

CITY COUNCIL MEETING
February 22, 2007, 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 February 22, 2007, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase (arrived after the Pledge), Stormy Higgins, Joe Spano, Anthony Williams, and Councilwomen Laura Moore and Celia Davis. Also present were City Manager Larry Gilley, Interim City Attorney Dan Santee, City Secretary Jo Moore, and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Matthew Waldraff, a 5th grade student from Jackson Elementary School, who led the Pledge of Allegiance. Matthew's father was also in attendance.

DISPOSITION OF MINUTES

2.0 Mayor Archibald stated Council has been given the minutes from the February 8, 2007 Regular Council Meeting. There being no corrections, additions, or deletions to the minutes Councilwoman Davis made a motion to approve the minutes as presented. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

CONSENT AGENDA

Mayor Archibald noted that consent agenda item 3.11 "Annual Street Maintenance Materials, Bid #CB-7017" is being removed from the consent agenda due to a portion of the item requiring separate consideration. Councilwoman Moore made a motion to approve consent agenda items 3.1 through 3.7, first reading of items 3.8 and 3.9, and items 3.10 and 3.12 through 3.14, as recommended by staff. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

Resolutions:

3.1 Oral Resolution authorizing the City Manager to execute Notice of Self-Audit letter from the City of Abilene to the Texas Commission on Environmental Quality (TCEQ), advising the initiation of a scheduled Environmental, Health and Safety Audit of various City-

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owned properties and authorizing the City Manager to execute all necessary documents related to the Notice of Self-Audit.

- 3.2 Resolution ordering the May 12, 2007 Joint City of Abilene/Wylie Independent School District Election and providing for a runoff Election on June 16, 2007, if needed.

The Resolution is numbered **2-2007** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ORDERING AN ELECTION TO BE HELD IN SAID CITY ON MAY 12, 2007; PROVIDING FOR THE ELECTION OF PERSONS TO SERVE IN PLACES 5 AND 6 ON THE CITY COUNCIL OF THE CITY OF ABILENE; PROVIDING METHOD OF APPLICATION FOR PLACEMENT OF CANDIDATE'S NAME ON BALLOT; PROVIDING A FILING DEADLINE FOR ALL CANDIDATES; DESIGNATING THE MAIN EARLY VOTING POLLING PLACE; PROVIDING FOR BILINGUAL ELECTIONS FOR CITY ELECTIONS, AND PROVIDING FOR A JOINT ELECTION WITH THE WYLIE INDEPENDENT SCHOOL DISTRICT AS REQUIRED BY TEXAS EDUCATION CODE SECTION 11.0581.

- 3.3 Resolution authorizing the City of Abilene to sell property (Texas Local Gov't Code Ann. Sec. 272.001) consisting of 4.5 acres of unimproved land located at Medical Drive for the purpose of development by an independent foundation and authorizing the City Manager to execute documents.

The Resolution is numbered **3-2007** and captioned as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY OF ABILENE TO SELL PROPERTY (TEXAS LOCAL GOV'T CODE ANN. SEC. 272.001) CONSISTING OF 4.5 ACRES OF UNIMPROVED LAND LOCATED AT MEDICAL DRIVE FOR THE PURPOSE OF DEVELOPMENT BY AN INDEPENDENT FOUNDATION.

- 3.4 Resolution approving the West Central Texas Regional Housing Finance Corporation to issue Single Family Mortgage Revenue Bonds to finance single family housing within the City of Abilene.

The Resolution is numbered **4-2007** and has no caption.

- 3.5 Oral Resolution authorizing the City Manager to execute a revised Amendment #1 of Land Lease for Fixed Base Operations for Abilene Aero, Inc.

- 3.6 Resolution authorizing continued participation with the ATMOS Cities Steering Committee.

The Resolution is numbered **5-2007** and captioned as follows:

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A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE ATMOS CITIES STEERING COMMITTEE.

- 3.7 Resolution of the City of Abilene, Texas, opposing H.B. 651; supporting repeal of Gas Reliability Infrastructure Program (GRIP) Statute; and joining cities for reasonable gas rates.

The Resolution is numbered 6-2007 and captioned as follows:

A RESOLUTION OF THE CITY OF ABILENE, TEXAS, OPPOSING H.B. 651; SUPPORTING REPEAL OF GAS RELIABILITY INFRASTRUCTURE PROGRAM (GRIP) STATUTE; AND JOINING CITIES FOR REASONABLE GAS RATES.

Ordinances:

- 3.8 An Ordinance of the City of Abilene, Texas finding, after reasonable notice and hearing, that AEP Texas North Company's existing rates are unreasonable; finding that AEP Texas North Company's requested revenues resulting from electric transmission and distribution rates and charges within the City should be reduced; determining just and reasonable rates; adopting recommendations of consultants; providing for recovery of rate case expenses; preserving regulatory rights of the City; ordaining other provisions related to the subject matter hereof; and set a public hearing for March 8, 2007 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS FINDING, AFTER REASONABLE NOTICE AND HEARING, THAT AEP TEXAS NORTH COMPANY'S EXISTING RATES ARE UNREASONABLE; FINDING THAT AEP TEXAS NORTH COMPANY'S REQUESTED REVENUES RESULTING FROM ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY SHOULD BE REDUCED; DETERMINING JUST AND REASONABLE RATES; ADOPTING RECOMMENDATIONS OF CONSULTANTS; PROVIDING FOR RECOVERY OF RATE CASE EXPENSES; PRESERVING REGULATORY RIGHTS OF THE CITY; ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

- 3.9 **Z-2007-06** – Request to rezone property from SC (Shopping Center) to PDD-103 (Planned Development District) zoning, property located at 6401 Directors Parkway; and set a public hearing for March 8, 2007 at 8:30 a.m.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING", OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AND AMENDING PDD-103 AND ORDINANCE NO. 6-2006, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Bid Awards:

- 3.10 **Bid #CB-7015** – First floor renovations at the Law Enforcement Center. The bid was awarded to The Crowe Group, Inc., Abilene, TX in the amount of \$64,200.00.
- 3.11 **Bid #CB-7017** – Annual Street Maintenance Materials Bid was removed from the Consent Agenda and considered separately.
- 3.12 **Bid #CB-7018** – Self-contained trash compactors. The bid was awarded to Roll-Offs of America, Durant, OK in the amount of \$36,894.00.
- 3.13 **Bid #CB-7020** – S. 34th Street reconstruction from Buffalo Gap Road to Sayles Boulevard. The bid was awarded to Wagley Construction, Inc., Abilene, TX in the amount of \$88,726.16.
- 3.14 **Bid #CB-7021** – S. 7th Sidewalk construction from Clack Street to Little Elm Creek Bridge. The bid was awarded to Bontke Bros. Construction, Co., Abilene, TX in the amount of \$126,879.36.
- 3.11 **Bid #CB-7017** – Annual Street Maintenance Materials was removed from the Consent Agenda and considered separately.

Paul Knippel, Director of Public Works briefed the Council on Bid #CB-7017 noting the hydrated lime portion of the Bid (item #13 on the bid tab) received identical bids. The identical bidders are Austin White Lime Company, Austin, Texas and Chemical Lime, Clifton, Texas. State law provides when a municipality receives identical bids they must first look to see if there are local bidders. Mr. Knippel further noted it has been determined that no local bidders submitted bids for #13, the hydrated lime. The next step in the process is for the city to select the winning bid, and that selection is made by casting lots. The purchasing department has placed the identical bidders names in a plain envelope and the Mayor will draw the bid from the envelope and whatever bid is drawn will be awarded the bid. Mayor Archibald then drew a bid from the envelope and stated the winning bidder was Austin White Lime Company, Austin, Texas.

Councilman Higgins made a motion to approve **Bid #CB-7017** – Annual Street Maintenance Materials in it's entirety, as recommended by staff, and including awarding the hydrated lime portion of the bid to Austin White Lime Company, Austin, Texas. Councilman Spano seconded the motion, and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The bid was awarded as follows:

- **Vulcan Materials Co., Abilene, TX:**
 - 300 Tons – Limestone Rock Asphalt, Type CC Unit Price \$ 54.80
 - 4,000 Tons – Hot Mix, Type D Unit Price \$ 48.00
 - 18,000 Tons – A-1 Flex Base, Delivered Unit Price \$ 10.00

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| ➤ 9,000 Tons – A-1 Flex Base | Unit Price \$ 6.00 |
| ➤ 500 Tons – Crushed Limestone #5 | Unit Price \$ 18.75 |
| ➤ 400 Tons – Coarse Fill Sand | Unit Price \$ 5.75 |
| ➤ 200 Tons – PB-4 Coverstone | Unit Price \$ 30.00 |
| • Morris Ready Mix Concrete., Abilene, TX: | |
| ➤ 100 CY – Portland Cement, 7-sack | Unit Price \$ 87.50 |
| ➤ 200 CY – Portland Cement, 5-sack | Unit Price \$ 79.50 |
| • Crafco Texas, San Antonio, TX: | |
| ➤ 55,000 LB – CMC-200 | Unit Price \$.32 |
| • Abilene Lumber, Abilene TX: | |
| ➤ 1,080 Sacks – Portland Cement, Type I | Unit Price \$ 8.09 |
| • Unique Paving Materials, Inc., Cleveland, OH: | |
| ➤ 125 Tons – HPPM | Unit Price \$ 85.89 |
| • Austin White Lime Co., Austin, TX: | |
| ➤ 50 Tons – Quicklime Pellets | Unit Price \$103.00 |
| ➤ 40,000 LB – Hydrated Lime | Unit Price \$.06 |

REGULAR AGENDA

4.1 Paul Knippel, Director of Public Works briefed the Council on an ordinance considered on second and final reading to replace, in its entirety, Chapter 27 “Refuse”, of the City of Abilene Municipal Code.

Mr. Knippel distributed and reviewed a revised “Exhibit A” to the ordinance and stated the revisions to the exhibit are minor ones and are noted in red lettering in the document. Mr. Knippel further stated the primary differences between the existing Chapter 27 and the proposed ordinance are related to terminology, the establishment of certain responsibilities for different parties, and the establishment of certain prohibitions related to waste disposal. Specifically, the terms defined in the existing ordinance are inapplicable and are not carried forward to the proposed ordinance. Examples of new terms include Household Hazardous Waste, Medical Waste, and Construction/Demolition Waste. Also, the proposed ordinance enumerates multiple responsibilities for the Solid Waste Division, and the occupants of both commercial and residential property. This enumeration provides clearer understanding of the how, what, and when of waste disposal and collection. Finally, the proposed ordinance includes provisions for hazardous waste, medical waste, and unacceptable placement of solid waste. Staff recommends approval of the Ordinance replacing, in its entirety, Chapter 27 “Refuse” of the City of Abilene Municipal Code.

Council and staff discussion included: 1) various conditions of the proposed ordinance including concrete slab requirements, bagging and securing waste prior to placing in container, businesses not being required to provide customer receptacles in parking lot areas, issues concerning maintenance of containers; 2) the need to enforce, and increase fines for, illegal use of business container; 3) concerns of city refuse trucks not being properly secured to avoid loss of trash; 4) cost of trash bags and city’s plan or offer of options to citizens who can’t afford bags;

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5) the importance of keeping the need for flexibility and practicality in mind in implementation of the new ordinance; 6) the logistics of container locations in relation to the sidewalk ordinance and curb collection and when needed the Solid Waste Manager's authority to use his judgment in informing citizens of where containers may be placed, and; 7) Council reiterated as noted at the Feb. 8th Council meeting consistency concerns with time differences between alley collection (10 days) and curb collection (48 hrs.).

Mayor Archibald opened a public hearing on the item and the following individuals addressed Council:

- Jim Aneff – Mr. Aneff noted his resistance and opposition to the requirement that refuse must be in plastic bags inside refuse containers. Mr. Aneff further addressed concerns regarding trash throughout the community, specifically trash being generated by commercial businesses (i.e. the Mall) and that which blows out of the back of pickups. Mr. Aneff noted that public education is needed and alternatives considered. Mr. Aneff recommended that 1) trash bags not be required for households; 2) careful consideration be given to fines and penalties; 3) receptacles for public use be placed in parking lot areas, and; 4) consideration be given to allowing more than 48 hrs. to put containers back out.
- Lydia Long – president of Old Town Neighborhood Association. Ms. Long addressed littering issues and stated the city's need for more resources (i.e. more refuse pick up times needed) to address these issues. Ms. Long also addressed the need for more recycling and stated support for the proposed ordinance. Ms. Long noted citizens need to be more responsible and that it is the city's responsibility to provide them assistance.

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

Discussion continued and included: 1) a communication process needed for staff to report and handle trouble spots in the community that are noticed during the work day; 2) staff stated to handle the large number of trouble spots would require more resources and that additional funding will be requested during the upcoming budget process. Staff also stated the city responds to as many issues as possible; 3) available resources for free or low cost trash bags and the possibility of monthly or bi-monthly collection in neighborhoods; 4) flexibility and common sense being important in administering the refuse collection activities, and; 5) Council requested staff provide innovative alternatives to solving refuse issues that can be reviewed during the upcoming budget process.

Councilwoman Davis made a motion to approve an ordinance considered on second and final reading to replace, in its entirety, Chapter 27 "Refuse", of the City of Abilene Municipal Code, as recommended by staff. Councilman Williams seconded the motion and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

The Ordinance is numbered 10-2007 and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE REPLACING CHAPTER 27, "REFUSE", IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

4.2 Tommy O'Brien, Director of Water Utilities briefed the Council on a Water Supply Contract with the City of Lawn.

Mr. O'Brien stated the City of Abilene currently has Water Supply Contracts with eight (8) Water Supply Corporations, four (4) cities and Dyess Air Force Base. The Water Supply Contracts require Abilene to procure raw water, treat the water to federal and state drinking water standards, and deliver the potable water to Delivery Points. Each entity is responsible for connecting to the Deliver Point and then distributing the water to its customers. The City of Lawn purchases raw water from the City of Coleman and owns and operates a water treatment plant. The City of Lawn has experienced water quality issues over the past several years and in 2004 requested that Abilene provide them with treated water. In the interest of regional cooperation, Abilene agreed to provide such service. With the proposed Water Supply Contract, Abilene will provide up to 25 million gallons of treated water annually to Lawn. The restriction of the maximum quantity of water that will be supplied annually is the only condition in the proposed contract that is different from the contracts with the other entities. Lawn will install a pipeline from Abilene's current distribution system, to the City of Lawn. The City of Lawn will pay to the City of Abilene the standard rate for potable water, established by the Abilene City Council for the "Commercial Class" water user. Currently, this rate is \$1.82 per 1,000 gallons. Lawn will also pay an Ivie Surcharge of \$0.60 per 1,000 gallons, and a Demand Charge of \$0.10 per 1,000 gallons. Abilene will not incur any capital costs associated with the delivery of treated water to the City of Lawn. Staff recommends Council approve the proposed Water Supply Contract and authorize the City Manager to execute the contract and all related documents.

Council and staff discussion included: 1) the City's mission to be a regional water supplier and the planning for the future that has taken place to assist in accomplishing that mission; 2) steps that have been taken to secure more water for Abilene and the region; 3) the maximum annual amount of water to be provided not being allocated on a per month set amount basis; 4) the annual demand reduction charge amount provision in the contract with Lawn being consistent with the contracts with the other entities; 5) Council clarifying that no one source is targeted from which Lawn will get their water; 6) staff explained the water delivery process and noted after the delivery point the water is Lawn's responsibility and stated Lawn has their own wastewater treatment plant, and; 7) Council noted Tommy O'Brien and Dan Santee may need to review, for clarification purposes, the paragraph under section K. Acquisition of Facilities, that reads "These two provisions shall mean that Purchaser shall be paid (1) all expense for removal, replacement, or relocation of facilities, and (2) fair market value for any facilities acquired by Abilene, if Abilene requests relocation of facilities."

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Councilman Williams made a motion to approve, by oral resolution, the Water Supply Contract with the City of Lawn and authorize the City Manager to execute the contract and all related documents, as recommended by staff. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

4.3 Ronnie Kidd, Director of Administrative Services stated this agenda item addresses the Annual Report for 2-1-1 Texas A Call For Help Community Resource Center and staff's recommendation that Council approve by oral resolution the City of Abilene's organizational endorsement of 2-1-1. Mr. Kidd distributed the Resource Center's 2006 Action Summary and briefed the Council on the background of the collaborative efforts of the four entities involved in the 2-1-1 Center. Mr. Kidd then introduced Mary Cooksey, Director of the 2-1-1 Center who presented the Annual Report.

Ms. Cooksey, Certified Information and Referral Specialist and Director of 2-1-1, stated 2-1-1 Texas A Call For Help Community Resource Center is the collaborative effort of the United Way of Abilene, City of Abilene, West Central Texas Workforce Development Board and Texas Health and Human Service Commission. "Call for Help", a former City of Abilene Community Services program, was integrated into this operation through contractual agreement between the City and United Way of Abilene in May 2002. Through the efforts and operations of the 2-1-1 center, area residents are connected with a great variety of services and programs. The 2-1-1 center is designated as one of 25 Area Information Centers in the state of Texas network. Following the presentation of the Report Ms. Cooksey thanked the Council for their continued support and invited them to participate as observers to the 2-1-1 calls.

Mr. Kidd stated the United Way of America and the Alliance of Information and Referral Systems (AIRS), which is the accreditation agency for information and referral centers, have requested support for pending legislation at the national level that will support availability of 2-1-1 in all communities. Council's passage by oral resolution to provide the following "organizational endorsement of 2-1-1" will register the City of Abilene's support of 2-1-1 availability:

We, the undersigned, endorse nationwide coverage of the three-digit telephone number 2-1-1. We endorse 2-1-1 as a public/private partnership, and call for federal, state, local, non-profit, foundation and business investment to bring 2-1-1 to every American, so that every American will have access to community, volunteer, health and human service information and referral, both everyday and in times of crises preparedness and response.

Staff recommends approval by oral resolution of registering the City of Abilene's organizational endorsement of 2-1-1.

Councilwoman Davis made a motion to accept the Annual Report for 2-1-1 Texas A Call For Help Community Resource Center and approval by Oral Resolution of registering the City of

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Abilene's organizational endorsement of 2-1-1. Councilwoman Moore seconded the motion, and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session pursuant to Sections 551.071, 551.072, 551.074, and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, to consider the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters.

The Council reconvened from Executive Session and reported no votes or action was taken in Executive Session.

5.5 Tommy O'Brien, Director of Water Utilities briefed the Council on the agreements between the City of Abilene, West Central Texas Municipal Water District and the Brazos River Authority regarding the Parties' Water Rights and the City's reuse of effluent.

Mr. O'Brien stated on March 10, 2005 the City of Abilene (City) and the West Central Texas Municipal Water District (District) entered into a comprehensive Interlocal Agreement with the Brazos River Authority (Authority) concerning the coordination of certain existing and future water interests. The Interlocal Agreement requires, in part, that 1) the District provide to the Authority 14,000 acre-feet of water per annum from Hubbard Creek Reservoir; and 2) the Authority "waive, without cost, its right to make priority calls under its Possum Kingdom authorization" on both the District's Hubbard Creek Reservoir authorization and the City's Clear Fork scalping authorization. In the Interlocal Agreement, the Parties agreed that the provision of Hubbard Creek Reservoir water to the Authority and the Authority's subordination of its Possum Kingdom Reservoir rights would result in no costs to any Party. The Interlocal Agreement also addresses the City's reuse of its effluent by providing 1) that the Authority will not protest or seek payment for any direct or indirect reuse that may be issued as a result of the City's pending reuse application; and 2) that the City will limit its end-use of indirect reuse supplies to locations within the City's corporate boundaries, its ETJ and its CCN service area as such areas may be changed or amended in the future. The City staff, and its consultants have coordinated with the Authority and the District on drafting follow-up documents. The follow-up documents are formalized in four agreements: 1) Subordination Agreement; 2) Water Supply Agreement; 3) Payment Agreement; and 4) City's Reuse Agreement. These Agreements have been forwarded to the Authority for execution and will not have a fiscal impact on the City of Abilene. Staff recommends Council approve by oral resolution the four Agreements and authorize the Mayor to execute all necessary documents related to the agreements.

Councilman Chase made a motion to approve, by oral resolution, the agreements between the City of Abilene, West Central Texas Municipal Water District and the Brazos River Authority regarding the Parties' Water Rights and the City's reuse of its effluent and authorize the Mayor to

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execute all necessary documents related to the agreements, as recommended by staff. Councilman Higgins seconded the motion, and the motion carried.

AYES: Councilmen Chase, Higgins, Spano, Williams, Councilwomen Moore and Davis, and Mayor Archibald.

NAYS: None

5.6 No action was taken on an appointment to the Planning and Zoning Commission.

There being no further business, the meeting was adjourned at 11:30 a.m.

Jo Moore
City Secretary

Norm Archibald
Mayor