf Course. West Texas Golf Systems, Inc was selected after the City had gone through a formal request for proposal process. Since 2004 the original lease has been amended by addendum several times to address a number of circumstances. During this period the Municipal Golf Course Advisory Board has been related to assist the City Council with golf operations. Recently, City Council approved a waiver of fees for treated effluent water up to a limit as part of the 2011-2012 budget process. The City Attorney has recommended that an amended lease for the remainder of the term that incorporates the appropriate addendums, updates provisions to reflect the role of the Maxwell Municipal Golf Course Advisory Board, waives the fees for treated effluent water up to a specified limit and revise the rent structure to reflect current practice, be approved and executed by the City and WTGS.

Council and Staff discussion included: 1) rent schedule – schedule now reflects accurately the rent %; 2) minor change in Section C.1 change Section IV to Section III Term; and 3) add Wylie Independent School District to the list under Section D Promotions and Tournaments.

**6.3 Oral Resolution** – Approved the contract renewals for the Development Corporation with the City of Abilene for Business Services and the Airport Business Development Management Program.

The Development Corporation of Abilene, Inc. (DCOA) approved a budget for FY2012 that includes contract renewals with the City of Abilene for Business Services and the Airport Business Development Management program, the Abilene Industrial Foundation, Inc., Chamber of Commerce Military Affairs Committee, and Texas Tech University Small Business Development Center. Most of these agencies have been funded either wholly or in part by the DCOA since 1990.

Maximum amount to be paid by the DCOA under FY12 contracts:

City of Abilene Business Services (Acct Unit 7602752760)	\$ 630,041
Property Maintenance (Acct Unit 7602752775)	\$ 155,420
Property Maint. Life Sciences (Acct Unit 7602752765)	\$ 825,910
Property Damage Ins. Premium (Acct Unit 7602752775)	\$ 141,900
City of Abilene Airport Business Dev. Mgmt (Acct Unit 1006006060)	<u>\$ 160,813</u>
TOTAL	\$1,914,084 Paid by DCOA

Council and staff discussion included: 1) verifying the 3% salary raise is included in the both contracts.

**6.9 Bid Award - #APD118.2** the purchase of 20 digital video system, for the Police Department.

Citizen Jerry Smith voiced his concern over the purchase of equipment, he much rather see the department use the money in other areas.

Councilman Price made the motion to approve the following items 6.2, 6.3 and 6.9 as presented by staff with the following changes to the Maxwell Golf Agreement, add Wylie to Section D and change Section IV to Section III (Terms). Councilman Williams seconded the motion, motion carried.

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

NAYS: None

## REGULAR AGENDA

**7.1** Jon James Director of Planning and Development, briefed the council on the Ordinance for Case No. **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.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The original request was for an 80' wide strip of property to the west of 3033 Antilley Rd. After reviewing the request, City Staff thought it would be beneficial to include the other properties as part of the request as well. Under the current zoning the subject properties are legal nonconforming lots because they do not meet the minimum lot size for AO zoning. Therefore, the requested zoning would be a more compatible

zoning for the properties, and make them conforming lots. Staff does not see any negative affects with the request and the requested zoning would be compatible with the surrounding land uses.

Planning & Zoning Commission and Staff both recommend approval.

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

Councilwoman Miller made the motion to approve the Ordinance for Case No. **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. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Ordinance # **34-2011** 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

**Location: 3049, 3041, 3033, 3025, 2941, & 2825 Antilley Road**

**7.2** Jon James Director of Planning and Development, briefed the council on the Ordinance for Case No. **Z-2011-20**, 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

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential and commercial. The commercial designation is only along the access road for I-20. This request is for an 8 acre tract out of a larger parcel to be rezoned to HC in close proximity to residential zoning. Although commercial zoning would be acceptable along the I-20 frontage, given the existing GC uses, the lack of HC zoning in the area, and the proximity to residential areas, HC zoning is not recommended in this area.

Staff recommends denial, Planning and Zoning Commission recommends approval of an 8 acre tract.

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

- Nick Coates – spoke for the zone change. The business will be a trucking center.
- Eddie Chase – spoke for the zone change. Working with the business on locating here.
- Albert Pittman – spoke for the zone change.
- John Large – spoke for the zone change and requested the city review the drainage system around his home on Huckleberry Ln.

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

Council and Staff discussion included: 1) location of building on the property; 2) size of the building; 3) location of the building next to the Hotel; and 4) noise of the trucks.

Councilman Williams made the motion to approve the Ordinance for Case No. **Z-2011-20**, 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 being an 8 acre tract of land. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Ordinance #**35-2011** 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

**Location: 3642 West Lake Road (8 acre tract)**

**7.3** Final reading and public hearing on an Ordinance for Case No. **CUP-2011-01**, 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. 6<sup>th</sup> St. – *Item pulled prior to the meeting by the requestor.*

**7.4** Jon James Director of Planning and Development, briefed the council on the Ordinance for Case No. **CUP-2011-02**, 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.

Currently the property is zoned GR and is being used as a residential dwelling unit owned by the church. The property to the west has been developed with a nursing home facility. There are residential homes to the north of the subject property. The church facility and a shopping center are located to the south of the subject property.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential and Grape St. is identified as an Enhancement Corridor. The applicant plans to lease a portion of the property in the northwest corner and construct a Commercial Antenna Tower. A recent ordinance amendment was passed that allows these antennas in GR zoning when they are compatible with the surrounding area.

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

- Mike O'Neal with the company InSite Towers, LLC. He explained that the tower will be a multi carrier tower.

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

Councilman Higgins made the motion to approve the Ordinance for Case **No. CUP-2011-02**, 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. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Ordinance **#36-2011** 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

**Location: 1434 Grape St**

**7.5** Ken Dozier, Fire Chief, briefed the council on the amended section 10-29 of the Fire Protection and Prevention section of the City Code.

Due to legislative changes and ISO audit recommendations, the AFD plans to implement Pre-Fire Planning reviews of commercial businesses in addition to the current practice of Fire Code Inspections. This proposed change will allow the AFD to have the authority to enter buildings for the purpose of conducting both Inspections and Pre-Fire Plans.

Council and Staff discussion included: 1) safety issues; and 2) partnering with businesses on Pre-fire plans.

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

- Dan Symonds – asked a question regarding Fire personnel entering a premise.

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

Councilwoman Miller made the motion to approve the Ordinance to amended **Section 10-29** of the Fire Protection and Prevention section of the City Code. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Ordinance **#37-2011** and captioned as follows:

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

**Inspection on Premises**

**Pre Fire Planning and Fire Safety and Inspection of Premises**

**7.6** Chad Carter, City Engineer reviewed the Pine Street median project and presented alternatives for allowing a left hand turn into Lawrence Brothers IGA from the north bound traffic of Pine Street.

Council and Staff discussion included: 1) short median cut approximate cost \$20,000 and would add 34 conflict points where there is potential for accidents; 2) a regular median cut would add 63 conflict points in traffic; 3) a regular median cut out with a queue area for cars to move into would cost approximately \$40,000 with 35 conflict points; 4) truck traffic turning into the grocery store; 5) discussion of a protective left turn light on Pine Street for those turning onto Ambler; and 6) moving the curb cut opening of the grocery store on Ambler, closing the one closest to the light and moving it further west on Ambler Street.

Councilman Higgins made the motion to have staff review and make the appropriate changes to the Pine Street Median, where a cut will can be made to allow for a queue area for cars and to allow for trucks turning into the grocery store from North bound traffic on Pine Street. Councilman Williams seconded the motion, motion carried.

Council heard comment from Woody Reid and Albert Pittman.

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

NAYS: None

### **EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 10:41 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 12:23 p.m. 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 during executive session.

**10** Oral Resolution – Discussion and possible action related to annual performance evaluations of the City Manager, City Attorney, City Secretary and Municipal Judge. No action taken.

**11.** Oral Resolution – Recommend nominations for the Jones County Appraisal District. No action taken.

There being no further business the meeting was adjourned at 12:24 p.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor