

**CITY COUNCIL MEETING**  
**February 12<sup>th</sup> 2015, 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 February 12<sup>th</sup> 2015, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Anthony Williams, Jay Hardaway, Kyle McAlister and Steve Savage. Also present were Interim City Manager David A. Vela, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Jay Hardaway gave the invocation.

Mayor Archibald introduced Justin Sanchez a 5<sup>th</sup> grade student at Martinez Elementary. Justin led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

**PROCLAMATION**

Mayor Archibald presented the following proclamation:

**February 26, 2015**

“Don’t Drink and Drive Day”

Megan Miller, Abilene Regional Council on Alcohol and Drug Abuse, accepted the proclamation

**SERVICE AWARDS**

Mayor Archibald and Interim City Manager David Vela recognized the following City employees for their years of service.

<i>Steven McDonald</i>	<i>Custodial Services</i>	<i>25 years</i>
<i>Kenneth Mathers</i>	<i>Engineering Technician III</i>	<i>25 years</i>
<i>Mickey Chaney</i>	<i>Division Administrator, Wastewater Treatment</i>	<i>30 years</i>

**DISPOSITION OF MINUTES**

**5.0** Mayor Archibald stated Council has been given the minutes from the January 29<sup>th</sup> Special Called meeting and January 22<sup>nd</sup> Regular meeting, there being no deletions, no additions, and no corrections. Councilman Price made a motion to approve the minutes as presented. Councilman Hardaway seconded the motion, motion carried.

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

**CONSENT AGENDA**

Councilman Williams made the motion to approve consent items 6.1 through 6.2 as recommended by staff. Councilman Spano seconded the motion, motion carried.

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

### Oral Resolutions

- 6.1 **Oral Resolution:** Authorized the Interim City Manager to execute the Agreement by and between City of Abilene, Wylie Independent School District and the City of Impact to hold a Joint Election on May 9<sup>th</sup> 2015.

The Texas Election Code, Chapter 271 authorizes political subdivision of the State of Texas hold elections jointly in voting precincts if it will be of benefit to the citizens and voters thereof to be served by common polling places and elections are ordered by the authorities of two or more political subdivisions to be held on the same day in all or part of the same territory

- 6.2 **Oral Resolution:** Authorized the Interim City Manager to enter into an Election Services Contract with Taylor County Elections Administrator to conduct the election on May 9<sup>th</sup> 2015.

### REGULAR ITEMS

- 7.1 Mayor Archibald made the motion to Remove 7.1 from the TABLE. Councilman Price made the second, motion carried.

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

Councilman Hardaway declared a conflict and will abstain on the discussion and vote of this item. Jon James Director of Planning and Development Services briefed the council on the Ordinance for Case **Z-2014-56** a request from Southwest Housing Providers, LLC & First Baptist Church, agent EHT, to rezone property from AO (Agricultural Open Space) to PD (Planned Development) zoning, located on the south side of the 600-700 Blk. of E. Stamford St.

Currently the property is zoned AO and is undeveloped. The surrounding area is developed generally with single-family residential uses to the south and proposed multi-family residential zoning to the east. The purpose of the zoning is to allow for a Vacation Travel Trailer (RV) Park. The current AO zoning requires a Conditional Use Permit in order to allow for the proposed use. In reviewing the regulations for Travel Trailer Parks, the use must be a minimum of 300 feet from residentially zoned properties. The applicant is proposing a PD zoning to request modifications to this regulation as well as regulations dealing with setbacks and paving. The proposed use will have access onto E. Stamford St only.

The Future Land Use section of the Comprehensive Plan designates this general area as 'low density residential'. The requested PD zoning will maintain the AO zoning and allow for a Travel Trailer (RV) Park. The requested zoning is compatible with the Future Land Use Map and the adjacent residential uses in the area.

When a written protest against the amendment is signed by the owners of twenty percent (20%) or more of either the area of the lots or land covered by the proposed change, or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200') from that area, a zoning amendment shall not become effective except by the favorable vote of three fourths of all members of the City Council. The opposition from the surrounding property owners equals approximately 37%; therefore, a super-majority vote is required for this item.

STAFF RECOMMENDATION

Staff recommends approval of the PD with exception of the proposed paving regulation. Staff recommends that the entrance roadway from the public street to the main office plus the parking for the office and all uses accessible by the general public be paved.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval with conditions that the main drive may remain stone until development occurs on either side and that a 6-foot screen or fence shall be provided along the south property line by a vote of 5 in favor (Calk, Ellinger, Glenn, McClarty, & Famble) and none opposed.

Council and Staff discussion included: 1) setbacks on the property; 2) possible noise issues; 3) fencing between the neighborhood to the south and to the east of the property; and 4) flood plain and flood path areas.

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

- David Todd agent for Southwest Housing – for the rezone
- Nick Coates – land owner to the East – a request that they be required to maintain high standards
- Kris Kowatch – had concerns over the zone change
- Randy Stevenson – developer – for the rezone
- Mike Vandervoort – spoke in favor

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

Councilman Price made the motion to approve the Ordinance for Case **Z-2014-56** a request from Southwest Housing Providers, LLC & First Baptist Church, agent EHT, to rezone property from AO (Agricultural Open Space) to PD (Planned Development) zoning, located on the south side of the 600-700 Blk. of E. Stamford St. There shall be a forty foot (40') setback for all vacation travel trailers and structures along the south and east property lines. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

ABSTAINED: Councilman Hardaway

Ordinance: **#09-2015**

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.

**Location: 600-700 blk of E Stamford St**

**7.2** Jon James Director of Planning and Development Services briefed the council on the Ordinance for Case **Z-2015-03** a request from PCH Investments, agent Enprotec/Hibbs & Todd, Inc. to rezone property from AO (Agricultural Open Sace) to RS-6 (Single-Family Residential) zoning, being a total of approximately 56.6 acres being a portion of 7550 Hardwick Rd & a portion of the approximately 38.9 acres.

Currently the property is zoned AO and is undeveloped. The surrounding area is largely undeveloped but there are residential uses to the south with 2 schools located to the south along Hardwick Rd. The purpose of the zoning is to allow for development of new single-family residential homes. A large area along Hardwick Rd is not included and includes an existing home. Additionally, the area along Hardwick Rd is within floodway and

floodplain area that would be difficult to develop. Waldrop Dr is designated as a 'collector' street and would be required to be built as part of this development.

The Future Land Use section of the Comprehensive Plan designates the block as 'low density residential'. The requested RS-6 zoning is the same as the adjacent zoning to the south and is similar to the residential development in the area. The requested zoning is compatible with the Future Land Use Map and the adjacent properties.

#### STAFF RECOMMENDATION

Staff recommends approval.

#### BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 4 in favor (Bixby, Calk, Rosenbaum, & Famble), none opposed, and 1 abstained (Ellinger).

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

- David Todd – agent for PCH Investments – supportive for the zone change

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

Councilman Hardaway made the motion to approve the Ordinance for Case # **Z-2015-03** a request from PCH Investments, agent Enprotec/Hibbs & Todd, Inc. to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, being a total of approximately 56.6 acres being a portion of 7550 Hardwick Rd & a portion of the approximately 38.9 acres. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

Ordinance: **#10-2015**

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.

**Location: approximately 56.6 acres being a portion of 7550 Hardwick Rd & a portion of the approximately 38.9 acres.**

**7.3** Jon James Director of Planning and Development Services briefed the council on the Ordinance for **Z-2015-04** a request from the City of Abilene to rezone property from LI (Light Industrial) to LI/H (Light Industrial/Historic Overlay) zoning, located at 189 Locust St.

Currently the property is zoned LI and is developed with an old railway station building. The Burlington Railroad Station, referred to on the National Register of Historic Places as "Abilene and Northern Railway Company Depot" was built in 1929. This one story, red brick veneer building is a distinctive Mission Revival Style building. The exterior retains a high degree of integrity. The surrounding area is largely developed with warehousing and commercial uses. The purpose of the zoning is to add the historic overlay on the building to provide some incentives for restoring the building and to place protections from demolition.

The Future Land Use section of the Comprehensive Plan designates this property as part of the 'Central Business District'. The existing LI zoning will remain. The requested overlay zoning is compatible with the Future Land Use Map and the adjacent properties.

**STAFF RECOMMENDATION**

Staff recommends approval.

**BOARD OR COMMISSION RECOMMENDATION**

The Landmarks Commission recommends approval by a vote of 5 in favor (Butman, Calk, Lee, McClellan, & Weatherl), none opposed, and 1 abstained (Minter).

The Planning and Zoning Commission recommends approval by a vote of 5 in favor (Bixby, Calk, Ellinger, Rosenbaum, & Famble) and none opposed.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Hardaway made the motion to approve the Ordinance for Case #Z-2015-04 a request from the City of Abilene to rezone property from LI (Light Industrial) to LI/H (Light Industrial/Historic Overlay) zoning, located at 189 Locust St. Councilman Williams seconded the motion, motion carried.

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

NAYS: None

Ordinance: **#11-2015**

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.

**Location: 189 Locust St**

**7.4** Tommy O'Brien Director of Water Utilities briefed the council on an Amendment to the 2005 Interlocal Agreement between Abilene, the Brazos River Authority and the West Central Texas Municipal Water District.

On March 10, 2005, the City of Abilene, the West Central Texas Municipal Water District (District), and the Brazos River Authority (BRA) entered into an Interlocal Agreement to resolve existing and potential conflicts between each entities respective water rights and each entities pending/proposed water right applications, including the City's proposed Cedar Ridge Reservoir project. Key provisions in the 2005 Interlocal Agreement are tied to the granting by the Texas Commission on Environmental Quality (TCEQ) of the proposed BRA System Operation Permit.

Processing and obtaining final action on the BRA's System Operation Permit application has taken significantly longer than was anticipated by the City, District and BRA when the 2005 Interlocal Agreement was developed and executed. Additionally, Possum Kingdom Lake has experienced record low inflow levels since 2011 that may ultimately result in a new critical drought period and reduced yield of the lake. Provisions in the 2005 Interlocal Agreement included dates where certain actions are required, including a March 10, 2015 date for beginning payments to BRA for continuing the option held by the City/District for up to 20,000 acre-feet per

year of water from Possum Kingdom. The quantity of the option held by the City/District cannot be determined until the BRA receives final action on the System Operation Permit.

The proposed Amendment to the 2005 Interlocal Agreement provides for the following:

- Extension of the dates for actions related to the City's proposed Cedar Ridge Reservoir project.
- Clarification of the option to contract for up to 20,000 acre-feet per year of Possum Kingdom water based on the final action on the BRA's System Operation Permit.
- No payment for contracted water until one year after final action on the BRA's System Operation Permit and BRA's written notification to the City and District of the water available under the option.
- The ability to return all or a part of the water, once contracted, without penalty or further financial obligation at the sole discretion of the City and/or District

The District considered the Amendment to the 2005 Interlocal Agreement at its Board Meeting on February 4, 2015. As a result, the District's Board of Directors voted to authorize its President to sign the Amendment. The BRA's General Manager was authorized by the BRA Board of Directors to execute the Amendment.

#### FUNDING/FISCAL IMPACT

The proposed Amendment to the 2005 Interlocal Agreement has no immediate funding/fiscal impact.

#### STAFF RECOMMENDATION

Staff recommends approval of a Written Resolution authorizing the Mayor to execute an amendment to the 2005 Interlocal Agreement between Abilene, the WCTMWD and the BRA.

Mayor Archibald made the motion to approve the Resolution authorizing the Interim City Manager to execute an Amendment to the 2005 Interlocal Agreement between Abilene, the Brazos River Authority and the West Central Texas Municipal Water District. Councilman Price seconded the motion, motion carried.

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

NAYS: None

Resolution: #05-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE 2005 INTERLOCAL AGREEMENT BETWEEN THE CITY OF ABILENE, THE BRAZOS RIVER AUTHORITY, AND THE WEST CENTRAL TEXAS MUNICIPAL WATER DISTRICT.

**7.5** Tommy O'Brien Director of Water Utilities briefed the council on approving payment to Garney Companies, Inc. for Construction Services Guaranteed Maximum Price Proposal No. 1 for the Possum Kingdom Raw Water Transmission System for Second Stage Drought Strategy.

Due to the continuing drought, the City is implementing its second stage short-term drought strategy. On December 18, 2014 the City Council approved a written resolution authorizing the Interim City Manager to negotiate an Agreement, and subsequent associated Agreements, with Garney Companies, Inc. (Garney) to serve as the Construction Manager at Risk (CMAR) for the Possum Kingdom (PK) Raw Water Transmission System. The raw water transmission system is part of the strategy to bring PK water to Abilene as a supplemental raw water source. Pursuant to such negotiations, an Agreement was executed between the City of Abilene and Garney to serve as the CMAR.

Under the Agreement, the Contract Price for the PK Raw Water Transmission System is established based on the CMAR's cost of preconstruction phase services, and Guaranteed Maximum Price (GMP) Proposals accepted by the City. The initial Agreement established Preconstruction Phase Services of \$250,000 and the CMAR fee of 6% for construction phase services. This Written Resolution authorizes funds in the amount not to exceed \$18,931,600 for GMP Proposal No. 1. The work associated with GMP No. 1 provides funding for:

- CMAR Fee \$ 1,071,600
- Project General Conditions \$ 2,310,000
- Piping, Valves and Accessories \$ 9,950,000
- Clearing/Construction Staking \$ 1,000,000
- Directional Drilling/Boring \$ 2,000,000
- 12" Pipeline Installation \$ 730,000
- 36" Pipeline Installation \$ 1,870,000

Primary work associated with this GMP Proposal No. includes: project general conditions (bonds, insurance and non-construction costs); piping, valves and accessories (12" and 36" pipe, butterfly and gate valves, air valves, valve boxes, etc.); clearing and construction staking along pipeline rights-of-way; directional drilling/bore and encasement for roadway and waterbody crossings; and pipeline installation for the 12" reverse osmosis concentrate discharge pipeline and the 36" raw water transmission pipeline.

**FUNDING/FISCAL IMPACT**

The proposed CMAR services will be funded through the issuance of combination tax and revenue certificates of obligation to be sold in the near future. Any expenditure on the work will be paid by the Water Utility Fund and then will be reimbursed upon delivery of the obligation in the near future. There is a Reimbursement Resolution associated with this expenditure.

Councilman Price made the motion to approve the payment to Garney Companies, Inc. for Construction Services Guaranteed Maximum Price Proposal No. 1 for the Possum Kingdom Raw Water Transmission System for Second Stage Drought Strategy. Councilman Hardaway seconded the motion, motion carried.

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

Resolution: **#06-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING PAYMENT TO GARNEY COMPANIES, INC. FOR CONSTRUCTION SERVICES GMP PROPOSAL NO. 1 FOR THE POSSUM KINGDOM RAW WATER TRANSMISSION SYSTEM.

**7.6** Tommy O'Brien Director of Water Utilities briefed the council on approving payment to Pepper Lawson Waterworks, LLC for Construction Services Guaranteed Maximum Price Proposal No. 2 for the Possum Kingdom Roughing Facility for Second Stage Drought Strategy.

Due to the continuing drought, the City is implementing its second stage short-term drought strategy. On December 18, 2014 the City Council approved a written resolution authorizing the Interim 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 Possum Kingdom (PK) Raw Water Roughing Facility. The raw water roughing facility is part of the strategy to bring PK water to Abilene as a supplemental raw water source. Pursuant to such negotiations, an Agreement was executed between the City of Abilene and Pepper Lawson to serve as the CMAR.

Under the Agreement, the Contract Price for the PK Raw Water Roughing Facility is established based on the CMAR's cost of preconstruction phase services, and Guaranteed Maximum Price (GMP) Proposals accepted by the City. The initial Agreement established Preconstruction Phase Services of \$375,000, equipment purchases of up to \$15,000,000 (GMP No. 1), and the CMAR's fee of 2% for major equipment packages and 4.6% for construction phase services. This Written Resolution authorizes funds in the amount not to exceed \$13,500,000 for GMP Proposal No. 2. The work associated with GMP No. 2 provides funding for:

- CMAR Fee \$ 1,020,000.
- Project General Conditions \$ 4,260,000.
- Mechanical Piping Packages \$ 1,900,000.
- Equipment Packages Adjustment \$ (5,550,000.)
- Site Civil Packages \$ 585,000.
- Structural Concrete Packages \$ 2,425,000.
- Buildings and Finishes Packages \$ 2,330,000.
- Electrical Packages \$ 6,530,000.

Primary work associated with this GMP Proposal No. 2 includes: project general conditions (bonds, insurance and non-construction costs); mechanical piping packages (piping between/within structures); equipment packages adjustment (reduction from the \$15,000,000 in GMP No. 1 due to bidding efficiencies); site civil packages (excavation and backfill for structures); structural concrete packages (process building and ancillary structures); buildings and finishes packages (precast walls for process building, doors, windows and HVAC); and electrical packages (process building and pump stations).

**FUNDING/FISCAL IMPACT**

The proposed CMAR services will be funded through the issuance of combination tax and revenue certificates of obligation to be sold in the near future. Any expenditure on the work will be paid by the Water Utility Fund and then will be reimbursed upon delivery of the obligation in the near future. There is a Reimbursement Resolution associated with this expenditure.

Councilman McAlister made the motion to approve the payment to Pepper Lawson Waterworks, LLC for Construction Services Guaranteed Maximum Price Proposal No. 2 for the Possum Kingdom Roughing Facility for Second Stage Drought Strategy. Councilman Williams seconded the motion, motion carried.

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

**Resolution #07-2015**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING PAYMENT TO PEPPER LAWSON WATERWORKS, LLC FOR CONSTRUCTION SERVICES GMP PROPOSAL NO. 2 FOR THE POSSUM KINGDOM RAW WATER ROUGHING FACILITY.**

**7.7** Tommy O'Brien Director of Water Utilities briefed the council on Amendment No. 9 to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd Engineering to continue activities associated with Regional Water Supply Projects for the Second Drought Strategy.

The initial short-term drought strategy to deliver advanced treated wastewater into Lake Fort Phantom Hill was successfully implemented on January 7, 2015. However, the effects of the drought continue to be a concern and staff is implementing a second stage short-term drought strategy. This strategy includes transporting from 4 to 14 million gallons per day (MGD) of raw water from Possum Kingdom Reservoir (PK) to



Abilene, and increasing the capacity of the Hargesheimer water treatment plant (WTP) to provide up to 12 MGD of potable water from its raw water source – Lake Ivie.

On September 11, 2014, Council approved Amendment No. 8 to the Enprotec/Hibbs & Todd, Inc. (eHT) Regional Water Supply contract. The work associated with Amendment No. 8 included design of pipelines and treatment facilities for raw water from PK; design of facilities at the Hargesheimer WTP to increase the capacity to provide 12 MGD of potable water; preparation of contract documents to preselect or prepurchase key equipment necessary for the expansion of Hargesheimer WTP and treatment of raw water from PK; and the preparation of easement documents necessary for acquisition of land for the project improvements. On December 18, 2014, Council approved entering into Construction Manager at Risk contracts with Pepper Lawson Waterworks, LLC for the raw water roughing facility and Garney Companies, Inc. for pipeline improvements needed to deliver raw water from PK. Also at its December 18, 2014, Council Meeting, approval was given for the prepurchase of key equipment for the Hargesheimer WTP expansion and the treatment of raw water from PK based on bids received in November.

Construction of the second stage short-term drought strategy projects is underway. Staff is requesting an Amendment No. 9 to eHT's Regional Water Supply contract to allow eHT to perform construction phase, post-construction phase, resident project representation, and authorized special services for the second stage short-term drought strategy projects. Work to be performed under Amendment No. 9 will be structured for reimbursement based on actual time spent and expenses, with a total compensation not to exceed \$4,305,300.

#### FUNDING/FISCAL IMPACT

The proposed engineering services will be funded through the issuance of combination tax and revenue certificates of obligation to be sold in the near future. Any expenditure on the work will be paid by the Water Utility Fund and then will be reimbursed upon delivery of the obligation in the near future. There is a Reimbursement Resolution associated with this expenditure.

Councilman Spano made the motion to approve the Resolution authorizing execution of amendment No. 9 to the Professional Engineering Services Agreement with Enprotec/Hibbs & Todd to continue activities associated with Regional Water Supply Projects for the Second Stage Drought Strategy. Councilman McAlister seconded the motion, motion carried.

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

Resolution: **#08-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE EXECUTION OF AMENDMENT NO. 9 TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH ENPROTEC/HIBBS & TODD TO CONTINUE ACTIVITIES ASSOCIATED WITH REGIONAL WATER SUPPLY PROJECTS FOR THE SECOND STAGE SHORT-TERM DROUGHT STRATEGIES.

**7.8** Tommy O'Brien Director of Water Utilities briefed the council authorizing the Mayor to Execute a Water Transmission Agreement Between the City of Abilene and the West Central Texas Municipal Water District for the Second Stage Drought Strategy.

Due to the continuing drought, the City is implementing its second stage short-term drought strategy. This strategy includes transporting from 4 to 14 million gallons per day (MGD) of raw water from Possum Kingdom Reservoir (PK) to Abilene, and increasing the capacity of the Hargesheimer water treatment plant (WTP) to provide up to 12 MGD of potable water from its raw water source – Lake Ivie. The West Central

Texas Municipal Water District (District) owns and operates the raw water transmission system between Hubbard Creek Reservoir (Hubbard) and its member cities – Abilene, Albany, Anson and Breckenridge. Agreements between the City and District establish contractual requirements for the conveyance of raw water from Hubbard to Abilene. Developing Possum Kingdom Lake as a raw water supply will require the use of existing District facilities and the construction of new facilities (pump station and pipeline) to transport Possum Kingdom raw water to Abilene.

The proposed Water Transmission Agreement provides for Abilene's use of District property (land and easements) for the construction of system improvements necessary to convey Possum Kingdom water from the proposed raw water roughing facility in Breckenridge to Abilene. Once completed, title to system improvements (36" pipeline, product water pump station and appurtenances) may be transferred to the District. System improvements are being funded and constructed by Abilene under Construction Manager at Risk contracts with Garney Companies, Inc. and Pepper Lawson Waterworks, LLC. System operation provisions for the conveyance of Possum Kingdom raw water are also covered under the proposed Water Transmission Agreement.

At its Board Meeting on February 4, 2015 the District Board of Directors authorized entering into the proposed Water Transmission Agreement.

#### FUNDING/FISCAL IMPACT

Funding for system improvements addressed in the proposed Water Transmission Agreement is being provided under separate authorizations associated with the City's Second Stage Drought Strategy. Funding of system operations will be provided through the Water and Sewer Budget as an operating expense which is typically budgeted.

Councilman Price made the motion to authorize the Mayor to Execute a Water Transmission Agreement between the City of Abilene and the West Central Texas Municipal Water District for the Second Stage Drought Strategy. . Councilman Hardaway seconded the motion, motion carried.

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

#### Resolution #09-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE EXECUTION OF A WATER TRANSMISSION AGREEMENT BETWEEN THE CITY OF ABILENE AND THE WEST CENTRAL TEXAS MUNICIPAL WATER DISTRICT.

**7.9** Tommy O'Brien Director of Water Utilities briefed the Council on authorizing the initiation of condemnation proceedings necessary for installation of pipelines to deliver water from Possum Kingdom Reservoir to Abilene for Second Stage Drought Strategy.

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.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Williams made the motion to approve the initiation of condemnation proceedings necessary for installation of pipelines to deliver water from Possum Kingdom Reservoir to Abilene for Second Stage Drought Strategy. Councilman Savage seconded the motion, motion carried.

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

NAYS: None

#### Resolution #10-2015

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

**7.10** Mindy Patterson Director of Finance briefed the council on the Resolution expressing official intent to reimburse costs of projects for the Water Utility Department for the Second Stage Drought Strategy.

The Water Utility Department is encountering unforeseen expenses due to the ongoing severe drought conditions in the region. The City expects to pay expenditures for constructing, acquiring installing and

equipping additions, extensions and improvements to the City's water and wastewater system, including water treatment improvements, distribution lines and pump stations, and engineering fees and acquisition of land and interests in land for such projects. The work will ultimately be funded with the issuance of certificates of obligation.

In order to proceed with the project prior to the sale of the certificates, the attached Resolution requires approval by the City Council. The Resolution allows the City to enter into contracts prior to the delivery of the certificates of obligation funds.

#### FUNDING/FISCAL IMPACT

The certificates of obligation to support any cost associated with the project are expected to be sold in the near future. Any expenditure on the project will be paid by the Water Utility Fund and then may be reimbursed upon delivery of the certificates of obligation money.

Councilman Price made the motion to approve the Resolution expressing official intent to reimburse costs of projects for the Water Utility Department for the Second Stage Drought Strategy. Councilman Hardaway seconded the motion, motion carried.

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

NAYS: None

#### Resolution #11-2015

#### RESOLUTION EXPRESSING OFFICIAL INTENT TO REIMBURSE COSTS OF WATER AND WASTEWATER SYSTEM PROJECTS

**7.11** Mayor Archibald announced that the city council would discuss the bond projects and will approve a final list and on the February 26<sup>th</sup> agenda the council will consider Calling and Ordering the Bond Election.

#### STREETS

Council and staff discussion began with a review of the Streets as they were presented to the Bond Committee and sent forward to City Council and included the following: 1) discussion over the wording on the ballot concerning the specific street projects; and 2) which streets will be repaired.

Councilman Williams made the motion to approve in the amount of **\$45,975,000** in projects for street repairs and rehab. Councilman Spano seconded the motion, motion carried.

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

NAYS: None

#### MUNICIPAL FACILITIES

Council and staff discussion included: 1) Civic Center renovations; 2) motorized fly system; 3) the use of year end monies to repair the Terrazzo floors and staircase, electrical repairs; and 4) parking lot rehab – along Pine Street and rehabbing the entire parking area.

Councilman Williams made the motion to approve in the amount of **\$2,810,000** in projects for Civic Center renovations (Exhibit Hall, Kitchen and Motorized Fly System). Councilman McAlister seconded the motion, motion carried.

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

#### SIDEWALKS

Council and staff discussion included: 1) sidewalks for safe routes to school; 2) priority for handicap; and 3) cost will cover approximately 12 miles of sidewalks.

Councilman Price made the motion to approve in the amount of **\$3,820,000** in sidewalks. Councilman Spano seconded the motion, motion carried.

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

#### PUBLIC SAFETY

Council and staff discussion included: 1) amount needed for the fire department to house records; and 2) old fire station #1 is not feasible for the maintenance facility – the station has the same height issues as the current maintenance facility.

Councilman McAlister made the motion to approve in the amount of **\$12,865,000** in projects for Fire Maintenance Facility, Replace Stations #3, #4, #7, Fire Training Facility, and Police Records Building. Councilman Savage seconded the motion, motion carried.

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

#### ZOO

Council and staff discussion included: 1) local match from a private donor; and 2) new exhibits.

Councilman Hardaway made the motion to approve in the amount of **\$1,030,000** in projects for the zoo updated exhibits. Councilman Price seconded the motion, motion carried.

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

#### RECREATION CENTER

Council and staff discussion included: 1) not placing recreation center on the bond package; 2) age difference in those that utilize the facilities; and 3) put to the voters for their decision.

Councilman Spano made the motion to remove the recreation center from the bond proposal. Councilman Savage seconded the motion, motion carried.

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

#### AQUATIC CENTER

Councilman Williams had to leave the meeting.

Council and staff discussion included: 1) designed to be located at Rose Park; 2) age of city pools; and 3) the same type of aquatics are being offered in cities close by.

Mayor Archibald made the motion to approve in the amount of **\$6,000,000** in Aquatic Enhancements at Rose Park. Councilman Hardaway seconded the motion, motion carried.

AYES: Councilman Price, Spano, Hardaway, McAlister, Savage and Mayor Archibald  
NAYS: None

#### SPLASH PADS (4)

Council and staff discussion included: 1) locations are Stevenson Park, Red Bud Park, Sears Park and Scarborough Park.

Councilman Hardaway made the motion to approve in the amount of **\$2,500,000** in Splash Pads (4) to be located in various sections of town. Councilman Price seconded the motion, motion carried.

AYES: Councilman Price, Spano, Hardaway, McAlister, Savage and Mayor Archibald  
NAYS: None

#### CEDAR CREEK WATER WAY

Council and staff discussion included: 1) several phases; 2) would eventually connect Lake Kirby to Lake Fort Phantom; 3) land owners along the creek have concerns; and 4) city working with union pacific railroad.

Mayor Archibald made the motion to approve in the amount of **\$1,490,000** for Phase I of the Cedar Creek Water Way. Councilman Hardaway seconded the motion, motion carried.

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

#### AIRPORT

Council and staff discussion included: 1) FAA grants are a 90/10 match.

Mayor Archibald made the motion to approve in the amount of **\$4,200,000** in grant match for Capital Projects at the Airport. Councilman Price seconded the motion, motion carried.

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

### EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 2:00 p.m. pursuant to Sections 551.071, 551.074, 551.072 and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, to consider

the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters.

The Council reconvened Executive Session at 2:50 p.m. and reported no votes or action was taken in Executive Session in regards to Consultation with Attorney 551.071.

**10. Resolution:** Authorizing the Interim City Manager to execute litigation settlement documents.

Mayor Archibald made the motion to approve the Resolution authorizing the Interim City Manager to execute litigation settlement documents for the City of Abilene. Councilman Savage seconded the motion, motion carried.

AYES: Councilman Price, Spano, Hardaway, McAlister, Savage and Mayor Archibald

NAYS: None

Resolution: #**12-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE EXECUTION OF A LITIGATION SETTLEMENT AGREEMENT BY THE INTERIM CITY MANAGER.

**Irene M. Grant, Jimmy Wilsher, Jimmy D. Asbill, Jerry “Gerardo” Garcia, Craig Mayhall and John M. Wegner v. City of Abilene, Texas, Cause No. 09010-D, 350th District Court, Taylor County, filed July 6, 2010**

**11. Oral Resolution:** Discussion and possible action related to annual performance evaluations of City Attorney, City Secretary and Municipal Judge. No action taken.

There being no further business the meeting was adjourned at 2:55 p.m.

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Danette Dunlap, TRMC  
City Secretary

\_\_\_\_\_  
Norm Archibald  
Mayor