

CITY COUNCIL MEETING
December 1, 2011 at 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 December 1st 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, and Councilwoman Kellie Miller. Councilman Stormy Higgins was absent. 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 introduced Michael Alcantar a 5th grader at College Heights Elementary. Michael 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.

| | | |
|-------------------------|---|-----------------|
| <i>David L. Escobar</i> | <i>Stationary Compactor Mechanic, Solid Waste</i> | <i>20 Years</i> |
| <i>Bill R. Vaclavik</i> | <i>Treatment Plant Operator III, Wastewater Treatment</i> | <i>20 Years</i> |

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the November 17th 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, Williams, Briley, Councilwoman Miller and Mayor Archibald
NAYS: None

CONSENT AGENDA

Councilman Briley made the motion to approve consent items 6.1 through 6.7 as recommended by staff. Councilwoman Miller seconded the motion, motion carried.

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

Ordinances:

6.1 Ordinance – (*First Reading*) Modifying the City’s Code of Ordinances regarding increases in Retirement Annuities; and calling a public hearing on December 15th, 2011.

AN ORDINANCE MODIFYING ABILENE CODE OF ORDINANCE CHAPTER 2,
“ADMINISTRATION”, ARTICLE III, “EMPLOYEE BENEFITS”, DIVISION 2,
“RETIREMENT”, SECTION 2-103, “INCREASE IN RETIREMENT ANNUITIES”, TO ALLOW

ANNUITY INCREASES IN THE AMOUNT OF EITHER 30 PERCENT, 50 PERCENT OR 70 PERCENT OF THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX.

6.2 Ordinance – (*First Reading*) Adopting an Ad Hoc (one time only) COLA for TMRS Annuitants based on 50% of CPI change as defined by TMRS; and calling a public hearing on December 15th, 2011.

AN ORDINANCE PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY OF ABILENE, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

6.3 Ordinance – (*First Reading*) Adoption of an amendment to Section R302.1 of the 2009 Abilene Residential Building Code; and calling a public hearing on December 15th, 2011.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 8 ARTICLE VI, DIVISION 8, SECTION 8-581 “RESIDENTIAL CODE”, CHAPTER 3, SECTION R302, FIRE RESISTANT CONSTRUCTION, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING

Resolutions:

6.4 Resolution – City Council approved the reappointment of Municipal Court Judge Keith Barton.

Resolution #23-2011 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, REAPPOINTING KEITH A. BARTON MUNICIPAL COURT JUDGE FOR A TERM OF TWO (2) YEARS

6.5 Resolution – City Council approved the reappointment of a Panel of Assistant Municipal Court Judges.

Resolution #24-2011 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPOINTING A PANEL OF ASSISTANT MUNICIPAL COURT JUDGES TO ACT IN THE ABSENCE OR UNAVAILABILITY OF THE JUDGE OF THE MUNICIPAL COURT.

Bid Awards:

6.6 Award of Bid - (Buy-Board) Contract #323-09 Purchase of a Fire Engine. City Council approved the purchase from Hall Motors with the following adjustments to the bid price. Accept the \$11,876.00 pre-payment discount and add \$1,500.00 for Buy-Board fee. Total in the amount of \$529,178 for one fire engine.

6.7 Award of Bid - **CB #1205** miscellaneous repair work 2011-2012 for on demand repair of existing portions of bridges, streets and drainage structures. City council awarded the bid to Bontke Brothers Construction Company, Inc. in the amount of \$458,414.00.

REGULAR AGENDA

7.1 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case **#Z-2011-29**, a request from Sharon Riley to rezone property from LI (Light Industrial) to HC (Heavy Commercial) zoning, located at 849 and 875 E. Hwy 80.

Currently the properties are zoned LI and have been developed with commercial buildings. The properties are currently being used as a restaurant and an event center. The surrounding properties have been developed with a mixed group of uses ranging from hotel/motel, to retail, and auto related uses.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial activity. The subject properties are also along an Enhancement Corridor. An application for a building permit was submitted for a use that is not allowed in LI. The request would correct the legal non-conforming uses on the subject properties. HC zoning is a more appropriate zoning along an Enhancement corridor as it does not allow some of the more intensive industrial uses. The requested zoning would be compatible with the surrounding uses, and would be more appropriate with the intentions of Enhancement Corridors.

Planning & Zoning Commission and Staff recommend approval.

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

Councilman Price made the motion to approve the ordinance for Case **#Z-2011-29**, a request from Sharon Riley to rezone property from LI (Light Industrial) to HC (Heavy Commercial) zoning, located at 849 and 875 E. Hwy 80. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance **# 51-2011** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "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: 849 and 875 E. Hwy 80

7.2 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case **#Z-2011-31**, a request from Sharon Yost to rezone property from RS-6 (Single Family Residential) to RS-6/H (Single Family Residential with Historic Overlay) zoning, located at 3434 S. 9th St.

Currently the property is zoned RS-6 and has been developed with a residential dwelling unit. The house, Jones/Yost House, was built in 1949 by Morgan Jones Jr. and owned for several years by an architect who was employed by the David Castle Architecture & Engineering Firm. The style of the home exemplifies the Ranch style of architecture that was prominent during the 1950's. The ranch house is noted for its long, close-to-the-ground profile and minimal use of exterior and interior decoration creating an informal living style. This house embodies many ranch style features: single-story, long, low roofline with a side gable, L-

shaped plan, large windows, with shutters, and deep overhanging eaves. Interior features characteristic of the style have also been preserved.

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. No other properties in the area have received the overlay, but this request could encourage other properties to seek the Historic Overlay zoning.

Planning & Zoning Commission and Staff recommend approval.

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

Councilman Williams made the motion to approve the ordinance for Case #Z-2011-31, a request from Sharon Yost to rezone property from RS-6 (Single Family Residential) to RS-6/H (Single Family Residential with Historic Overlay) zoning, located at 3434 S. 9th St. Councilman Spano seconded the motion, motion carried.

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

Ordinance # 52-2011 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "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: 3434 S. 9th St.

7.3 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case #CUP-2011-03, a request from Terry Browder for a Conditional Use Permit for a Bed and Breakfast in RS-12 (Single Family Residential) zoning, located at 642 Sayles Blvd.

Currently the property is zoned RS-12. The property has been developed as a single family dwelling. All of the surrounding properties have been developed primarily with single family residential dwelling units. There is some commercial zoning to the west along S. 7th St.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant plans to develop the property as a Bed and Breakfast. The applicant intends on having no more than 5 rooms, and will serve breakfast to the patrons staying at the bed and breakfast. Based on the information provided, a Conditional Use Permit at this location will be compatible with the surrounding uses.

Staff recommends approval with the following conditions:

- No parking will be allowed between the building and the public ROW and should remain as landscape area.

- A sidewalk will be required along S. 7th St. prior to the issuance of a Certificate of Occupancy.
- A solid 6' fence will be provided to shield parking from adjacent residential properties.

Planning & Zoning Commission recommends approval.

City Council and Staff discussion included: 1) sidewalks along South 7th; and 2) possible review of the Sidewalk policy.

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

- Tom Choate agent for Mr. Browder – supports conditional uses with the exception of the sidewalk along South 7th.
- Dan Symonds – doesn't support the addition of the sidewalk along South 7th.
- Betty Alvarez – was here to support the passage of the Ordinance regarding increases in Retirement Annuities.

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 for Case #CUP-2011-03, a request from Terry Browder for a Conditional Use Permit for a Bed and Breakfast in RS-12 (Single Family Residential) zoning, located at 642 Sayles Blvd. with the conditions recommended by Staff with the exception of a constructed sidewalk along South 7th. Councilman Price seconded the motion, motion carried.

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

Ordinance **# 53-2011** 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: 642 Sayles Blvd.

7.4 Richard Burdine, Assistant City Manager for Economic Development briefed the council on the annual report of activities for the Development Corporation of Abilene, Inc.

The goals of the Development Corporation of Abilene, Inc. is to make Abilene competitive in the attraction of business and industry in order to create new and sustainable jobs.

The DCOA continues to work toward competitiveness with other communities by funding the marketing efforts of the Abilene Industrial Foundation and by contracting with Emergent Technologies, Inc. to market and operate the Abilene Life Sciences Accelerator (ALSA). Annual sponsorship of the Springboard Ideas Challenge and assistance for the WTIN help foster new entrepreneurship in Abilene.

Funding to help market the Abilene Airport on behalf of a second air carrier increases Abilene's attractiveness to potential new industry.

The DCOA has approved assistance for 11 companies who have committed to retain 354 jobs and create 1,038 new positions. Pepsi Beverage Co., Teleperformance USA, Genesis Networks Solutions, Docket Navigator, Smith Pipe of Abilene, TTUHSC School of Pharmacy-Abilene, and Project MBO are the 7 local companies.

During the report period (10-01-10 through 09-30-11), the DCOA approved \$14,844,908.00 in funding to assist companies with growth and retention in Abilene, anticipating retained employment of 354 positions plus the creation of 1,038 new jobs.

| FY11 DCOA Approved Assistance through September 2011 - Signed | | | |
|--|--------------------------|---------------------------------------|---|
| Company | DCOA Assistance Reserved | Committed Job Retention/ Job Creation | Projected Annual Payroll/Capital Investment * |
| Pepsi Beverages (infrastructure) | \$350,000.00 | 00/00 | NA/\$3,200,000 |
| Teleperformance USA | \$125,000.00 | 00/250 | \$3,750,000/\$0 |
| Cooperative Response Center | \$296,500.00 | 00/17 | \$685,000/\$605,000 |
| Genesis Networks Solutions | \$2,874,185.00 | 115/253 | \$13,415,000/\$0 |
| Enavail, LLC (revised infrastructure) | \$23,814.00 | 00/00 | NA/NA |
| Docket Navigator (Project DT) | \$159,000.00 | 00/04 | \$240,000/\$605,000 |
| Smith Pipe – Phases 1 & 2 | \$1,155,368.00 | 200/44 | \$2,151,908/\$5,267,000 |
| TTUHSC School of Nursing-Abilene (infrastructure only) | \$1,732,100.00 | 00/00 | \$3,460,000/\$11,213,700 |
| TTUHSC School of Pharmacy-Abilene (infrastructure and job creation) | \$916,941.00 | 05/17 | \$740,000/\$2,444,000 |
| TOTAL | \$7,632,908.00 | 320/585 | \$24,441,908/\$23,334,700 |
| 96% to Abilene companies (names in bold) | | | |

* Note: Capital Investment includes DCOA Capital Assistance Amount, typically 10%-15%.

| FY11 DCOA Approved Assistance through September 2011 - Pending | | | |
|--|--------------------------|---------------------------------------|---|
| Company | DCOA Assistance Reserved | Committed Job Retention/ Job Creation | Projected Annual Payroll/Capital Investment * |
| Project CD – Phase 1 | \$2,750,000.00 | 00/200 | \$8,214,000/\$2,500,000 |
| Project CD – Phase 2 | \$3,400,000.00 | 00/200 | \$7,000,000/\$14,000,000 |
| Project MBO | \$765,000.00 | 34/40 | \$2,700,000/\$750,000 |
| Project ML | \$297,000.00 | 00/13 | \$695,000/\$660,000 |
| TOTAL | \$7,212,000.00 | 34/453 | \$18,609,000/\$17,910,000 |
| 11% to Abilene companies (names in bold) | | | |

* Note: Capital Investment includes DCOA Capital Assistance Amount, typically 10%-15%.

Councilman Williams made the motion to accept the DCOA's FY2011 Annual Report. Councilman Spano seconded the motion, motion carried.

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

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 10:06 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 10:49 a.m. and reported no votes or action was taken in Executive Session in regards to Sections 551.072 Real Property and 551.071 Consultation/Litigation with Attorney.

10. Oral Resolution – Discussion and possible action related to annual performance evaluations of City Manager, City Attorney, City Secretary and Municipal Judge.

No action taken.

There being no further business the meeting was adjourned at 10:49 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor