

**CITY COUNCIL MEETING**  
**November 21<sup>st</sup>, 2013, 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 November 21<sup>st</sup>, 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, Robert O. Briley, Kyle McAlister and Councilwoman Kellie Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Spano gave the invocation.

Mayor Archibald led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the November 7<sup>th</sup> regular meeting there being no deletions, no additions, and no corrections. Councilman Spano made a motion to approve the minutes as presented. Councilman McAlister seconded the motion, motion carried.

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

NAYS: None

**CONSENT AGENDA**

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

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

NAYS: None

ABSTAINED: Councilmen Williams, Price and Mayor Archibald on item 6.7

**Resolution & Oral Resolutions:**

**6.1** **Resolution:** City Council approved of the sole source contract with the National Development Council for Professional Services for FY 2013/2014.

The City of Abilene is renewing its contract with the National Development Council (NDC) to provide professional services to assist the City in accomplishing its community and economic development objectives. NDC is a private nonprofit corporation that specializes in economic development technical assistance, project development and affordable housing development. NDC will provide technical assistance to the City in the following areas: comprehensive program development, downtown revitalization, and economic development project review. In addition, NDC will provide development

services toward specific, residential project development in a neighborhood targeted for revitalization. The total contract amount is \$72,000.00.

Resolution **#28-2013**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
APPROVING THE FY 2013-2014 CONTRACT BETWEEN THE CITY OF ABILENE AND  
THE NATIONAL DEVELOPMENT COUNCIL.

- 6.2** **Oral Resolution:** City Council authorized City Manager to execute the contract for the repair at Sears Park Concession Building. Council awarded the bid to Justice Construction Inc. in the amount of \$315,000.00.

This structure is 30-40 years old and in varying stages of disrepair due to its age. Concession buildings provide the leagues with restrooms, storage, concession sales, and score keeping booths. The revenue generated by concession sales help baseball leagues offset operating expenses and provide benefits to the community like scholarships for low income families.

- 6.3** **Oral Resolution:** City Council authorized the City Manager to execute Task Order 2 of the Garver engineering contract for the Abilene Regional Airport.

As part of the Airport's FY13 Airport Improvement Program (AIP), Task Order 2 with Garver is requested to be considered for authorization. This Task Order provides authorization for Garver to perform full design and bidding services for Runway 17L/35R Reconstruction. This project is expected to bid in the third quarter of FY14. The fee for this service is a fixed fee in the amount not to exceed \$175,000.00.

This fee is funded at the 90/10% rate under AIP Grant 43. The total cost to the City will be \$17,500.00.

- 6.4** **Oral Resolution: (CB-1408)** City Council authorized the City Manager to enter an agreement with Merry McKenna for the Airport Gift Shop.

The current operator of the airport terminal gift shop does not want to renew his operating agreement. Therefore, the City conducted a RFP for a new airport terminal gift shop operator (CB-1408). One proposal was received from Merry McKenna, who also operates the terminal restaurant. The gift shop operating agreement will be for a two year term with no rent during this initial term.

- 6.5** **Ordinance:** Establishing a Tax Increment Reinvestment Zone (TIRZ) in the City of Abilene; setting a public hearing for December 5<sup>th</sup> 2013.

AN ORDINANCE DESIGNATING A CERTAIN AREA AS TAX INCREMENT  
REINVESTMENT ZONE NUMBER TWO, CITY OF ABILENE, TEXAS, ESTABLISHING A  
BOARD OF DIRECTORS FOR SUCH REINVESTMENT ZONE, MAKING CERTAIN FINDINGS,  
AND OTHER MATTERS RELATED THERETO.

- 6.6** **Ordinance:** Standards of Care; setting a public hearing for December 5<sup>th</sup> 2013.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PROGRAMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; AND CALLING A PUBLIC HEARING.

- 6.7** **Ordinance:** (*First reading*) on an Ordinance for Case No. **TC-2013-06**, a request from Hendrick Medical Center, agents Duane Martin & Brannon Barnes, to abandon: Walnut St, the alley between Pine St & Walnut St, and the alley between Mesquite St & Walnut St, all between N. 16<sup>th</sup> St & N. 17th St; and setting a public hearing for December 5, 2013.

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.

- 6.8** **Ordinance:** (*First Reading*) on an ordinance for Case No. **Z-2013-37**, a request from Don Bledsoe, agents Enprotec/Hibbs & Todd and Dale A. Scoggins, to rezone property from AO (Agricultural Open Space) & RS-8 (Single-Family Residential) to RS-6 (Single-Family Residential) zoning, being 48.563 acres located on the south side of the 4300-4400 block of Antilley Rd; and setting a public hearing for December 5, 2013.

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*) Amending Budget Ordinance No. 46-2013, part 6; setting a public hearing for December 5<sup>th</sup> 2013.

AN ORDINANCE APPROVING A REVISION TO SECTION 6 OF ORDINANCE NUMBER 46-2013; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING.

## REGULAR ITEMS

- 7.1** Tommy O'Brien Director of Water Utilities, briefed the council on authorizing the payment to Pepper Lawson Waterworks, LLC for Construction Services Proposal No. 1 for the Hamby Wastewater Treatment Plant Improvements (Phase II).

On September 12, 2013 the City Council approved an oral resolution authorizing the City Manager to negotiate an Agreement, and subsequent associated Agreements, with Pepper Lawson Waterworks, LLC (Pepper Lawson) to serve as the Construction Manager at Risk (CMAR) for the Hamby Wastewater Treatment Plant Improvements (Phase II) (Project). Pursuant to such negotiations, an Agreement has been executed between the City of Abilene and Pepper Lawson to serve as the CMAR. On September 26, 2013 the City Council approved an oral resolution authorizing the funds in the amount of up to \$550,000 to Pepper Lawson for preconstruction phase services.

Under the Agreement, the Contract Price for the Hamby Wastewater Treatment Plant Improvements (Phase II) is established based on the CMAR's Fee and Guaranteed Maximum Price (GMP) Proposals accepted

by the City. The Agreement establishes the CMAR's Fee as: \$550,000 for Preconstruction Phase Services; 2.6% for Major Equipment Packages; and 4.6% for Construction Phase Services. GMP Proposals are developed by the CMAR for consideration by the City Council in accordance with provisions established in the Agreement.

This Oral Resolution authorizes funds in the amount not to exceed \$41.4 million for GMP Proposal No. 1 which will be paid to Pepper Lawson in accordance with the Agreement. GMP Proposal No. 1 provides funding for:

- Project General Conditions \$6,380,460
- CMAR Fee \$1,481,609
- Major Equipment Packages \$16,898,310
- Site Civil – Excavation Package \$1,518,073
- Structural Concrete Packages \$4,950,218
- Electrical Packages \$9,000,000
- Contingency \$1,171,330

Primary work associated with this GMP Proposal No. 1 includes: major equipment packages (treatment systems to include Ozone, membrane bioreactor [MBR], reverse osmosis [RO], and biologically active filters [BAF]); site work and concrete work (MBR structure, Ozone/RO/BAF structure, biological nutrient removal [BNR] control structure, and earthen equalization storage basin).

Additional GMP Proposals will be presented for City Council authorization as they are developed. Under terms established in the Agreement, all work performed will be administered by the CMAR in an "open book" arrangement.

Councilman Price made the motion to authorize the payment to Pepper Lawson for the proposal No. 1 and in accordance with the agreement. Councilman McAlister seconded the motion, motion carried.

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

NAYS: None

**7.2** Tommy O'Brien briefed the council on the execution of amendment No. 3 to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd to design improvements to the Hamby Wastewater Treatment Plant.

The current drought is having a severe impact on the City's water supplies. To prepare for the continuation of the current drought, improvements to the Hamby Wastewater Treatment Plant (Hamby WWTP) will be made that will increase performance and reliability of the plant to treat raw wastewater to standards imposed by the Texas Commission on Environmental Quality, and will provide the option of advanced wastewater treatment to allow the advanced treated wastewater to be directed into Lake Fort Phantom Hill, if that becomes necessary.

On May 20, 2013, the City Council authorized execution of Amendment No. 2 to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd (eHT), and its team of consultants, to conduct final evaluations and to provide preliminary design of the improvements to the Hamby WWTP. Final evaluations and preliminary design have been completed. eHT and its team of consultants are prepared to proceed with final design and construction phase services.

It is anticipated that construction of some of the facilities will begin in December, 2013. Major elements of the estimated \$64 million construction project that will be designed by eHT and its team of consultants (which include Allan Plummer and HDR) include: preliminary treatment systems (coarse and fine screens, grit removal, and flow equalization); secondary treatment systems (biological nutrient removal; and membrane bioreactor system); and advanced treatment systems (reverse osmosis, ozone, and biologically active filtration).

Staff is requesting authorization to amend the Hamby WWTP Professional Services Agreement with eHT to provide final design of the improvements to the Hamby WWTP, start-up services, and resident project representation for daily oversight of work during construction of the improvements. The advanced treatment systems are targeted to be operational by the end of 2014, with all construction work targeted for completion by the end of May, 2015. Work under Amendment No. 3 will be structured for reimbursement based on actual time spent and expenses, with total compensation not to exceed \$8,155,100.

Councilman Spano made the motion to authorize the City Manager to execute the amendment No. 3 to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd to design improvements to the Hamby Wastewater Treatment Plant. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

**7.3** Stan Standridge Police Chief, briefed the Council on the Ordinance Deleting Chapter 29 “Streets and Sidewalks”, Article I “General”, Section 29-5 “Begging, peddling, etc., prohibited in roadway” and Amending Chapter 28 “Solicitations” of the Abilene Code of Ordinances.

Annually the Police Department investigates more than 3,400 collisions in the city. Most collisions occur in or near intersections, thus making intersections more dangerous for pedestrians. The purpose of the proposed changes to the solicitations ordinance is to increase public safety by identifying the most dangerous intersections in Abilene and prohibiting solicitation from roadways at or near those intersections. In order to ensure the new provisions are narrowly tailored and with viable locations available for solicitation from the roadway, various factors were used in identifying the prohibited intersections including accident numbers, traffic counts, and the complexity of traffic patterns.

The ordinance also prohibits minors under the age of 17 from soliciting in any roadway, and it requires reflective vests for all persons soliciting at non-prohibited locations. Additionally, aggressive panhandling is defined and prohibited, also with the intent of safeguarding our citizens.

City staff understands this ordinance will impact local newspaper vendors by eliminating circulation at prohibited locations. As a result, Police Administration met with the newspaper to discuss the proposed ordinance and its intended purpose as it relates to the safety of their independent vendors.

Chapter 29 “Streets and Sidewalks”, Article I “General”, Section 29-5 “Begging, peddling, etc., prohibited in roadway” will be deleted to avoid conflict with the new provisions.

Council and Staff discussion included: 1) State Law on Solicitation; 2) roadway clarity; 3) parking lot – preferred location; and 4) “Fill the Boot” by the Abilene Fire Department.

Staff recommends approval.

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

- Marty Sanders – with the Abilene Fire Department Association. Marty spoke on the “Fill the Boot” for the MDA fund raiser. The Fire Department holds the “Fill the Boot” at two of the intersections that will be prohibited with this ordinance.

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

Mayor Archibald made the motion to approve Ordinance for the Deleting Chapter 29 “Streets and Sidewalks”, Article I “General”, Section 29-5 “Begging, peddling, etc., prohibited in roadway” and Amending Chapter 28 “Solicitations” of the Abilene Code of Ordinances and adding language to section 28-31 and 28-32 “which includes the areas adjacent to or nearby the traveled portion of the road.” Councilman McAlister seconded the motion, motion carried.

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

NAYS: None

Ordinance **#63-2013**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE DELETING CHAPTER 29 “STREETS AND SIDEWALKS”, ARTICLE I “GENERAL”, SECTION 29-5 “BEGGING, PEDDLING, ETC., PROHIBITED IN ROADWAY”; AMENDING CHAPTER 28, “SOLICITATION,” OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

**7.4** Weldon Wilkerson Deputy Chief briefed the Council on deleting and replacing Chapter 18, “Motor Vehicles and Traffic,” Article X, “Stopping, Standing, Parking,” Division 6, “Parking Lots,” of the Abilene City Code of Ordinances.

Chapter 18, Article X, Division 6, of the City of Abilene Code of Ordinances delineates the uses of enumerated parking in parking lots on City of Abilene facilities. The delineated list is out of date resulting in the inability of the City to enforce designated employee parking at city facilities.

Currently the City Fire Department has concerns about citizens parking for extended periods of time in one of the fire station parking lots. The concerns include lack of spaces for fire personnel to park, particularly during shift change as well as the maneuverability of the fire equipment that has been affected by the parked vehicles.

The attached ordinance will provide a mechanism by which the City of Abilene can enforce the employee parking designations on city facilities when necessary.

Staff recommends approval as requested.

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 an Ordinance deleting and replacing Chapter 18, “Motor Vehicles and Traffic,” Article X, “Stopping, Standing, Parking,” Division 6, “Parking Lots,” of the Abilene City Code of Ordinances. Councilman Briley seconded the motion, motion carried.

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

NAYS: None

Ordinance #64-2013

AN ORDINANCE DELETING CHAPTER 18, "MOTOR VEHICLES AND TRAFFIC," ARTICLE X, "STOPPING, STANDING, PARKING," DIVISION 6, "PARKING LOTS," AND REPLACING IT AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

7.5 Megan Santee Director of Public Works briefed the council on the Application/Permit to Drill and/or Operate an Oil and/or Gas well (4) – Bullet Development, LLC: WTRC “A” #1, WTRC “A” #2, WTRC “A” #3 & WTRC “A” #4, Permit No.’s 764999, 765000, 765001 & 765002.

Chapter 21, Oil and Gas, of the City Code requires a permit for drilling and operating oil/gas wells within the city limits. As part of the review process, the City Council is to conduct a public hearing and then approve or deny the permit.

Bullet Development, LLC of Abilene, Texas has submitted applications to drill the WTRC “A” #1, #2, #3 & #4 wells on property owned by Jack Denson, located on southeast end of East Industrial Blvd. adjacent to the Abilene Regional Airport, as shown on the attached map. Because of the proximity to Abilene Regional Airport, a Federal Aviation Administration (FAA) Aeronautical Study was required for each well. The aeronautical studies are attached to, and made part of each application/permit. The studies concluded that the drilling rig for each well does not exceed obstruction standards and would not be a hazard to air navigation, provided that the marking/lighting and notification requirements detailed in the studies are met. Additionally, although the eastern portion of the WTRC “A” oil & gas lease boundary is on City of Abilene/Abilene Regional Airport property and within the airport perimeter fence, when the City purchased this tract for the airport in 1967 it received exclusive rights to use of the surface, including the rights to control ingress & egress for exploration of oil & gas. Therefore, this area cannot be accessed for drilling.

These applications have been reviewed and approved by City Staff. All owners of real property within 500 feet of the proposed drill sites have been notified of these applications and of the City Council meeting to consider their approval, as required by City ordinance.

Mayor Archibald opened the public hearing and Larry Wellhausen was present for any questions on this application, there being no one else present and desiring to be heard the public hearing was closed.

Councilman Spano made the motion to approve the application/permit to drill and/or operate an oil and/or Gas well (4) with Bullet Development, LLC; WTRC”A” #1, WTRC “A” #2, WTRC “A” #3 & WTRC “A” #4, Permit No.’s 764999,765000,765001 & 765002. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

**EXECUTIVE SESSION**

Mayor Archibald recessed the Council into Executive Session 10:23 a.m. pursuant to Sections 551.071, 551.074, 551.072 and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, to consider the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters.

The Council reconvened Executive Session at 11:35 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.074 Personnel. Councilwoman Miller left during Executive Session.

**10. Oral Resolution:** Discussion and possible action related to annual performance evaluations of City Manager, City Attorney, City Secretary and Municipal Judge.

No action from executive session.

There being no further business the meeting was adjourned at 11:35 a.m.

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Danette Dunlap, TRMC  
City Secretary

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Norm Archibald  
Mayor