

**CITY COUNCIL MEETING
July 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 July 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, Anthony Williams, Jay Hardaway, and Kyle McAlister. Councilwoman Kellie Miller was absent. 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 Jalyn Childers she is the daughter of City of Abilene employee James Childers Director of Community Services. Jalyn led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

Mayor Archibald announced that the discussion going on in the city currently regarding the proposed site for a new Walmart will not be before the city council. The property that Walmart is currently in negotiations on has the appropriate zoning for the type that they would need.

DISPOSITION OF MINUTES

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

AYES: Councilmen Price, Spano, Williams, Hardaway, McAlister, and Mayor Archibald

NAYS: None

CONSENT AGENDA

Councilman Williams made the motion to approve consent item 6.1 through 6.17 as recommended by staff. Councilman Hardaway seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Hardaway, McAlister, and Mayor Archibald

NAYS: None

ABSTAINED: Councilman Spano – Item 6.5 & Councilman Price – Items 6.4 and 6.12

Ordinances:

6.1 **Ordinance:** (*First Reading*) for Case #Z-2014-10, a request from Abilene Housing Authority, agent Diana McIver & Associates & the City of Abilene to rezone property from MD (Medium Density) to MF (Multi-Family Residential) zoning, located at 2001 & 2121 N 6th St; and setting a public hearing for August 14, 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.

- 6.2** **Ordinance:** (*First Reading*) for Case #**Z-2014-20**, a request from Robert Hamil & Angela Hamil Willis, agent Jim Hatchett, Jr., to rezone property from MH (Manufactured/Mobile Home) to GC (General Commercial) zoning, located at 5601 Hwy 277 S; and setting a public hearing for August 14, 2014.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-145 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.3** **Ordinance:** (*First Reading*) for Case #**Z-2014-25**, a request from Can-Doo Budget Rentals, agent Louis J. Paulsen, to rezone property from HC (Heavy Commercial) to PD (Planned Development) zoning, located at 101 Goliad Dr.; and setting a public hearing for August 14, 2104.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23 "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-110 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING PROVIDING A PENALTY AND AN EFFECTIVE DATE

- 6.4** **Ordinance:** (*First Reading*) for Case #**Z-2014-26**, a request from Lytle-85 Joint Venture, agent Scott Senter, to rezone property from a combination of MD (Medium Density Residential) and GC (General Commercial) to entirely GC (General Commercial) zoning, being approximately 7.6 acres located at the southwest corner of ES 11th St and Lytle Way; and setting a public hearing for August 14, 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*) for a Case #**Z-2014-27**, a request from Meredith McCullar to amend PD-113 (Planned Development) zoning and specifically pertaining to signage allowed on property located at 1801 Hwy 351; and setting a public hearing for August 14, 2014.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23 "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONERNING PD-113 AND ORDINANCE NO 48-2008, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.6** **Ordinance:** (*First Reading*) for a Case #**Z-2014-28**, a request from TX 360 Senior Housing GP, LLC, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GR (General Retail) zoning, located at 6157 Hwy 277 S.; and setting a public hearing for August 14, 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*) for a Case #**Z-2014-29**, a request from Ken Musgrave, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RS-8 (Single Family Residential) zoning,

being 27.60 acres located at 6301 Arapaho Trail, at the south end of Traditions Way; and setting a public hearing for August 14, 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*) for a Case #Z-2014-30, a request from Seymour Beitcher, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, being 7.71 acres located at the east end of Butterfield Meadows Pkwy & Firedog Rd; and setting a public hearing for August 14, 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*) for a Case #Z-2014-31, a request from Jeremy & Jennifer Britten Bennie Bilbrey, agent Enprotec/Hibbs & Todd, to rezone property from AO (Agricultural Open Space) & NR (Neighborhood Retail) to GC (General Commercial) zoning, being approximately 3.49 acres located at the southeast corner of Curry Ln and Sharon Rd; and setting a public hearing for August 14, 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.

- 6.10** **Ordinance:** (*First Reading*) for a Case #Z-2014-32, a request from Kay P. Braden, agent Foxwood Development Services, to rezone property from RS-8 (Single-Family Residential), RS-8/COR (Single-Family Residential/Corridor Overlay), & AO (Agricultural Open Space) to GR (General Retail) zoning, located at 4102 & 4118 Antilley Rd; and setting a public hearing for August 14, 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

- 6.11** **Ordinance:** (*First Reading*) for a Case #Z-2014-33, a request from Red Dirt Holdings, LLC, agent Lynn Beal, to rezone property from AO (Agricultural Open Space) to RS-8 (Single-Family Residential) zoning, being approximately 216 acres located on the south side of the 5200 block of Antilley Rd; and setting a public hearing for August 14, 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

- 6.12** **Ordinance:** (*First Reading*) for Case #TC-2014-05, a request from the City of Abilene to abandon Campus Court north of Garfield Ave; and setting a public hearing for August 14, 2014.

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.

- 6.13** **Ordinance:** (*First Reading*) Amending the Land Development Code (LDC) in regards to allowing home occupations in detached accessory buildings; and setting a public hearing for August 14, 2014.

AN ORDINANCE AMENDING CHAPTER 23, "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.

- 6.14** **Resolution:** The City Council authorized the Addendum II to the Water Supply Contract with View-Caps Water Supply Corporation for increasing Maximum Daily Flow Rates.

The City of Abilene Water Department is requesting that by written resolution the City Council approve Addendum II to the Water Supply Contract (Contract) between the City and the View-Caps Water Supply Corporation (VCWSC). Addendum II allows for increasing the Maximum Daily Flow Rate (MDFR) for Delivery Points No. 5, 6 and 8. Addendum I, approved July 23, 2009, was for the relocation of Delivery Points No. 1 and No. 8, and for the increase of the MDFR for Delivery Point No. 1.

The VCWSC, a wholesale customer of Abilene, owns a potable water distribution system serving rural customers existing primarily outside the Abilene City limit. The Contract describes eight metered Delivery Point connections to Abilene's water system. The Texas Commission on Environmental Quality (TCEQ) requires that the Contract provides adequate supply to meet the calculated demand of the retail system based on the number of connections it serves. The demand of VCWSC exceeds 85% of its contracted supply and therefore it must make plans for additional supply. The VCWSC contracted with a Professional Engineer to evaluate its distribution system, and the Engineer recommends changing the MDFR as described below;

Delivery Point	Current MDFR	Proposed MDFR	Net Change in MDFR
5	150 gpm	225 gpm	75 gpm
6	150 gpm	225 gpm	75 gpm
8	350 gpm	510 gpm	160 gpm
7 (eliminate)	10 gpm	0 gpm	-10 gpm

The Engineer, along with City staff, evaluated the impact that the proposed increases of the MDFR's would have on the City's distribution system and determined that the proposed increases would not have a significant impact on current system operation, nor does it require acceleration or expansion of planned system improvements as identified in the 2010 Water Master Plan. Addendum II will increase the MDFR's as described above. All other terms, provisions, and obligations in the Water Supply Contract effective January 1, 2004, as amended, remain in force and effect.

[Resolution #16-2014](#)

A RESOLUTION OF THE CITY COUNCIL FO THE CITY OF ABILENE, TEXAS, AUTHORIZING AN AMENDMENT TO THE EXISTING WATER SUPPLY CONTRACT BETWEEN THE CITY OF ABILENE AND THE VIEW-CAPS WATER SUPPLY CORPORATION BY INCREASING THE MAXIMUM DAILY FLOW RATES

6.15 Bid Award: The City Council awarded the annual Street Division Material Requirement **CB#1427** for materials to be used in the maintenance and rehabilitation of the street and alley system.

Item:	Company	Unit Price
Limestone Rock Asphalt, Type CC	Vulcan Const. Materials	\$76.50/Per Ton
Hot Mix, Type D-Delivered	J. H. Strain & Sons	\$72.00/Per Ton
Hot Mix, Type D	Vulcan Const. Materials	\$67.00/Per Ton
A-1 Flex Base-Delivered	J. H. Strain & Sons	\$11.50/Per Ton
A-1 Flex Base	Vulcan Const. Materials	\$ 7.00/Per Ton
Portland Cement, Class A, 5-sack	Ingram Concrete	\$108.00/Per Cubic Yd
Portland Cement, Type 1	BMC/Abilene Lumber	\$ 9.97/Per Sack
Polymer Modified Crack Sealant	Crafco Texas	\$ 0.48/Per Pound
HPPM	Unique Paving Materials	\$116.00/Per Ton
CBS-1	Envirotex	\$ 3.95/Per Gal

6.16 Oral Resolution: The City Council awarded the bid for the Lake Abilene Dam Intake Tower Rehabilitation Project to SCR in the amount of \$189,250.00 and authorized the City Manager to execute all necessary documents related to the contract.

On June 30, 2014 the City of Abilene received bids for the Lake Abilene Dam Intake Tower Rehabilitation Project CB-1428 (Project). The Project was advertised in the Abilene Reporter News on June 15th and June 22nd, 2014. Three bids were received. The low bid was submitted by SCR Construction Company, Inc. (SCR) of Richmond, TX. The Engineer, after evaluating the bid submittal and the contractor references, does recommend awarding the bid to SCR in the amount of \$189,250.00.

On June 13th, 2013 the Abilene City Council authorized Amendment 2 to the professional services contract with Freese and Nichols, Inc. (FNI) for the Dam Upgrade Program for Fort Phantom Hill Dam, Lake Abilene Dam, and Kirby Lake Dam. Amendment No. 2 provides for second phase engineering services for the preparation of plans, specifications and contract documents for the recommended improvements and construction phase services for Fort Phantom Hill Dam and Lake Abilene Dam. The Project is an improvement resulting from Amendment 2. The dam intake tower structure was completed in 1921, and it has obvious degradation to the exterior surface resulting from continuous exposure to wave action and the elements. The Project is for the encasement of the of the dam intake tower structure using steel reinforced concrete. The current very low surface water elevation of Lake Abilene may allow the contractor full access to the structure to make the repairs. The bid documents provide for an allowance and repair options should the lake level increase before or during project construction.

6.17 Oral Resolution: City Council approved amendments to the required ADA Notice and Grievance.

Under Title II of the Americans with Disabilities Act (ADA), municipalities with more than 50 employees are required to designate an ADA Coordinator, provide notice about the requirements of the ADA and establish a grievance procedure. The Director of Human Resources, currently Ronnie Kidd, has served in the role of the ADA Coordinator for the City of Abilene. This oral resolution approves updates to the ADA notice and grievance procedure to ensure compliance with Title II.

REGULAR ITEMS

7.1 Jon James Director of Planning and Development Services briefed the council on the FY2014/215 One-Year Action Plan for CDBG and HOME Programs.

As an entitlement city receiving funds from the U.S. Department of Housing and Urban Development (HUD), the City of Abilene is required to submit a Consolidated Plan that strategically addresses the City's goals and objectives for housing and community development over the course of a five year period. The City of Abilene is also required to submit a One-Year Action Plan outlining specific uses of Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funds planned for the coming fiscal year. The Office of Neighborhood Services Advisory Council was instrumental in the development of the goals and objectives of the Consolidated Plan, which were adopted by Council on May 22, 2010. The One-Year Action Plan must be submitted to HUD by August 15, 2014.

A public hearing was held on March 4, 2014, at City Hall to discuss/determine services, needs and gaps in the following areas of concentration which included housing, homelessness/special needs, economic development, and community development/neighborhood development. At this session, representatives of non-profit agencies and members of the general public made various comments on community development needs for consideration for CDBG/HOME funds or alternative funds. A summary of the One-Year Action Plan outlining the proposed FY 2014/2015 budget was published in the Abilene Reporter-News on June 16, 2014, which began the HUD required 30-day comment period. No written comments were received as of July 16th. A second public hearing on July 24, 2014, is required with approval of the attached resolution.

FUNDING/FISCAL IMPACT—PY 2014/15 CDBG funds were reduced 6.2% from 2013 funding and HOME funds were reduced .5%. Funding levels continue to be below the 2011 funding levels, which precluded funding for city public services and outside agencies. Section 108 Loan debt reductions this year has allowed funding of one public service and four projects in 2015. There will be no impact on local taxes. Projects will be funded with PY 2014 CDBG entitlement of \$821,588 and HOME entitlement of \$369,868 with \$353,589 reprogrammed funds. In addition, the City anticipates that it will receive \$25,000 from HOME program income during FY 2014/2015.

Goal: Low-moderate income citizens will have access to safe, decent, and affordable housing

- **Critical/Limited Repair -- \$150,000 CDBG**
- **Single-Family Rehabilitation – \$606,087 HOME**
- **Community Housing Development Organization (CHDO) – \$55,480 HOME**
- **First Time Home Buyers – \$45,000 HOME**
- **CDBG Housing Rehab Administration – \$127,260 CDBG**
- **Housing Rehab Administration – \$17,605 HOME**
- **Adult Protective Services Partners (APSP) – \$15,000 CDBG**

OTHER HOUSING AND COMMUNITY DEVELOPMENT NEEDS

Goal: Enhance the physical environment of Abilene

- **Capital Improvement Projects in LMI ANI/Target Neighborhoods - \$150,000 CDBG**
- **Debt Repayment – Section 108 Loan – \$113,740 CDBG**
- **Access to Jobs – \$52,500 CDBG**
- **Day Nursery of Abilene -- \$61,605 CDBG**

GENERAL ADMINISTRATION AND PLANNING

Goal: To ensure the overall management, administration and planning associated with implementation of the City's CDBG and HOME programs.

- **Planning and Development Services Administration – \$162,550 CDBG**
- **HOME Administration – \$24,285 HOME**

Council and Staff discussion included: 1) lead paint abatement; 2) the lack of qualified contractors to abate lead paint in rehab homes; and 3) seeking ways to reach those that are qualified contractors for lead abatement.

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 FY2014/2015 One-Year Action Plan for CDBG and HOME Programs. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Hardaway, McAlister, and Mayor Archibald
NAYS: None

Resolution [#17-2014](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING THE FY 2014/15 ACTION PLAN FOR THE CONSOLIDATED PLAN AND PROJECTED USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUNDS

7.2 Kellie Messer Assistant City Attorney briefed the council on the Ordinance for Amending Chapter 10; Fire Protection and Prevention, Article III: Fire Prevention Code, Division 2: Smoking Restrictions of the Code of the City of Abilene.

On December 21, 2006, the City Council of the City of Abilene adopted an ordinance banning smoking in all public places and places of employment. Since that time, there has been a substantial increase in the sale and use of electronic liquid nicotine devices which are not currently regulated by state law.

The Food and Drug Administration recently determined that the smoking of electronic cigarettes and/or E-cigarettes and liquid nicotine have been demonstrated to have a detrimental effects on others in close proximity to the smoker.

The intent of the regulations Chapter 10, Article III, Division 2 is that it is the right of all citizens to be able to choose for themselves whether to smoke either actively or passively. Furthermore, it is advantageous and beneficial to the City and its citizens to provide patrons of retail and service establishments and those in public places a smoke-free environment to reduce detrimental effects on not only the smoker, but others in close proximity to the smoker and to further the health, safety and welfare of the City and its citizens

Because the State of Texas has not yet enacted legislation regulating the sale or use of electronic cigarettes, municipalities across the state have begun to do so. Among our peer cities, Carrolton (Passed new ordinance 4/15/2014), Grand Prairie (Smoking ordinance passed 1/21/2014), and San Angelo have smoking ordinances that also regulate electronic cigarettes and liquid nicotine.

Dr. Peter K. Norton, medical director with the Abilene-Taylor County public health district, said that carcinogen levels in the vapor produced by e-cigarettes are “significantly less,” about one-thousandth, compared with a standard cigarette.

“So relatively speaking to the community, to people around you, it is much safer than the smoke you can get from a cigarette,” he said. “ ... However, if you put the vapor and put it with cells, those cellular changes are similar to those with tobacco products.”

But there is a lack of scientific studies, he said, that “tell us exactly what the risks are and what their safety is.”

Dr. Norton also stated he had concerns about the products because e-cigarettes are often marketed toward minors, particularly teens.

Council and Staff discussion included: 1) Councilman McAlister had purchased contents for E-Cigs and discussed the contents with Dr. Norton; 2) nicotine and labeling – not regulated by the FDA; 3) Vap liquid; and 4) content of liquid is normally used for other purposes and there are not any studies conducted on the use of the liquid as an inhalant.

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

- Jimmy Murphy – against regulation – spoke 2 X
- Aaron Fornwall – against regulation – spoke 2 X
- Gerald Stewart – against regulation
- Michael McGough – against regulation
- William Hopkins – against regulation
- Hope Dougherty – against regulation
- James Kaminski - against regulation
- Denise Wolfe – for regulation
- Caleb Weatherford – for regulation
- Dale Borger – on both sides
- Winston Ohlhausen – E-Cigs are they being regulated in the right code since they do not have fire in them. He agreed with Mr. Kaminski
- Steve Savage – against regulation – spoke 2 X
- Kelly Brazell – for regulation
- Jim Pickens – against regulation
- Lance Elam – against regulation
- Catherine Hicks – against regulation
- Dr. Ralph McCleskey – Cardiologist – for regulation
- Corey Nixon (Clyde, TX) – against regulation

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

Council and Staff discussion included: 1) restricting the sale of E-cigarettes to minors; 2) restrictions on City property (buildings only) this could be done through policy; 3) school districts; and 4) asked that individuals vaping be mindful of where they are using the E-cigs and have respect for other non-smokers.

Councilman McAlister went on the record to say that he supports banning the use of E-Cigs in the same manner as regular cigarettes and would not vote against the motion on the floor to only prohibit the sale to minors.

Mayor Archibald made the motion to approve amending Chapter 10: Fire protection and prevention, Article III: Fire Prevention Code, Division 2: Smoking Restrictions – prohibiting the sale of E-Cigs to minors. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Hardaway, McAlister, and Mayor Archibald
NAYS: None

Ordinance **#41-2014**

AN ORDINANCE AMENDING CHAPTER 10: FIRE PROTECTION AND PREVENTION,
ARTICLE III: FIRE PREVENTION CODE, DIVISION 2: SMOKING RESTRICTIONS OF THE
CODE OF THE CITY OF ABILENE, TEXAS

Sale of E-Cigarette's to minors is prohibited

7.3 David Sartor Building Official briefed the council on the Ordinance the adoption of the 2012 Building, Residential, Existing Building, Energy conservation, Plumbing, Mechanical and Fuel Gas Codes with Amendment.

It is recommended that the *2012 International Building Code, 2012 International Residential Code, 2012 International Existing Building Code, 2012 International Energy Conservation Code, 2012 International Mechanical Code, 2012 International Plumbing Code and 2012 International Fuel Gas Code*, with local amendments, be adopted in order that the City's construction regulations are kept up to date. Local amendments pertain to licensing and administrative procedures with limited modifications made to the technical provisions of the International Codes. Each Code was reviewed by a citizen's ad-hoc committee, comprised of contractors, architects, engineers and suppliers.

Staff recommends approval.

The Mechanical, Plumbing, Electrical & Swimming Pool Board of Appeals recommends approval of the 2012 edition of the IMC, IPC and IFGC by unanimous vote at their meeting held on February 11, 2014. The Board of Building Standards recommends approval of the 2012 edition of the IBC, IRC, IEBC and IECC by unanimous vote at their meeting held on February 5, 2014.

Several local amendments eliminated due to inclusion in the 2012 code.

- Residential (and Commercial) fences 7 ft. or less in height are exempt from permit. Local amendment no longer needed
- Dwelling units with windows located more than 72 inches above grade or surface below require a minimum sill height of 24 inches above the room floor. EXCEPTIONS: Three design options available.
- Code now specifically recognizes wireless technology for interconnection of smoke detectors in dwellings.

Residential Mechanical Plumbing and Fuel Gas

- Dryer Exhaust Duct

Support spacing increased from 4 ft. to 12 ft. and now **requires** mechanical fasteners. Screws cannot extend more than 1/8 inch into the inside of the duct.

- Safety pan is no longer required on tankless water heaters. Pan is only required on storage tank-type water heaters.
- Graywater Recycling Systems provisions are now part of the code as a design option . Previously contained in an appendix chapter

COMMERCIAL BUILDING CODE

- Size and location of identifying markings for Fire Walls modified to increase potential for markings to be seen.
- 2009 code requires automatic fire sprinkler system where upholstered furniture is displayed, stored or manufactured.
- 2012 requires automatic fire sprinkler systems when the area exceeds a specific size. (Example - Mercantile over 5,000 square feet.)
- In addition to the traditional exit sign location, low-level exit signs are now required at all means of egress for guest rooms in Group R-1 occupancies.
- Spaces beneath grandstands and bleachers are now required to be separated from seating areas by use of fire rated assemblies.
- Where separate toilet facilities are required and only one water closet is required in each facility, two family or assisted-use toilet rooms may now be provided as an alternative to male and female only.

ENERGY CONSERVATION CODE

Commercial Energy Code

System commissioning report required on large HVAC systems.

- Exceptions:
 - Mechanical systems with total cooling capacity less than 480,000 BTU and total heating capacity less than 600,000 BTU.
 - Systems listed in Section 403.3 serving dwelling units, sleeping units in hotels, motels, boarding houses or similar units.

Residential Energy Code

- 2012 requires blower door test to verify air sealing of the building envelope.
- Proposed amendment to match 2009 code which has two options, blower door test or visual inspection option.
- Visual inspection is our current requirement.

Eave baffles must be installed to prevent attic insulation from blocking soffit vents.

High-efficacy lamps required and recommendation is to use 2009 code.

- 2012 requires a minimum 75% of lamps to be high-efficacy.
- 2009 requires a minimum 50%. (Residential and commercial)

High-Efficacy Lamps – Compact fluorescent lamps, T-8 or smaller diameter linear fluorescent lamps of lamps with a minimum efficacy of:

- 60 lumens per watt for lamps over 40 watts
- 50 lumens per watt for lamps over 15 to 40 watts
- 40 lumens per watt for lamps 15 watts or less.

MECHANICAL CODE

- Type I hood no longer required for electric cooking appliances compliant with Section 17 of UL 710B.
- Field applied grease duct enclosure cannot be used to protect a Type I hood which penetrates a ceiling if not listed and approved by the manufacturer.

2012 Construction Codes – Minor changes made from 1st reading **2012 IBC SECTION 1612 FLOOD LAOD**

1612.3 Establishment of flood hazard areas. *{Amend the second sentence as follows:}*

To establish *flood hazard areas*, the applicable governing authority shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled “The Flood Insurance Study for ~~[INSERT NAME OF JURISDICTION]~~,” Abilene Texas dated ~~[INSERT DATE OF ISSUANCE]~~, January 6, 2012 Taylor County – Abilene, October 4, 2011 Jones County – Abilene as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto.

2012 IBC SECTION 2611 LIGHT-TRANSMITTING PLASTIC INTERIOR SIGNS

2611.1 General. *{Amend the second sentence as follows:}*

Light-transmitting plastic interior wall signs in *covered and open mall buildings* shall comply with Section 402.16 402.6.4.

2012 IEBC SECTION 1401 GENERAL

[B] 1401.2 Applicability. *{Amend the first sentence as follows:}*

Structures existing prior to ~~{DATE TO BE INSERTED BY THE JURISDICTION. NOTE: IT IS RECOMMENDED THAT THIS DATE COINCIDE WITH THE EFFECTIVE DATE OF BUILDING CODES WITHIN THE JURISDICTION}~~ July 31, 1913 in which there is work involving *additions, alterations* or *changes of occupancy* shall be made to conform to the requirements of this chapter or the provisions of Chapters 5 through 13.

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 Adopting the 2012 International Building, Residential, Existing Building Energy Conservation, Mechanical, Plumbing, and Fuel Gas Code, with Local Amendments to each. Councilman Hardaway seconded the motion, motion carried.

AYES: Councilmen Spano, Williams, Hardaway, McAlister, and Mayor Archibald
NAYS: Councilman Price

Ordinance [#42-2014](#)

AN ORDINANCE AMENDING: (1) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 2, "BUILDING CODE"; (2) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 4, "PLUMBING CODE"; (3) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 5, "MECHANICAL CODE"; (4) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 7, "RESIDENTIAL CODE"; (5) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 8, "FUEL GAS CODE"; (6) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 9 "ENERGY CODE"; (7) CHAPTER 8, "CONSTRUCTION REGULATIONS" ARTICLE VI, "CODES AND OTHER REGULATIONS", DIVISION 10, "EXISTING BUILDING 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.

Adopting the 2012 Codes with amendments

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 12:05 p.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. Councilman Williams left during the executive session.

The Council reconvened Executive Session at 1:23 p.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property, and Section 551.087 Business Prospect.

No action from executive session.

10. Oral Resolution: Approving the appointments/reappointment to the following boards and commissions:

Keep Abilene Beautiful

Reappoint - Martin Garcia – Term expires 2015

Betty Hardwick/MH/MR

Reappointment - Steve Austin

Maxwell Golf Advisory Board

Ray Alvarez – Term expires 2017

Board of Adjustment

Move - Bob Beerman to Regular – Term expires 2015

Appoint – Glen Mosley – Term expires 2015

Councilman Price made the motion to approve the Mayors recommendation for the appointment of the board members of Keep Abilene Beautiful, Betty Hardwick/MH/MR, Maxwell Golf Advisory Board and the Board of Adjustment. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Hardaway, McAlister and Mayor Archibald

NAYS: None

There being no further business the meeting was adjourned at 1:23 p.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor