

**CITY COUNCIL MEETING**  
**December 15, 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 15th 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 introduced Madison Mitchell a 5th grader at Dyess Elementary. Madison led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the December 1<sup>st</sup> regular meeting there being no deletions, no additions, and no corrections. Councilman Briley 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**

Councilman Price pulled item 6.9 from the consent agenda. Councilman Williams made the motion to approve consent items 6.1 through 6.10 with the exception of 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

**Ordinances:**

**6.1 Ordinance** – (First Reading) Amending Chapter 28 Solicitation of the Abilene City Code; and setting a public hearing for January 12, 2012.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 28, "SOLICITATION," OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

**6.2 Ordinance** – (First Reading) for Case #**Z-2011-32**, a request from Shawna Abernathy to rezone property from RS-6 (Single Family Residential) to O (Office) zoning, located at 2526 S 32<sup>nd</sup> St.; and setting a public hearing for January 12, 2012.

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.

- 6.3 Ordinance** – (First Reading) for Case #**Z-2011-33**, a request from Timothy Smith to rezone property from RS-12 (Single Family Residential) to GR (General Retail) zoning, located at 3518 S. 7<sup>th</sup> St.; and setting a public hearing for January 12, 2012.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-137 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.4 Ordinance** - (First Reading) for Case #**Z-2011-34**, a request from SMR Acquisitions to rezone property from MD (Medium Density Residential) to NR (Neighborhood Retail) zoning, located at 1774 State St.; and setting a public hearing for January 12, 2012.

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.

- 6.5 Ordinance** – (First Reading) for Case #**Z-2011-04**, a request from SMR Acquisitions to abandon a portion of the north to south alley right-of-way between N. 9<sup>th</sup> St. and State St. and between Grape St. and Merchant St.; and setting a public hearing for January 12, 2012.

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.

- 6.6 Ordinance** - (First Reading) for Case #**Z-2011-35**, a request from Harriet Bass to rezone property from RS-12 (Single Family Residential) to RS-12/H (Single Family Residential with Historic Overlay) zoning, located at 3435 S 9<sup>th</sup> St.; and setting a public hearing for January 12, 2012.

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.

- 6.7 Ordinance** – (First Reading) for Case #**Z-2011-36**, a request from Kelly Thompson to rezone property from RS-8 (Single Family Residential) to RS-8/H (Single Family Residential with Historic Overlay) zoning, located at 1710 Belmont Blvd.; and setting a public hearing for January 12, 2012.

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

- 6.8 Ordinance** – (First Reading) for revisions to the Land Development Code (LDC) regarding Wind Energy Conversion Systems (WECS).

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.

**Resolutions:**

- 6.9 Resolution** – Approving the renewal of the contract with the National Development Council to provide professional services to assist the City in accomplishing its community and economic development objectives. Total contract is about \$72,000. *Item pulled by council.*

- 6.10 Resolution** – Council approved the reappointment of Evan Rutledge as Assistant Municipal Court Judge.

Resolution #26-2011 and captioned as follows:

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

**ITEM PULLED FROM CONSENT**

Councilman Price pulled item 6.9. Councilman Price asked how staff determined how the cost of the contract would be split. Richard Burdine Assistant City Manager for Economic Development explained that the contract is divided the following way: \$12,000 grant from NDC, 2/3 by DCOA and 1/3 by the City.

Councilman Price made the motion to approve the Contract with the National Development Council to provide professional services to assist the City in accomplishing its community and economic development objectives. Total contract is about \$72,000.

Resolution #25-2011 and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING  
THE FY 2011-12 CONTRACT BETWEEN THE CITY OF ABILENE AND THE NATIONAL  
DEVELOPMENT COUNCIL.

**REGULAR AGENDA**

- 7.1** Ronnie Kidd Managing Director for Administration briefed the City Council on the Ordinance modifying the City’s Code of Ordinances regarding increases in Retirement Annuities.

In 2008, pursuant to provisions of the Texas Municipal Retirement System (TMRS) Act, the City Council passed an ordinance rescinding the annually recurring Cost of Living Adjustment (COLA) for annuitants (retirees). The ordinance further provided for an “ad hoc” or one time COLA increase for retirees,

subject to review and approval by the City Council during the annual budget review process, equal to 70% of the percentage change in the Consumer Price Index (CPI). However, the TMRS Act provides additional options for ad hoc COLAs to include an increase equal to 50% of the percentage change in the CPI or 30% of the percentage change in the CPI.

The last ad hoc COLA approved and granted by the City Council for retirees was effective January 1, 2009. The FY 2012 budget, as approved by Council, provides for an ad hoc COLA effective January 1, 2012 at 50% of the percentage change in the CPI. Therefore, the City's code of ordinances needs to be modified to provide for the additional increase options of 50% and 30% of the change in the CPI.

Staff recommends approval.

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

Councilman Higgins made the motion to approve the ordinance modifying the City's Code of Ordinances regarding increases in Retirement Annuities. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Ordinance # 54-2011 and captioned as follows:

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.

**7.2** Ronnie Kidd Managing Director for Administration briefed the city council on the Ordinance for Adopting an Ad Hoc (one time only) COLA for TMRS Annuitants based on 50% of CPI change as defined by TMRS.

The Texas Municipal Retirement System (TMRS) Act and the City's code of ordinances provides for the ability to grant an ad hoc (one time) cost of living adjustment (COLA) to annuitants (retirees), subject to Council's review and approval. Additionally, the previous item on the City Council's agenda provides for modifying the City code of ordinances to include the three options to calculate the COLA – utilizing a factor of either 30%, 50% or 70% of the percentage change in the Consumer Price Index (CPI) – as provided for by the TMRS Act.

The FY 2012 Budget includes a TMRS funding rate of 12.12% of payroll. This rate considers the retiree ad hoc COLA at 50% of the percentage change in CPI, so there will be no additional fiscal impact associated with the approval of this item.

Staff recommends approval.

Council and Staff discussion included: 1) the cost to the city is \$46,000 for the 50% COLA; 2) the basis for the percentage was based on the ability of the budget to support the amount; 3) the health of the Texas Municipal Retirement System; and 4) GASB and how the Retirement fund is funded for the long term.

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

- Dan Symonds – said he was concerned with funding the retirement account.

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

Councilman Williams made the motion to approve the ordinance for Adopting an Ad Hoc (one time only) COLA for TMRS Annuitants based on 50% of CPI change as defined by TMRS. Councilman Spano seconded the motion, motion carried.

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

NAYS: Councilman Price and Higgins

Ordinance # 55-2011 and captioned as follows:

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

**7.3** Jon James Director of Planning and Development Services briefed the city council on the Ordinance adoption of an amendment to Section R302.1 of the 2009 Abilene Residential Building Code.

The City's Zoning Ordinance in years past has allowed for the option of patio homes to be built to the property line with no setback, subject to some conditions. However, no portion of the home could extend beyond the adjacent property line, which eliminated the option of a roof overhang. A change in the ordinance was made upon adoption of the Land Development Code in 2010 to allow such homes to have a roof overhang that extends over the adjacent property line up to 24 inches (the building wall itself must still be on the subject property). However, as builders have sought to take advantage of this new provision, we have learned that this conflicts with the Abilene Residential Building Code, which does not allow any portion of the building, including the roof overhang, to extend across a property line. This proposed amendment would create a local amendment to the Abilene Residential Building Code to allow for such an overhang subject to the limitations outlined in the Land Development Code, which among other things requires an easement on the adjacent property and in no case would allow buildings closer than required by Patio Home Zoning District or other health and safety regulations.

Planning & Zoning Commission and Staff recommend approval.

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

- Ron Fogle – Builder, supports the change in the Residential Building Code.

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 adoption of an amendment to Section R302.1 of the 2009 Abilene Residential Building Code. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Ordinance # 56-2011 and captioned as follows:

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

**7.4** Ronnie Kidd Managing Director for Administration briefed the council on the bid award for stop loss insurance and is recommending staying with Blue Cross Blue Shield.

The City of Abilene provides health and prescription insurance coverage to employees and retirees through its self-funded health plan. To insure against the loss risk of significant health claims, the City purchases stop loss insurance for each plan year. This is accomplished through a competitive bidding process with stop loss insurance carriers. Appropriate notices were published and the competitive bidding process was accomplished. The stop loss insurance provides coverage for both individual and aggregate claims above a certain level (deductible). Our current (plan year 2011) individual stop loss deductible is \$175,000 and aggregate stop loss deductible is \$6.4 million. The stop loss insurance carriers factor the deductible levels into the quote that they provide.

Council and Staff discussion included: 1) Industry trends; 2) plan experiences; and 3) individual stop loss deductible is \$175,000.

Councilman Price made the motion to approve awarding the bid to Blue Cross Blue Shield for stop loss insurance. Councilman Higgins seconded the motion, motion carried.

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

NAYS: None

### **EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 9:31 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, 551.071 Consultation/Litigation with Attorney and 551.074 Personnel Matters.

**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.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor