

City Council  
Agenda Memo



City Council  
Meeting Date: April 8, 2010

**TO:** Larry D. Gilley, City Manager  
**FROM:** Tommy O'Brien, Director of Water Utilities  
**SUBJECT:** Written Resolution Approving Updates to the City's Water Conservation Plan

**GENERAL INFORMATION**

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). The purpose of a WCP is to: promote the wise and responsible use of water by implementing programs that result in quantifiable water conservation results; develop, maintain, and enforce water conservation policies; and support public education programs that educate customers about water and wastewater facilities operations, water quantity and quality, and water conservation.

On March 24, 2005 the City of Abilene, as a part of the City's Water Management Plan, adopted a "Water Conservation Plan" to address the TCEQ requirements. The WCP complied with TAC Chapter 288 regarding water conservation planning for municipal water use by public water suppliers and conservation planning for wholesale public water suppliers, including associated system inventory information. On September 27, 2007 the Water Management Plan was supplemented to include an Industrial/Mining Conservation Plan and an Agricultural Water Conservation Plan to comply with additional TCEQ requirements. Except for the water conservation components, the Water Management Plan has not been updated and has become obsolete.

The TCEQ requires each WCP to be updated at least every five years. To accommodate the two different dates for updating the system inventory information (municipal water use and wholesale water supplier adopted March 24, 2005; agricultural water use and industrial water use adopted September 27, 2007), staff has elected to update the WCP and associated system inventory information at this time to generate a consistent schedule for future updates.

The City also maintains a Drought Contingency Plan under Chapter 32, Article VI of the City of Abilene Municipal Code (Water Conservation Plan ordinance), which was amended through Ordinance 9-2005 passed on April 14, 2005. There are no changes to the ordinance proposed at this time. The Drought Contingency Plan is also a part of the Water Management Plan.

The purpose of the attached resolution is to separate the Water Conservation Plan and the Drought Contingency Plan from the obsolete Water Management Plan and to approve non-substantive updates to the City's Water Conservation Plan including the following system inventory information: (1) Utility Profile & Water Conservation Plan Requirements for Municipal Water Use by Public Water Suppliers; (2) Profile & Water Conservation Plan Requirements for Wholesale Public Water Suppliers; (3) Industrial/Mining Water Conservation Plan; and (4) System Inventory and Water Conservation Plan for Agricultural Water Supplies Providing Water To More than One User.

**STAFF RECOMMENDATION**

The Staff recommends approval.

**ATTACHMENTS**

Resolution.

Prepared by:

Name Tommy O'Brien

Title Director of Water Utilities

Item No. 6.1

Disposition by City Council

Approved Ord/Res#

Denied \_\_\_\_\_

Other \_\_\_\_\_

\_\_\_\_\_  
City Secretary

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING A RESOLUTION SEPARATING THE WATER CONSERVATION PLAN (“WCP”) FROM THE WATER MANAGEMENT PLAN AND APPROVING NON-SUBSTANTIVE UPDATES TO THE WCP.**

**WHEREAS**, Texas Administrative Code (TAC) Chapter 288, “Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements”, requires 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

**WHEREAS**, on March 24, 2005 through Resolution 8-2005 the City of Abilene adopted a WCP as part of the City’s Water Management Plan; and

**WHEREAS**, on September 27, 2007 Resolution 32-2007 supplemented the Water Management Plan to include an Industrial/Mining Conservation Plan and an Agricultural Water Conservation Plan; and

**WHEREAS**, the Water Management Plan has not been updated and as a result has become obsolete except to those sections related to the WCP; and

**WHEREAS**, the City maintains a Drought Contingency Plan under Chapter 32, Article VI of the City of Abilene Municipal code (Water Conservation Plan ordinance), which was amended through Ordinance 9-2005 passed on April 14, 2005 and is referenced in the Water Management Plan; and

**WHEREAS**, the TCEQ requires each WCP to be updated at least every five years; and

**WHEREAS**, in order to make the updating process more efficient, staff desires to accommodate the two different dates for updating by updating both the municipal water use and wholesale water supplier plans and the agricultural and industrial water use plans together at this time;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

**Part 1:** That the City of Abilene Water Conservation Plan and the Drought Contingency Plan (Water Conservation Plan ordinance) shall be removed from the Water Management Plan and be considered for all purposes separate documents.

**Part 2:** That the updates to the Water Conservation Plan include the following system inventory information: (1) Utility Profile & Water Conservation Plan Requirements for Municipal Water Use by Public Water Suppliers; (2) Profile & Water Conservation Plan Requirements for Wholesale Public

Water Suppliers; (3) Industrial/Mining Water Conservation Plan; and (4) System Inventory and Water Conservation Plan for Agricultural Water Supplies Providing Water To More than One User as summarized in Exhibit "A" are accepted and approved.

**ADOPTED** this 8<sup>th</sup> day of April, 2010.

APPROVED:

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Norm Archibald, Mayor

ATTEST:

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City Secretary

APPROVED AS TO FORM:



City Attorney

## Exhibit A

### City of Abilene Water Conservation Plan Summary

#### **Section I. Declaration of Policy, Purpose and Intent**

The purpose of the Water Conservation Plan (Plan) is to: promote the wise and responsible use of water by implementing structural programs that result in quantifiable water conservation results; develop, maintain, and enforce water conservation policies and ordinances; and support public education programs that educate customers about water and wastewater facilities operations, water quantity and quality, water conservation and non-point source protection.

#### **Section II. Utility Profile Summary**

##### **Population**

Abilene's population in the year 2010 as determined by information supplied by the Brazos Region G Water Planning Group is estimated to be 124,607 and is projected to reach 130,220 by 2020. Abilene supplies treated water to wholesale purchasers who in turn resell that water to their system users. Total population of wholesale users in the year 2010 is estimated to be 36,755, and is projected to reach 37,495 persons by the year 2020.

##### **Customer Data and Water Use Data**

Abilene's water customers consist of a mixture of residential, commercial, industrial, wholesale, institutional and irrigation users. City of Abilene residential customers are supplied through approximately 34,200 connections with approximately 200 residential connections added each year. Abilene serves approximately 3,830 commercial connections with a net average gain of approximately 15 new commercial connections each year. Abilene serves approximately 21 industrial users with an average of three new industrial connections added each year. Abilene also contracts to sell water to 13 wholesale customers and Dyess AFB.

Approximately 24 reclaimed water customers citywide and an additional 10 agricultural irrigators around the Hamby Water Reclamation Plant utilize treated wastewater for agricultural and irrigation use.

Abilene customers including residential, commercial, industrial, and institutional users use approximately 86% of the total water delivered from the City's potable water treatment works while wholesale customers use approximately 14% of the total water delivered from the City's treatment works.

## Water Supply System

### **Water Sources**

Raw surface water is supplied to Abilene's treatment works from several sources. The City of Abilene owns and holds surface water rights to 30,690 acre feet per year (ac-ft/yr) from Lake Fort Phantom Hill, of which 25,690 ac-ft/yr are for municipal purposes, 4,000 ac-ft/yr are for industrial purposes, and 1,000 ac-ft/yr are for irrigation. The Clear Fork Diversion, owned and operated by Abilene, allows a maximum of 30,000 ac-ft/yr to be diverted from the Clear Fork of the Brazos to Lake Fort Phantom Hill.

The City owns and is allocated use of 1,675 ac-ft/yr of water for municipal purposes from Lake Abilene. Lake Abilene, however, is not considered a dependable supply by the City and is currently not used. The City also holds surface water rights to 3,880 ac-ft/yr from Lake Kirby, also owned by Abilene, for multiple use purposes and for storage/diversion of reclaimed water used for irrigation purposes. Hubbard Creek Reservoir, owned and operated by the West Central Texas Municipal Water District provides by contract up to 25,500 ac-ft/yr (125% of Abilene's portion of the allocated safe yield of Hubbard Creek Reservoir, depending on the lake level) of raw surface water for use by the City. Abilene may utilize by contract up to 16.54% of the safe yield of Lake O.H. Ivie.

### **Water Treatment**

A pump station located on the eastern bank of Lake Ft. Phantom Hill pumps raw surface water from Lake Ft. Phantom Hill to the Northeast Treatment Plant and the Grimes Treatment Plant. A raw water delivery system consisting of two parallel pipelines can provide up to 27 million gallons per day (MGD) from Hubbard Creek Reservoir to the Ft. Phantom Hill delivery system. Raw water is pumped approximately 50 miles from Lake O.H. Ivie to the Hargesheimer Water Treatment Plant located on Highway 83/84 near Tuscola. A pump station on the banks of the Clear Fork of the Brazos River, near Lake Ft. Phantom Hill provides diversion pumping of up to 30,000 ac-ft/yr into Lake Ft. Phantom Hill under selected volume and quality conditions.

The City's Water Treatment System consists of three treatment plants having a maximum treatment capacity of 51 MGD and combined treated water storage of 20.76 million gallons (MG). The Northeast Water Treatment Plant on East Lake Road has a capacity of 25 MGD and treats raw water drawn from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. The Grimes Water Treatment Plant on East Highway 80 has a treatment capacity of 20 MGD and treats water drawn from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. The Hargesheimer Water Treatment Plant located on Highway 83/84 near Tuscola has a micro-filtration capacity of 8.95 MGD, and a reverse osmosis/ blended capacity of 6.0 MGD, and treats raw water drawn from Lake O.H. Ivie.

## **Water Distribution**

The City of Abilene's water distribution system provides economical and compatible facilities that are capable of furnishing sufficient water at suitable pressures to both Abilene retail and wholesale purchasers. The system consists of nearly 750 miles of underground water mains, twelve pumping stations, seven ground storage tanks, eight elevated storage tanks, over 12,000 valves, over 2,700 fire hydrants, and over 38,400 meters.

After the water is processed at the treatment plants, it is pumped into the distribution system and stored in ground and elevated storage tanks with a combined volume of 19.25 million gallons. The distribution network is laid out in a continuous looped system to circulate water and maintain constant system pressure. Pumping stations are located strategically throughout the system to pump water, maintain uniform pressure and maintain storage tank levels.

Treated water from the Abilene treatment plants enters the wholesalers' systems through metered interconnections. According to TCEQ's records as available through the Texas Water Utility Database (TWUD), production capacity of the wholesale purchasers' systems amount to approximately 17.5 MGD. Based on TWUD records, ground storage capacity within the wholesalers' systems is approximately 5.5 million gallons while total elevated storage volume is approximately 3.3 million gallons.

## **Wastewater System**

### **Wastewater Collection**

Abilene's wastewater collection system consists of a network of approximately 653 miles of sewers, five lift stations, and approximately 5,100 manholes serving the cities of Abilene, Tuscola, Tye and the Hawley ISD. Sewage flows by gravity, aided when necessary by lift stations, through the collection system into the Buck Creek Pump Station, which has a rated pumping capacity of approximately 24 MGD. An emergency storage basin at this facility has a capacity of approximately 23 million gallons. Sewage is metered at Buck Creek and then pumped five miles to the wastewater treatment plant. Collected wastewater is treated at the City of Abilene's Hamby Wastewater Reclamation Plant which is operated under permit number 10334-004. The operator in responsible charge of the Hamby Plant is employed by the City of Abilene.

### **Wastewater Treatment**

When wastewater reaches the Hamby treatment facilities northeast of town, it undergoes full biological treatment that includes grit removal, sedimentation, activated sludge process, filtration, chlorine disinfection, and disinfectant removal. Wastewater quality is protected against industrial pollution through an Industrial Pre-Treatment Program. Industrial users are required to treat wastewater to specific standards before it is released into the municipal sanitary sewer system. Irrigators in and around the City reuse some of the treated effluent. The remainder is discharged to Deadman Creek by way of Freewater Creek or is discharged to Lake Kirby by

way of the City's reclaimed water system. Sewage biosolids are disposed of in a sludge disposal unit.

### **Section III. Water Conservation Goals**

#### **Municipal Use Goals**

Water users (all City of Abilene water users such as residential, commercial, and industrial) located within the City of Abilene's Certificate of Convenience and Necessity (CCN) coverage area historically use (when not under water use restrictions) approximately 149 gallons of water per capita per day (gpcd). The 5-year goal for water use reduction by City of Abilene users is to maintain per capita water use at or below 162 gpcd by the end of 2015. The 10-year goal is to maintain per capita use at or below 161 gpcd by the end of 2020. These goals are set in accordance with Region G Planning Group projections.

#### **Wholesale Use Goals**

Wholesale water users served by the City of Abilene, located outside the City of Abilene's CCN coverage area, historically use (when not under water use restrictions) approximately 83 gpcd of water supplied by Abilene. The 5 and 10-year goals for wholesale users supplied by the City of Abilene is to reduce per capita use by 1 gallon per day per user to 82 gpcd by the end of 2015 and 2020. These goals are set in accordance with Region G Planning Group projections.

#### **Industrial Use Goals**

The 5- and 10-year target for industrial water savings is to maintain source water diversion for wash-down, dust control and sanitary/domestic uses by current industrial users at not more than 350 acre-feet per year through the end of 2015 and 2020. The 5 and 10-year goals represent an annual water savings of approximately 12-20 acre-feet per year over present industrial water use rates, and were developed considering Abilene's current industrial user base and projected industrial water use for the coming decade.

#### **Agricultural Use Goals**

The 5-year and 10-year target for water savings is to maintain the irrigation requirement at or below the area agronomic standard of 24-inches per acre per year. It should be noted that occasionally the City may allow the agronomic standard rate to be exceeded in order to flush the crop root zone to improve plant productivity, livelihood, growth enhancement and overall reduction in crop water demand.

### **Section IV. Metering Devices**

It is Abilene's policy to purchase meters that meet at least the minimum standards developed by the American Water Works Association. All metering devices used to meter water diverted from the source of supply are accurate to within plus or minus 5% to measure and account for water diverted from the source of supply. All service connections in the distribution system are

metered. Aged meters are systematically replaced to assure reliability of meter performance. The City has established the following meter maintenance and replacement programs:

<u>Meter Type</u>	<u>Calibration Period and Replacement</u>
Master Meters	Annually and replaced as needed
1-1/2 inch and larger	Annually and replaced as needed
1-1/2 inch and smaller	Every 10 years and replaced as needed

The wholesale water purchasers are responsible for metering device installation, maintenance and calibration for meters located within their service areas.

#### **Section V. Universal Metering**

It is Abilene's policy to individually meter all water usage, except for fire protection and fire hydrant flushing to maintain a safe potable water system, including all new construction within the City's CCN coverage area. Combined with an aggressive leak detection and repair program, electronic data collection devices, and a computerized billing system, Abilene's universal metering program has resulted in a water delivery accuracy rate well within industry operating standards.

#### **Section VI. Measures to Determine and Control Unaccounted-For Uses of Water**

The record management system utilized by the City of Abilene segregates water sales and users into user classes of residential, commercial, public/institutional, and industrial. It is Abilene's policy to investigate customer complaints of low pressure and possible leaks. Abilene visually inspects suspected leaks and makes quick and timely repairs to those leaks when detected. Abilene utilizes a record management system which records water pumped, water delivered, water sales and water losses to track water transmission, distribution, and delivery to customers. This information is used to evaluate the integrity of the water delivery system from source to end user to control and minimize unaccounted-for uses of water.

#### **Section VII. Water Conservation Program**

The City of Abilene's Water Conservation Program utilizes Supply Management Methods and Demand Management Methods to work towards optimizing use of Abilene's water resources.

#### **Supply Management Program Elements consist of:**

1. Coordinated use of water supplies to ensure the City withdraws water from its water supply reservoirs in a manner that ensures maximum dependable yield and efficiency of operation.
2. Watershed management to ensure diversion channels to Lake Ft. Phantom Hill are clean, relatively straight, and obstruction-free to increase captured water flow while minimizing flooding potential in populated areas, and reducing siltation entering Lake Ft. Phantom Hill.



3. Metering all service connections to ensure maximum return for delivered water while minimizing unaccounted-for water loss.
4. Leak detection and repair to minimize unaccounted-for water loss.
5. Treated wastewater reuse and recycling to lessen the demand for raw water used to produce potable water, and for raw water pumping for irrigation uses.

**Demand Management Program Elements consist of:**

1. Water pricing as a mechanism for encouraging water customers to conserve.
2. Regulations for conserving water via the Water Conservation Plan and Drought Contingency Plan adopted by the City.
3. Plumbing Code for the City of Abilene requires maximum standard plumbing fixture capacities not be exceeded. Abilene supports a Low-Income Housing Retrofit Program and City Building Retrofit program to determine the feasibility of retrofitting fixtures in selected structures.
4. Continuing education programs to increase public awareness of supply, treatment and conveyance systems in Abilene, to increase public awareness of the benefits and need for conservation, and to make information about practical cost-effective methods and technologies to achieve conservation readily available.

**Section VIII. Public Involvement**

Public involvement in the formation of Abilene's Water Conservation Plan formally began in February 1985 with the appointment of a Water Conservation Advisory Committee to assist the Water Utilities staff in the preparation of the Water Conservation Plan. Since that time public involvement has been an ongoing and integral part of Abilene's water conservation programs. A public information and education program developed and implemented by the City is an important component in the City's water conservation strategy. Water Utilities education programs have three principal objectives including:

- Increase public awareness of supply, treatment, and conveyance systems in Abilene.
- Increase public awareness of the needs for and benefits of conservation.
- Make available information about practical cost effective methods and technologies to achieve conservation.

A variety of communication and marketing techniques are being utilized including: printed marketing materials; electronic information and marketing materials via Abilene's internet website; billboard advertising; newspaper supplements; presentations at neighborhood, civic, social, and professional organizations; public service announcements; special promotions sponsored by local media; and public school programs.

**Section IX. Water Rate Structure**

In 1984, the City of Abilene adopted a non-promotional, inverted rate structure. Under this rate structure the billing rate increases as individual water consumption increases. This rate structure promotes conservation and shifts the cost of supplying water to those consumers using it most.

Exhibit A

6.1 pg. 9

## **Section X. Means of Implementation and Enforcement**

This Water Conservation Plan has been adopted by the City by means of resolution.

### **1. Enforcement Within Abilene's CCN Area**

The Plan is enforced within the Abilene CCN coverage area by providing service taps only to customers complying with adopted ordinances, maintaining a non-declining rate structure, discontinuing service to those customers who do not pay their water bills until payment is made, and certifying new construction only after verifying it conforms to adopted ordinances and plumbing codes.

### **2. Enforcement for Abilene's Wholesale Purchasers**

Wholesale customers will receive written notification of Plan adoption and any subsequent Amendments. Adoption of this Plan by the City of Abilene per 30 Texas Administrative Code (TAC) Rule §288.5 obligates wholesale customers as defined in 30 TAC Rule §288.1 to implement water conservation measures.

## **Section XI. Additional Wholesale Water Contract Requirements**

It is Abilene's policy to include in every wholesale water supply contract entered into or renewed after official adoption of the Plan, including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using applicable elements in 30 TAC 288. If the wholesale customer intends to resell the water, then the contract between Abilene and the wholesale customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with 30 TAC 288.

## **Section XII. Coordination with Brazos Region G Planning Group**

All of the customers served by the City of Abilene are located within the Brazos G Regional Planning Area. Abilene has provided a copy of this Plan to the Brazos Region G Planning Group.

## **Section XIII. Revisions to the Water Conservation Plan**

The City of Abilene will review and update this water conservation plan, as appropriate, based on new or updated information, such as the adoption or revision of the regional water plan. As a minimum the Plan will be updated every five (5) years.

#### **Section XIV. Severability**

It is hereby to be the intention of Abilene that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and if, any phrase, clause, sentence, paragraph or section shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Plan, since the same would not have been enacted by Abilene without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph or section.

Exhibit A

6.1 pg. 11

City Council  
Agenda Memo



City Council  
Meeting Date: 4-8-10

**TO:** Larry D. Gilley, City Manager  
**FROM:** Doug Wrenn, Assistant Chief - Police  
**SUBJECT:** First reading of a proposed ordinance to regulate Tow Truck Services

**GENERAL INFORMATION**

Currently the City of Abilene does not have any authority to regulate business operations associated with non consent towing services provided by towing companies. We have seen instances in which citizens have been left with very few options when it came to contesting the fees regarding nonconsent tows. This ordinance will more specifically address tows from private parking areas such as apartment complexes but will also extend to police initiated non consent tows. A permitting process will be instituted as well. The permits will give us a tool to insure that tow companies in our community are meeting specific standards as set by State for both their equipment and operators. Ultimately, we want to offer more protection to our citizens who have vehicles towed without their consent.

**SPECIAL CONSIDERATIONS**

None

**FUNDING/FISCAL IMPACT**

None.

**STAFF RECOMMENDATION**

Police Department recommends approval

**BOARD OR COMMISSION RECOMMENDATION**

N/A

**ATTACHMENTS**

Ordinance

Prepared by:

Name: Doug Wrenn

Title: Asst. Chief - Police Patrol Division

Item No. 6.2

Disposition by City Council

- Approved      Ord/Res#  
 Denied      \_\_\_\_\_  
 Other

\_\_\_\_\_  
City Secretary

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE ENACTING CHAPTER 31.5, "TOW TRUCK SERVICES", IN ITS ENTIRETY, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

**WHEREAS**, there is a need to protect the health, safety, and welfare of the citizens of the City of Abilene; and

**WHEREAS**, Texas Occupations Code Chapter 2308, Subchapter E, gives local political subdivisions the authority to regulate the operation of tow trucks; and

**WHEREAS**, there is a need to establish local standards for the operation of towing within the City of Abilene;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

- PART 1:** That Chapter 31.5, "Tow Truck Services" of the Code of Ordinances, City of Abilene, Texas, is hereby adopted as set forth in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON FIRST READING this 8th day of April, 2010.**

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily

newspaper of general circulation in the City of Abilene, said publication being on \_\_ day of April, 2010, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 22<sup>nd</sup> day of April, 2010, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON SECOND AND FINAL READING this 22<sup>nd</sup> day of April, 2010.**

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

  
\_\_\_\_\_  
CITY ATTORNEY

## EXHIBIT A

### Chapter 31.5 TOW TRUCK SERVICES

#### Sec. 31.5-1. Authority.

All of the provisions and definitions of Title 14, Subtitle A, Chapter 2308 of the Texas Occupations Code, the Texas Towing Act, and as amended, insofar as applicable, are adopted as part of this chapter.

#### Sec. 31.5-2. Definitions.

*Consent tow* means any tow of a motor vehicle or licensed equipment in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include an incident management tow or a private property tow.

*Contract* means an agreement with the City of Abilene authorizing a towing company to perform nonconsent tows at the request of the police department.

*Contract holder* means a towing company contracted with the City of Abilene to perform nonconsent tows.

*Incident management tow* means any tow of a vehicle or licensed equipment in which the tow truck is summoned because of a traffic accident or to an incident.

*Licensed equipment* means any non-motorized vehicle or equipment that is licensed or registered, including but not limited to a camper, trailer or boat.

*Motor vehicle* means any motor-driven or motor-propelled vehicle, including motorcycles, required to be registered under state laws.

*Nonconsent tow* means any tow of a motor vehicle or licensed equipment that is not a consent tow, including:

- (A) an incident management tow; and
- (B) a private property tow.

*Owner* means any person who holds the legal title to a motor vehicle or licensed equipment or who has the legal right of possession thereof. This does not include any person who has gained possession of a motor vehicle or licensed equipment only as a result of towing services performed.

*Revocation of a permit* means permanently voiding a permit.

*Suspension of a permit* means temporary voiding a permit for specific period of time or until a violation is resolved.

*Tow truck* means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle or licensed equipment.

In the event any of the foregoing definitions conflict with the definitions set out in Texas Occupations Code, Section 2308.002, the foregoing definitions shall control. All other words used in this chapter shall have their ordinary and commonly accepted meanings.

**Sec. 31.5-3. Applicability.**

The prohibitions and requirements of this chapter shall apply to all motor vehicles and licensed equipment towed within the city limits of the City of Abilene. This article shall also apply to vehicles seized by the police department.

**Sec. 31.5-4. Permit required.**

It shall be unlawful for a towing business to perform nonconsent tows within the city limits unless such business possesses a valid city permit issued through the police department in accordance with this chapter.

**Sec. 31.5-5. Permit application.**

- (a) An applicant for a City Towing Permit shall submit to the City of Abilene police department, on a form provided by the City, a verified application.
- (b) An applicant must also provide the following documentation:
  - (1) A copy of each tow truck's cab card or evidence of TDLR's alternative method of permitting in accordance with Texas Occupations Code Section 2308.108, and as amended;
  - (2) A copy of each license as issued by the state for specific types of operator's licenses: Incident Management Towing, and Private Property Towing; and
  - (3) Copies of continuing education requirements for each license holder.
- (c) Any change in the information or documentation on file with the police department must be updated with the police department within thirty (30) days of the change, including but not limited to the addition of tow operators or tow trucks used in the tow business or the suspension of a state license or permit.

**Sec. 31.5-6. Permit fee**

Every application for a permit required under this chapter or renewal of a permit shall be sworn to by the applicant or permit holder, and shall be accompanied by proof of payment of a fee which shall be determined by the city council from time to time and placed on the fee schedule filed in the office of the city secretary.

**Sec. 31.5-7. Permit decal.**

Each tow truck that is owned by a permitted tow business shall display a permit decal issued by the police department that displays the date of permit expiration.

**Sec. 31.5-8. Permit expiration, transfer and assignment.**

- (a) No permit shall be transferred or assigned from any person or company to another. When any change of ownership or change of controlling interest occurs, the prior permit shall be null and void.
- (b) Permits are valid for two (2) years from the date of issuance.

**Sec. 31.5-9. Administrative penalties for violations.**

- (a) In addition to the criminal penalties imposed for violations of state law or this ordinance, the chief of police or designee shall have the authority to enforce this chapter by administrative action, including written notice of violation, suspension of a permit, or revocation of a permit.



(b) Immediate suspension or revocation of a permit issued under this chapter may be accomplished by the chief of police or designee, and written notice of the suspension or revocation shall be sent to the permit holder stating:

- (1) the suspension or revocation has occurred,
- (2) the grounds for the suspension or revocation, and
- (3) in the event of a suspension, the violation that must be remedied before the permit is reinstated or time period of the suspension.

(c) The suspension or revocation notice shall be sent by certified mail to the last known address of the permit holder.

(d) It is within the discretion of the chief of police or designee to determine whether a new permit should be issued to a former permit holder whose permit was revoked. Any person whose permit has been revoked shall not be eligible to apply for a permit for a minimum period of twelve (12) months from the date of revocation.

**Sec. 31.5-10. Appeal.**

(a) An appeal of permit suspension or revocation may be made by the permit holder in writing to the city manager by submitting the appeal to the city manager's office. Such an appeal must be made within twenty (20) days of the suspension or revocation.

(c) The city manager shall have authority upon review of the appeal to reverse, vacate, sustain or modify the order of suspension or revocation. Written notice of the ruling by the city manager shall be mailed or given to the permit holder within thirty (30) days of the date the written appeal is received by the city manager.

(c) In the event the city suspends or revokes the permit for cause, and the cause for such suspension or revocation is determined to be invalid, appellant's sole remedy shall be reinstatement of the permit. Permit holders shall not be entitled to monetary damages, including but not limited to actual, punitive, or consequential damages, court costs and attorney's fees.

(d) An appeal does not stay the suspension or revocation.

**Sec. 31.5-11. Nonconsent police initiated tows.**

(a) *Contract Required* All nonconsent tows at police request shall be undertaken pursuant to the terms and conditions of a contract specifically executed between the city and the towing company so designated in that contract.

(1) No person with any pecuniary interest shall have more than one towing company contracted with the city. Pecuniary interest is defined to mean any money, property, or commercial interest, the primary significance of which is for economic gain. Any person who obtains or has pecuniary interest in two or more towing companies under city contract is in violation of this article.

(2) It shall be the obligation of all contract holders under this chapter to operate towing businesses so as to provide safe and prompt removal nonconsent tow vehicles when properly called upon to do so in accordance with this chapter.

(b) Any owner whose motor vehicle or licensed equipment is subject to a nonconsent tow deemed necessary by a peace officer may designate a towing company to perform the tow if he or she is able to do so safely.

(c) If the owner of a vehicle is not present, unable to designate a towing company or has no preference, the police department shall contact a towing company from the rotation list of tow companies with whom the city is under contract.

(d) Notwithstanding any other provision of this chapter, a law enforcement officer may require any motor vehicle or licensed equipment and debris to be removed from a public right-of-way or other location at the owner's expense by any practical means where the officer, in the course of his duty, reasonably deems the motor vehicle or licensed equipment or debris to constitute a traffic hazard or otherwise jeopardize the public safety.

(e) Towing company personnel shall take directions from the peace officer investigating the collision or initiating the tow.

**Sec. 31.5-12. Nonconsent tows on private property.**

A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense, if the towing company complies with all conditions of Texas Occupations Code, Sections 2308.401-500, and as amended.

**Sec. 31.5-13. Process for nonconsent tows on private property.**

(a) A towing company is authorized to remove and store unauthorized vehicles from a private property parking facility if such company complies with all conditions of Texas Occupations Code, Section 2308.255, and as amended, and it has a written request to remove the vehicle, signed by the parking facility owner or agent immediately prior to the specific removal of the individual unauthorized vehicle.

(b) A towing company removing an unauthorized vehicle from a parking facility shall, not later than fifteen (15) minutes after receiving the vehicle, report to the police department the following information:

- (1) General description of the vehicle;
- (2) State/number of the vehicle's license plate;
- (3) VIN of the vehicle, if possible;
- (4) Location from which the vehicle was towed; and
- (5) Name and location of the vehicle storage facility where the vehicle is being

stored.

**Sec. 31.5-14. Stolen vehicles.**

(a) If a vehicle removed from a parking facility is later determined to be stolen, the towing company shall deliver the vehicle to the City of Abilene Police Storage Facility unless otherwise directed by the police department. In such case, the towing company shall be reimbursed by the City the amount determined by the city council and placed on the fee schedule filed in the office of the city secretary. In the event the police department allows the towing company to release the vehicle to the owner, the owner shall be charged a fee not greater than the above amount on file in the office of the city secretary.

(b) The towing company shall be responsible for any and all other procedures in accordance with Texas Occupations Code, Chapter 2303, the Vehicle Storage Facility Act, and as amended.

**Sec. 31.5-15. Tow operations.**

(a) This section applies to both police-initiated nonconsent tows and nonconsent tows on private property.

(b) Tow operators shall not store any vehicles on the public streets or rights-of-way.

(c) Tow operators shall use reasonable care in the storage of property not belonging to the permit holder so as to minimize the risk of theft or damage.

(d) All tow companies shall at all times comply with all rules pertaining to minimum safety standards for the operation of tow trucks adopted by the Texas Department of Licensing and Regulation pursuant to Texas Occupations Code, Chapter 2308, and as amended.

(e) Any tow truck being operated within the city limits, shall be in full compliance with all state and federal rules that may apply, including, but not limited to proper registration, insurance and safety equipment.

(f) All tow companies shall ensure that each tow operator has the appropriate state license, Incident Management Towing License or Private Property Towing License, for each tow they conduct.

(g) Tow operations must comply with City of Abilene zoning requirements.

**Sec. 31.5-16. Maximum fee schedule.**

The maximum fees for nonconsent tows on private property shall be determined by the city council and placed on file in the city secretary's office. The maximum fees shall reflect the fair value of the services of a towing company and be reasonably related to any financial or accounting information provided to the city council. Towing fees may be reviewed by the city council once every two (2) years upon written request of a permitted towing company, as required by state law. A towing fee study shall be performed in conjunction with this review.

**Sec. 31.5-17. Storage.**

A towing company or vehicle storage facility shall not charge for storage, preservation, or notification in excess of that allowed under Texas Occupations Code Chapter 2303, the Vehicle Storage Facility Act, and as amended or any other state rule or regulation.

**Sec. 31.5-18. Criminal liability.**

A towing company, vehicle storage facility, and each individual involved commits an offense if it charges or attempts to charge:

(a) More than the maximum fee allowed by this section for the particular vehicle towed; or

(b) A storage, preservation, or notification fee in excess of that allowed under Texas Occupations Code Chapter 2303, the Vehicle Storage Facility Act, and as amended.

**Sec. 31.5-19. Driving tow trucks to scene of collision.**

(a) No person shall drive or cause to be driven a tow truck to or near the scene of a collision on a street within the city limits unless such person has been called to the scene by the police communications center or its authorized agent or by a party involved in the collision.

(b) However, in an emergency when it is necessary to prevent death or bodily injury to any person involved in a collision, the prohibition of this section shall be inapplicable.

**Sec. 31.5-20. Chief of police may inspect tow trucks and facilities.**

Permit holders shall allow the chief of police or designee access to inspect the permit holder's facility, equipment, tow trucks and records during normal business hours.

**Sec. 31.5-21. Criminal penalty.**

Any business or person violating any prohibition, requirement, duty, or provision of this chapter shall be deemed to have committed a class C misdemeanor, and upon conviction, shall be punished by a fine of not less than two hundred dollars (\$200.00) or more than five hundred dollars (\$500.00).

**Sec. 31.5-22. Civil remedies.**

The city may enforce this chapter by injunction, declaratory relief, or other action at law or in equity.

City Council  
Agenda Memo



City Council  
Meeting Date: 04/08/10

**TO:** Larry D. Gilley, City Manager  
**FROM:** Ronnie C. Kidd, Managing Director for Administration and Civil Service Director &  
Ken Dozier, Fire Chief  
**SUBJECT:** First Reading of an Ordinance Amending Budget Ordinance No. 31-2009, part 7

**GENERAL INFORMATION:**

Pursuant to Texas Local Government Code Chapter 143, the FY 2010 budget ordinance provides the number, classification, and designation of each position for the Police and Fire Departments. Regarding the Fire Department, the ordinance currently designates two (2) Assistant Fire Chief positions and a total of 171 positions in the Fire Department. Fire Chief Ken Dozier desires to implement a cost savings strategy that will eliminate one of the Assistant Fire Chief positions, thereby eliminating one position from the overall total.

**SPECIAL CONSIDERATIONS:**

**FUNDING/FISCAL IMPACT:**

Estimated annualized savings of approximately \$110,000 will be generated when considering the salary and benefits savings associated with the elimination of the position.

**STAFF RECOMMENDATION:**

Staff recommends amending the budget ordinance to designate one (1) Assistant Fire Chief position and 170 overall positions in the Fire Department.

**ATTACHMENTS**

Proposed Amendment to the Budget Ordinance.

Prepared by: Name <u>Ronnie C. Kidd</u> Title <u>Managing Director for Administration</u>	Item No. <u>6.3</u>	Disposition by City Council <input type="checkbox"/> Approved      Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ City Secretary
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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING A REVISION TO SECTION 7 OF ORDINANCE NUMBER 31-2009; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING.**

WHEREAS, the City Council has adopted Ordinance Number 31-2009; and,

WHEREAS, said Ordinance established the number, classification, and designation of each position, as provided in Texas Local Government Code Ann., Chapter 143 (Vernon 1988), Municipal Civil Service, for the Police and Fire Departments; and,

WHEREAS, Section 7 of said Ordinance allows amendment by the City Council during the fiscal year the Ordinance is in effect; and,

WHEREAS, the Chief of the Abilene Fire Department has requested a reduction in the number of approved positions within the rank of Assistant Fire Chief,

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

PART 1: That Ordinance Number 31-2009 is amended as set forth in Attachment A.

PART 2: That any ordinance, resolution, policy or any provision or section of the code of the City of Abilene, Texas, as amended, in conflict herewith, be, and the same is hereby repealed to the extent of any conflict.

PASSED ON FIRST READING on the \_\_\_\_\_ day of April, A.D. 2010.

After passage on first reading, a notice of the time and place said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene. The same being more than ten (10) days prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on its second and final reading.

PASSED ON SECOND AND FINAL READING AT A PUBLIC HEARING on the \_\_\_\_\_ day of April, A.D. 2010.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

  
\_\_\_\_\_  
CITY ATTORNEY

# ATTACHMENT A

**That Part 7 of Ordinance No. 31-2009 is hereby amended to read as follows:**

Part 7: That the number, classification, and designation of each position, as provided in Texas Local Government Code Ann., Chapter 143 (Vernon 1988), Municipal Civil Service, for the Police and Fire Departments, as set out below, are hereby created, established, and adopted as the official plan for the classified service of the Police and Fire Departments of the City of Abilene for the remainder of the fiscal year October 1, 2009, through September 30, 2010, or as may be amended by the City Council. Any position in the classified service of the Police and Fire Departments of the City of Abilene not below listed, is hereby abolished:

## Police Department

Deputy Police Chief	3
Police Lieutenant	10
Police Sergeant	23
Police Officers	<u>148</u>
	184

## Fire Department

Assistant Fire Chief	1
Battalion Chief	4
Fire Captain	13
Fire Lieutenant	32
Fire Fighter	<u>120</u>
	170

City Council  
Agenda Memo



City Council  
Meeting Date: 04/08/2010

TO: Larry D. Gilley, City Manager  
FROM: Megan R. Santee, Interim Director of Public Works *MRS*  
SUBJECT: Award Bid #CB-1023 – Grape Street Resurfacing

**GENERAL INFORMATION**

This contract involves spot full depth pavement repair with a two course preventative maintenance surfacing of Grape Street between North 1<sup>st</sup> Street and Ambler Avenue.

**FUNDING/FISCAL IMPACT**

The construction costs of this project are to be reimbursed to the City through the American Reinvestment and Recovery Act of 2009 (aka the Federal Government’s “Economic Stimulus” package), as per the signed Advance Funding Agreement with the Texas Department of Transportation.

The City will be responsible for materials testing and construction cost overruns on the project. Funds are available to pay for these costs from leftover money from previously sold Certificates of Obligation and General Obligation bonds.

**STAFF RECOMMENDATION**

Staff recommends that Council award Bid #CB-1023, to Contract Paving Company, Inc., of Tye, Texas, in the amount of \$354,080.76.

**ATTACHMENTS**

Bid Tabulation Sheet

Prepared by:

Name: **Cody Marshall, P.E.**

Title: **City Engineer**

Item No. 6.4

Disposition by City Council

- Approved      Ord/Res# \_\_\_\_\_
- Denied      \_\_\_\_\_
- Other      \_\_\_\_\_

\_\_\_\_\_  
City Secretary





City Council  
Agenda Memo



City Council  
Meeting Date: 04/08/2010

TO: Larry D. Gilley, City Manager  
FROM: Megan R. Santee, Interim Director of Public Works *MRS*  
SUBJECT: Award Bid #CB-1024 – Green Street Safe Routes to School Sidewalk

**GENERAL INFORMATION**

This contract involves sidewalk and curb ramp construction as well as driveway reconstruction all along the west side of Green Street from North 12<sup>th</sup> Street to North 18<sup>th</sup> Street. This sidewalk will serve as a destination route for children to Fannin Elementary for this neighborhood.

**FUNDING/FISCAL IMPACT**

The construction costs of this project are to be reimbursed to the City through the Safe Routes to School program administered by the Texas Department of Transportation.

The City will be responsible for materials testing and construction cost overruns on the project. Funds are available to pay for these costs from leftover money from previously sold General Obligation bonds for sidewalk and curb ramp construction.

**STAFF RECOMMENDATION**

Staff recommends that Council award Bid #CB-1024, to Justice Construction, of Abilene, Texas, in the amount of \$129,658.57.

**ATTACHMENTS**

Bid Tabulation Sheet

Prepared by:  Name: <b><u>Cody Marshall, P.E.</u></b>  Title: <b><u>City Engineer</u></b>	Item No <u>6.5</u>	Disposition by City Council <input type="checkbox"/> Approved      Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other  _____ City Secretary
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# CITY OF ABILENE PURCHASING DIVISION TABULATION OF BIDS

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	GREEN STREET SAFE ROUTES TO SCHOOL SIDEWALK (N. 12 <sup>TH</sup> ST. TO FANNIN ELEMENTARY)				*129,658.57		155,536.06		158,181.63		169,966.40		172,221.42		181,707.15
	BASE BID														
	DISCOUNT														
	TOTAL BID				*129,658.57		155,536.06		158,181.63		169,966.40		172,221.42		181,707.15

\*NOTES: INDICATES RECOMMENDED AWARD


4.5 pg. 2

City Council  
Agenda Memo



TO: Larry D. Gilley, City Manager

City Council  
Meeting Date: 4/08/2010

FROM: Megan R. Santee, Interim Director of Public Works 

SUBJECT: Award of Bid: HGAC Contract #BT01-09 - Type II Paratransit Van

**GENERAL INFORMATION**

CityLink Transit requests authorization to purchase one (1) Type II paratransit vehicle. The purchase has been arranged through Houston-Galveston Area Council's cooperative procurement program, with Lasseter Bus & Mobility identified as the contract vendor. This purchase of an ADA-equipped, 6-ambulatory/2-wheelchair van will replace the agency's Type II vehicle that has exceeded its FTA-designated useful life.

**FUNDING/FISCAL IMPACT**

The total purchase price of \$61,007 is funded from a FY09 TxDOT Section 5310 (Elderly & Disabled) grant and is matched with \$9,678 Transportation Development Credits. This purchase requires no local match.

**STAFF RECOMMENDATION**

Staff recommends that Council approve contract #BT01-09 for the purchase of the paratransit van.

<p>Prepared by: Name <u>James Condry</u> Title <u>Traffic &amp; Transportation Administrator</u></p>	<p>Item No. <u>6.6</u></p>	<p>Disposition by City Council <input type="checkbox"/> Approved    Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ City Secretary</p>
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