City Council Agenda Memo

CITY OF ABILENE

City Council Meeting Date: February 12, 2015

TO: David A. Vela, Interim City Manager

FROM: Tommy O'Brien, Director of Water Utilities

SUBJECT: Public Hearing and Written Resolution Authorizing the Initiation of a Condemnation Proceeding Necessary for the Completion of Pipelines and Appurtenances Designed to Deliver Raw Water from Possum Kingdom Lake to Abilene.

## **GENERAL INFORMATION**

To address the ongoing drought, the City of Abilene is constructing pipeline improvements to transfer raw water from Possum Kingdom Lake (PK) to the proposed Raw Water Roughing Facility (RWRF) in Breckenridge, TX and to transfer the resulting product raw water from the RWRF to Abilene. Possum Kingdom raw water will be combined with Abilene's other surface water sources (Lake Fort Phantom Hill and Hubbard Creek Reservoir) prior to complete treatment at the City's Northeast and Grimes water treatment plants.

The proposed pipeline improvements will be installed in either existing permanent pipeline easements held by the West Central Texas Municipal Water District (District) or in new permanent easements which will be owned by the City of Abilene. These permanent easements will allow the City to access the proposed pipeline for maintenance, inspection, and repairs. The existing easements held by the District generally extend from the RWRF west to Hubbard Creek Reservoir where the proposed pipeline will connect to the existing District raw water transmission system. The proposed easements which will be held by the City will generally extend from the RWRF east to Veale Parks and will generally be located adjacent to an existing Brazos River Authority permanent pipeline easement, adjacent to other permanent utility easements located on a property, or along property lines to minimize impacts on the property.

To facilitate the construction of the pipelines and appurtenances improvements, temporary construction easements will also be obtained adjacent to the permanent easements to provide the Contractor with adequate space for construction activities. Following the completion of construction activities, the Contractor will return the property to as good as or better than the pre-construction condition and the temporary easement areas will revert back to the property owner and will no longer be accessible by the City or Contractor.

Because this project is in response to the worsening drought and time is of the essence, the City of Abilene finds it necessary to begin the eminent domain process to condemn the temporary and permanent easements for access to the necessary properties for the placement of the pipelines and appurtenances. It is anticipated there will be no devaluation to the surface estate as a result of these underground permanent and temporary construction and pipeline and appurtenances easements.

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.

# **STAFF RECOMMENDATION**

The Staff recommends approving the Resolution authorizing the initiation of the condemnation process to acquire permanent and temporary easements for the public purpose of completion of the pipelines and appurtenances necessary for the transfer of raw water from PK to Abilene.

# **ATTACHMENTS**

Resolution		
Prepared by:		Disposition by City Council
		□ Approved Ord/Res#
Name Tommy O'Brien		Denied
Title Director of Water Utilities		• Other
TheDirector of water Ountries	Item No. 7.9	
		City Secretary

#### RESOLUTION NO.

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE EASEMENTS NECESSARY FOR THE COMPLETION OF PIPELINES AND APPURTENANCES DESIGNED TO DELIVER RAW WATER FROM POSSUM KINGDOM LAKE TO ABILENE.

WHEREAS, eminent domain proceedings in the State of Texas are governed by Chapter 21 of the Texas Property Code; and

WHEREAS, under that code a governmental entity exercising the power of eminent domain must first authorize the initiation of the condemnation proceeding at a public meeting by a record vote adopting a resolution, ordinance, or order; and

**WHEREAS,** to address the ongoing drought, the City of Abilene is constructing pipeline improvements to transfer raw water from Possum Kingdom Lake (PK) to a proposed raw water roughing facility in Breckenridge, TX and to transfer the resulting product raw water from the roughing facility to Abilene; and

**WHEREAS**, the proposed pipeline improvements will be installed in either existing permanent pipeline easements held by the West Central Texas Municipal Water District (District) or in new permanent easements which will be owned by the City of Abilene; and

WHEREAS, the proposed easements which will be held by the City are located in Stephens and Palo Pinto Counties and will generally extend from the roughing facility east to Veale Parks and will generally be located adjacent to an existing Brazos River Authority permanent pipeline easement, adjacent to other permanent utility easements located on a property, or along property lines to minimize impacts on the property; and

**WHEREAS**, to facilitate the construction of the pipeline improvements and appurtenances, temporary construction easements will also be obtained adjacent to the permanent easements to provide the Contractor with adequate space for construction activities; and

WHEREAS, because this project is in response to the worsening drought and time is of the essence, the City of Abilene finds it necessary to begin the eminent domain process to condemn the temporary and permanent easements for access to the necessary properties for the placement of the pipelines and appurtenances.

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

That the City of Abilene, Texas is hereby authorized to use of the power of eminent domain to acquire permanent and temporary easements as depicted in "Exhibit A" for the public purpose of construction of pipelines and appurtenances in Stephens and Palo Pinto Counties necessary to deliver water from Possum Kingdom Lake to a proposed water roughing facility in Breckenridge, TX and to transfer the resulting product raw water from the roughing facility to Abilene.

**ADOPTED** this 12<sup>th</sup> day of February, 2015.

APPROVED:

Norm Archibald, Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney





Exhibit "A"



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