

CITY COUNCIL MEETING
April 24th, 2014, 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 April 24th, 2014, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Robert O. Briley, Anthony Williams, Kyle McAlister 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.

Robert O. Briley gave the invocation.

Mayor Archibald introduced Patterson Newton who is a 4th grade student at Lee Elementary. Patterson led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

Older Americans and Elder Abuse Prevention Month – proclamation was accepted by Michelle Parker, Area Agency on Aging of West Central Texas.

Abilene Special Olympics Team Mustangs Day – proclamation was accepted by Carolyn Cockerell, Parent Volunteer.

RECOGNITIONS

The 7th Force Support Squadron from Dyess Air Force Base was the recipient of two special awards:

- 1) They received the Texas Recreation and Park Society Commercial Business Outstanding Award. For 26 years and counting, the 7th FSS (Force Support Squadron) at Dyess Air Force Base along with the City of Abilene Recreation Division has co-hosted a Community Wide Christmas Dinner for the residents of Abilene. Over the years this free event has grown in popularity from an attendance of 50 to a standing room crowd of more than 700. Despite economic troubles and staffing changes this event has endured due to the commitment from the members of the 7th FSS Squadron at Dyess Air Force Base. Over the course of this events history it is estimated that the 7th FSS Squadron has contributed more than \$150,000 to host this annual Christmas Dinner. This remarkable commitment is a prime example of how unique partnerships can work together to offer exceptional programs to the residents of Abilene.
- 2) They also received the special award for their participation in Don't Mess with Texas Trash-Off. Even though Saturday, April 5th was cold, windy and drizzly wet the 7th FSS showed up to help clean up litter in Abilene. Their group brought 23 members who participated with the other 89 volunteers to collect, and properly dispose of, 3,420 pounds of trash from our city.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the April 10th regular meeting there being no deletions, no additions, and no corrections. Councilman Williams made a motion to approve the minutes as presented. Councilman Price seconded the motion, motion carried.

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

CONSENT AGENDA

Councilman Price pulled item 6.3. Councilman Spano made the motion to approve consent item 6.1 through 6.9 except 6.3 as recommended by staff. Councilman McAlister seconded the motion, motion carried.

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

Oral Resolutions:

- 6.1 Oral Resolution:** City Council authorized the City Manager to execute a Real Estate sales contract with the seller for the purchase of 781 Cypress Street.

An agreement has been reached between the City of Abilene and Acme Commercial Properties, LLC, Warren Harkins, owner & manager, for the City's purchase of the property at 781 Cypress Street. The total purchase price will be \$150,000.00, plus the City's cost for the survey and title insurance policy.

- 6.2 Oral Resolution:** City Council authorized the City Manager to assign the contract for the purchase of property at 401, 441 & 443 Walnut Street to First Financial Bank.

The City of Abilene has entered into a purchase agreement for the property located at 401, 441 and 443 Walnut Street. Subsequent to execution of that contract, the City was contacted by a representative of First Financial Bank stating that they were interested in acquiring that property for the purpose of constructing a parking lot to complement future expansion of the bank's services. The City has no immediate need for the property and pursued purchase in order to improve the aesthetics of the area and to provide a location for future expansion of City facilities. Staff believes the use proposed by FFN is appropriate for the site and will be an improvement over the existing use.

- 6.3 Oral Resolution:** Approving the renewal of the software maintenance for Infor (Lawson) Systems. *Item pulled from consent.*

Ordinances

- 6.4 Ordinance:** *(First Reading)* **Z-2014-11** - on a request from William D. Tate, agent Wayne Sanford, to rezone property from PD (Planned Development) to RS-6 (Single-Family Residential) zoning, located at 1541 Lytle Acres Dr.; and setting a public hearing for May 8, 2014.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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)* **Z-2014-12** - on a request from LBHDS, LLC, agent Tigris Development, LLC, to rezone property from RS-6 (Single-Family Residential) & PD (Planned Development) to MF

(Multi-Family Residential) zoning, located on the south side of the 4300 block of Antilley Rd; and setting a public hearing for May 8, 2014.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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.

- 6.6** **Ordinance:** *(First Reading)* **Z-2014-13** - on a request from Jennifer Salazar, agent Foxwood Development Services, to rezone property from RS-8/COR (Single-Family Residential/Corridor Overlay) to GR/COR (General Retail/Corridor Overlay) zoning, located at 4117 Antilley Rd; and setting a public hearing for May 8, 2014.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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)* **Z-2014-14** - on a request from Ken Musgrave, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GR (General Retail) zoning, being approximately 3.88 acres located on the south side of the 2200 block of Hwy 351; and setting a public hearing for May 8, 2014.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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)* **Z-2014-15** - First reading on a request from Gerald Johnson, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, located at 5050 Oldham Ln; and setting a public hearing for May 8, 2014.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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.

- 6.9** **Ordinance:** *(First Reading)* **Z-2014-16** - on a request from Exceptional Holdings, LP, agent David Ohre, to rezone property from PD (Planned Development) to GR (General Retail) zoning, located at 1102 E. Overland Tr; and setting a public hearing for May 8, 2014

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "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.

ITEM PULLED FROM CONSENT

- 6.3** **Oral Resolution:** Approving the renewal of the software maintenance for Infor (Lawson) Systems.

Councilman Price inquired into the use of XP (windows) software on city computers. Ronnie Kidd Managing Director for Administration explained that the city is moving away from XP Software. Also in regards to E-bills for water bills will be addressed with a software update from Incode.

Infor [formerly Lawson] provides maintenance service support for the Lawson Enterprise system purchased by the City of Abilene in 2009 for its Human Resources, Payroll, Finance, and Budget programs that provide critical operational services. At that time, a multi-year maintenance agreement was included in the procurement. It has expired. We now need to renew the software maintenance agreement on an annual basis. Examples of support provided through the agreement include help desk technical support, patches for security and program fixes, updates to existing software to ensure operational efficiencies, and updates to governmental regulatory changes for payroll and accounting, such as W-2s and 1099s. The maintenance support services are critical to maintain operational effectiveness and system integrity on an ongoing basis.

Councilman Price made the motion to approve the renewal of the software maintenance for Infor (Lawson) system. Councilman Williams seconded the motion, motion carried.

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

REGULAR ITEMS

7.1 Councilman Spano made the motion to remove Item 7.1 from the TABLE. Councilwoman Miller seconded the motion, motion carried.

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

Jon James, Director of Planning and Development Services, briefed the council on the Ordinance Case **CUP-2014-02** A request from Gary L. Peterson for a Conditional Use Permit to allow for an 'Antenna Tower – Commercial' on property zoned HC (Heavy Commercial), located at 1350 Tracy Lynn Dr.

Currently the property is zoned HC and has been developed with self-storage warehousing. The property to the south has been developed as self-storage/small office use. To the north, there is an old Wal-Mart building that is vacant. The properties to the west and east are developed with contractor service uses. The request is to allow for an 'Antenna Tower – Commercial' to provide a connection between the site and the operator's home for remote viewing of the security camera system on the property. The tower is needed in order for his system to be broadcast the long distance to his home. The tower will be designed for co-location in the future.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial activity. The applicant proposes to add a new tower to the property. The request would be compatible with the surrounding uses.

Staff recommends approval as requested.

The Planning and Zoning Commission recommends approval as requested by a vote of 6 in favor (Bixby, Glenn, McClarty, Todd, Yungblut, and Famble) and none opposed.

Mayor Archibald opened the public hearing and council heard from the proponent Gary Peterson who explained that the tower is a line of sight communication tower, there being no one else present and desiring to be heard the public hearing was closed.

Councilwoman Miller made the motion to approve the **CUP-2014-02** a request from Gary Peterson for a Conditional Use Permit to allow for an “Antenna Tower – Commercial” on property zoned HC (Heavy Commercial), located at 1350 Tracy Lynn Dr. Councilman Price seconded the motion, motion carried.

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

NAYS: None

ABSTAINED: Councilman Briley

Ordinance #26-2014

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: 1350 Tracy Lynn Dr.

7.2 Tommy O’Brien Director of Water Utilities briefed the council on the Resolution for the City’s 2014 Water Conservation Plan Update and affirming the Drought Contingency Plan Ordinance without changes.

Under the water conservation planning requirements found in Texas Administrative Code (TAC) Chapter 288, water systems holding surface water rights in excess of 1,000 acre-feet per year must maintain and submit to the Texas Commission on Environmental Quality (TCEQ) a current Water Conservation Plan (WCP) and a current Drought Contingency Plan (DCP). To maintain compliance with the requirements of TAC Chapter 288, Abilene’s 2014 Water Conservation Plan updates must be adopted and submitted to the TCEQ on or before May 1, 2014. Additionally, Abilene’s Drought Contingency Plan ordinance must be affirmed with no changes and submitted to the TCEQ on or before May 1, 2014.

The City of Abilene last updated its WCP and associated system inventory information on April 8, 2010. To meet the May 1, 2014 submission requirement, Staff updated the City’s WCP and presents the attached resolution for City Council approval. The 2014 WCP update recommended for approval includes the following system inventory information: (1) Utility Profile and Water Conservation Plan Requirements for Municipal Water Use by Retail Public Water Suppliers; (2) Profile and Water Conservation Plan Requirements for Wholesale Public Water Suppliers; (3) System Inventory and Water Conservation Plan for Agricultural Water Suppliers Providing Water To More Than One User; and (4) Industrial/Mining Water Conservation Plan.

In accordance with TCEQ requirements, Staff included in the 2014 WCP update the following 5- and 10-year goals for City of Abilene users: (1) Total per capita water use - maintain water use at or below 162 gallons per capita per day (gpcd) by the end of 2019, and 160 gpcd by the end of 2024; (2) Residential per capita water use – maintain water use at or below 106 gpcd by the end of 2019 and 2024; and (3) Per capita water loss - maintain per capita water loss at the industry standard of less than 15%, which is less than 26 gpcd by the end of 2019 and 2024.

The City maintains its Drought Contingency Plan ordinance in the City of Abilene Municipal Code, under Chapter 32, Article VI. Water Conservation Plan. The Drought Contingency Plan ordinance was last amended on April 14, 2005. Staff has reviewed the Drought Contingency Plan ordinance, and there are no

changes to the Drought Contingency Plan ordinance proposed at this time. The attached resolution for City Council approval affirms the Drought Contingency Plan ordinance, as amended on April 14, 2005, without changes.

Staff and council discussion included: 1) Lake Hubbard lake levels; 2) whole sale customers usage; and 3) best management goals.

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

Councilman McAlister made the motion to approve the Resolution for the City's 2014 Water Conservation Plan Update and affirming the Drought Contingency Plan Ordinance without changes. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Resolution **#09-2014**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
APPROVING THE 2014 WATER CONSERVATION PLAN UPDATE AND
AFFIRMING THE DROUGHT CONTINGENCY PLAN ORDINANCE AS ADOPTED.

7.3 Tommy O'Brien Director of Water Utilities briefed the council on the Resolution authorizing the initiation of a condemnation proceeding necessary for the completion of a pipeline designed to deliver advanced treated wastewater from the Hamby wastewater treatment plant into Lake Fort Phantom Hill.

As part of the Hamby wastewater treatment plant reuse project, the City's consulting engineers have designed a pipeline to deliver advanced treated wastewater from the Hamby wastewater treatment plant into Lake Fort Phantom Hill that will provide an average of 7 million gallons per day of advanced treated wastewater to augment the City's raw water supplies during this critical drought period. The pipeline alignment was selected based on the shortest alignment practical and with consideration given to maximizing ease of construction, thereby reducing construction costs. Consideration was also given to property owners' willingness to enter into easement agreements for the line's location on their private property. Such willingness was initially expressed by all three property owners on the pipeline's proposed route and the pipeline was designed, easement documents were prepared, and all associated work and necessary archaeological surveys and habitat assessments were completed to locate the pipeline across these three property owner's parcels.

Though initially all private property owners agreed to enter into easement agreements, one property owner has now rescinded that agreement and is no longer willing to voluntarily grant an easement for the pipeline to the City of Abilene. Therefore, the City of Abilene finds it necessary to begin the eminent domain process to condemn an easement for access to the property for the placement of the line. An appraisal of the property found there would be no devaluation to the surface estate as a result of this underground pipeline easement Chapter 21 of the Texas Property Code sets out the eminent domain procedure that must be followed. The code states that a government entity exercising the power of eminent domain must first authorize the initiation of the condemnation proceeding at a public meeting with a public hearing by a record vote that clearly describes the property and the public use.

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 Resolution authorizing the initiation of a condemnation proceeding necessary for the completion of a pipeline designed to deliver advanced treated wastewater from the Hamby wastewater treatment plant into Lake Fort Phantom Hill. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Resolution **#10-2014**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE AN
EASEMENT NECESSARY FOR THE COMPLETION OF A PIPELINE DESIGNED TO
DELIVER ADVANCED TREATED WASTEWATER FROM THE HAMBY WASTEWATER
TREATMENT PLANT INTO LAKE FORT PHANTOM HILL.

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 Executive Session at 10:52 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property and Section 551.071 Consultation with Attorney. Councilman Spano left prior to executive session began.

No action from executive session.

There being no further business the meeting was adjourned at 10:52 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor