

**CITY COUNCIL MEETING
March 26th 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 March 26th 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.

Anthony Williams gave the invocation.

Mayor Archibald introduced Meredith Clancy a 5th grade student at Jackson Elementary. Meredith led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

April 6-11, 2015
Community Development Week
Sandy Bowen, Office of Neighborhood Services accepted the proclamation

April 7, 2015,
National Service Recognition Day
Chesley Martin, RSVP Outreach Coordinator – Abilene accepted the proclamation.
Representatives from Foster Grandparents, and AmeriCorp were also in attendance

March 28, 2015
Lions White Cane Day
James Wheeler, Elmwood West Lions Club along with others from the Lions Club, accepted the proclamation

March 23-27, 2015
National Work Zone Safety Awareness Week
Stan Swiatek, P.E., TxDOT Abilene District Engineer accepted the proclamation. Staff members for the Abilene Office were also in attendance.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the March 12th Regular meeting and the March 16th Special Called Meeting there being no deletions, no additions, and no corrections. Councilman Price made a motion to approve the minutes as presented. Councilman Spano seconded the motion, motion carried.

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

CONSENT AGENDA

Councilman McAlister pulled item 6.3 and Councilman Savage pulled item 6.4 Councilman Savage made the motion to approve consent items 6.1 through 6.6 with the exception of 6.3 and 6.4, as recommended by staff. Councilman Williams seconded the motion, motion carried.

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

Resolutions

- 6.1** **Resolution:** A Resolution Authorizing continued participation with the Atmos Cities Steering Committee; and Authorizing the Payment of .05 cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation.

Resolution # **19-2015**

A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE ATMOS CITIES STEERING COMMITTEE; AND AUTHORIZING THE PAYMENT OF FIVE CENTS PER CAPITA TO THE ATMOS CITIES STEERING COMMITTEE TO FUND REGULATORY AND RELATED ACTIVITIES RELATED TO ATMOS ENERGY CORPORATION

- 6.2** **Resolution:** Acceptance of monetary donation toward the purchase and installation of pavilions in a City Park.

Resolution # **20-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY TO ACCEPT DONATION OF FUNDS TO PURCHASE AND INSTALL TWO PAVILIONS AT GROVER NELSON PARK

- 6.3** **Ordinance:** *(First Reading)* **Z-2015-06** A request from AJWO, agent E-HT, to rezone property from RS-6 (Single-Family Residential) to GC (General Commercial) zoning, located at 2533 N. Danville Dr., 2510 Bel Air Dr. and portions of 2549 & 2625 N. Danville Dr.; and setting a public hearing for April 9, 2015. *Item pulled from consent by Councilman McAlister.*

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-149 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

- 6.4** **Ordinance:** *(First Reading)* **Z-2015-07** A request from Aubrey Hotel Investments, LLC, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) & RS-6 (Single-Family Residential) to PH (Patio Home) zoning, located at 3902 Bettes Ln & adjacent tracts totaling approximately 6.88 acres; and setting a public hearing for April 9, 2015 *Item pulled from consent by Councilman Savage.*

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.

- 6.5** **Ordinance:** *(First Reading)* **Z-2015-08** A request from Abilene CMC Investments, LLC, agent Erik Johnson, to rezone property from LI (Light Industrial) to HC (Heavy Commercial) zoning, located at 1881 N. Treadaway Blvd; and setting a public hearing for April 9, 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.

- 6.6** **Ordinance:** *(First Reading)* **SNC-2015-01** On a request from the City of Abilene for a Street Name Change to change Mason Rd & Mason Ct to Foot Hills Rd & Foot Hills Ct in Lake Fort Phantom Hill Subdivision, Section 4; and setting a public hearing for April 9, 2015.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, PART KNOWN AS THE "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.

ITEMS PULLED FROM CONSENT

- 6.3** **Ordinance:** *(First Reading)* **Z-2015-06** A request from AJWO, agent E-HT, to rezone property from RS-6 (Single-Family Residential) to GC (General Commercial) zoning, located at 2533 N. Danville Dr., 2510 Bel Air Dr. and portions of 2549 & 2625 N. Danville Dr.; and setting a public hearing for April 9, 2015.

Councilman McAlister had questions regarding the property to be rezoned. Jon James Director of Planning & Development Services explained that 2510 Bel Air Dr was removed as it was determined that it is not part of the area purchased and to be developed by the applicant.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-149 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

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Councilman Savage had concerns whether or not there would need to be a super majority vote of the council due to the opposition that had been present at the Planning & Zoning Commission. Jon James explained that the percentage of the opposition is only 16% and it would take 20% to get to a super majority.

Councilman Hardaway made the motion to approve the first reading of the Ordinances (Z-2015-06 & Z-2015-07). Councilman McAlister seconded the motion, motion carried.

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

REGULAR ITEMS

7.1 Rodney Taylor Assistant Director of Water Utilities briefed the council on the authorization of a change order to the contract with Tank Builders Inc. for the Northwest 7.5MG Ground Storage Tank Renovation Project.

On December 18, 2014 the City Council approved a contract with Tank Builders Inc. for a turnkey project in the amount of \$1,911,000. At the time the original cost for rehabilitating the tank was being developed, the composition of the existing surface coating material was not known.

The 7.5 MG GST was constructed in 1966 as a part of the Northwest Pump Station facility. It is believed that the original base coatings on the internal and external tank surfaces met the applicable regulations in place at that time. However, since that time the US EPA and the TCEQ have established very stringent standards for items such as painted surfaces that come into contact with potable water. As a result, the existing coating material must be removed from the surfaces of the tank, and the new surface coatings must meet the current regulatory criteria as listed under NSF/ANSI Standard 61 for components in contact with potable water.

Therefore, the Water Department is requesting that by resolution the City Council authorize a Change Order to the construction contract with Tank Builders Inc. (TBI) for the Northwest 7.5 MG Ground Storage Tank Rehabilitation. The Change Order in the amount of \$271,900.00 is necessary for the additional cost of work of containment, emissions control, and disposal associated with the removal of the existing painted surface coating materials.

FUNDING/FISCAL IMPACT

The funds for the change order to the contract for Northwest 7.5 MG GST Rehabilitation project will come from the Water Department's "Unrestricted, designated for capital projects" Fund Balance.

Council and Staff discussion included: 1) an honest mistake and request of staff to complete the task of remediation; 2) Kirt Harle with Jacob & Martin Engineering briefed the council on the issues with the lead paint and the oversight. No excuses on what happened; 3) the lead paint was not discovered until later when the paint was tested to see if the new paint would adhere to the old paint on the tank; 4) Bruce Kromer owner of Tank Builders Inc. addressed the council in regards to the paint issues, he explained that they didn't know to expect the issues with lead pain. Not common and had not run into this in 40 years. Number one concern was how to get the roof down without tearing up the tank; 5) age of the ground storage tank; 6) the conditions of the tank that was encountered during the rehab; and 7) fair price and a real cost.

Councilman Hardaway made the motion to TABLE this item, so that staff can visit with the Engineering Firm regarding costs, and to bring back after the regular items. Councilman Williams seconded the motion, motion carried.

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

Recommended Second Stage Short-Term Strategy

- **Purchase Water from BRA (PK supply)**
 - ✓ **Contract 4 to 14 MGD of raw water from BRA and Others (PK supply)**
 - ✓ **Construct 4 to 14 MGD WTP to treat PK water (provides 3 to 11 MGD potable water)**
 - ✓ **Construct improvements to existing BRA transmission pipeline from PK to Breckenridge**
 - ✓ **Construct parallel pipeline from Breckenridge to WCTMWD transmission system**
 - ✓ **Expand Hargesheimer WTP (12 MGD potable water capacity)**
 - ✓ **Proceed in Three Phases - Total Estimated Cost for all Three Phases - \$111 million**

7.2 Tommy O'Brien Director of Water Utilities briefed the council on award of bid to Cardinal Contractors Inc. for the Hargesheimer Water Treatment Plant Expansion Project.

On September 11, 2014 the Abilene City Council was presented with second stage short-term drought strategies for addressing the current drought. One of the strategies presented was to increase the capacity of the Hargesheimer water treatment plant (WTP) to provide up to 12 million gallons per day of potable water from its raw water source – Lake Ivie.

On November 20, 2014 and December 18, 2014 bids were awarded by the Abilene City Council for the pre-purchase of equipment associated with expansion of the Hargesheimer WTP. On January 18, 2015 and January 25, 2015 the City issued a Notice for Bids through advertisements in the Abilene Reporter News for the construction of the Hargesheimer WTP expansion. The Hargesheimer WTP expansion project includes adding two PALL microfiltration skids within the existing process building, constructing a dual train flocculation and clarification structure, constructing a solids handling facility, and installing previously pre-purchased equipment. On February 18, 2015 bids were received for the construction of the Hargesheimer WTP Expansion Project. Bids were evaluated by the City's Consulting Engineer for responsiveness to and for conformity with the Contract Documents. City Staff has received and reviewed the Engineer's Recommendation of Award to the low bidder, Cardinal Contractors, Inc. (Cardinal) of Grand Prairie, Texas in the amount of \$15,862,201. The recommended award includes the base bid and additive alternate bids for valve, pump, and equipment improvements to the Ivie pipeline system to increase the redundancy and reliability of the pumping system.

FUNDING/FISCAL IMPACT

The Hargesheimer WTP Expansion Project 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.

Councilman Hardaway made the motion to approve the award of bid to Cardinal Contractors Inc. for the Hargesheimer Water Treatment Plant Expansion Project in the amount of \$15,862,201. Councilman Williams seconded the motion, motion carried.

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

Resolution **#22-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDED
BID TO CARDINAL CONTRACTORS, INC. FOR THE HARGESHEIMER WATER TREATMENT

PLANT EXPANSION PROJECT FOR THE SECOND STAGE SHORT-TERM DROUGHT STRATEGY

7.3 Tommy O’Brien Director of Water Utilities briefed the council approving payment to Garney Companies, Inc. for Construction Services Guaranteed Maximum Price Proposal No. 2 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 strategies. These strategies include transporting from 4 to 14 million gallons per day (MGD) of raw water from Possum Kingdom Reservoir (PK) to Abilene.

On December 18, 2014 the City Council approved a 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 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 Possum Kingdom Raw Water Transmission System is established based on the CMAR’s Fee 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. GMP Proposal No. 1 was authorized by the City Council on February 12, 2015 in the amount of \$18,931,600. This Resolution authorizes funds in the amount not to exceed \$10,896,800 for GMP Proposal No. 2. The work associated with GMP No. 2 provides funding for:

- CMAR Fee \$ 616,800.
- Permanent Fencing \$ 233,000.
- Piping, Valves and Accessories \$ 343,000.
- Clearing/Construction Staking \$ (127,000.)
- Directional Drilling/Boring \$ 4,361,000.
- 12” Pipeline Installation \$ 4,124,000.
- 36” Pipeline Installation \$ 1,346,000.

Primary work associated with this GMP Proposal No. 2 includes: permanent fencing (required under ROW easements); 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 (adjustment for bid pricing lower than GMP No. 1 budget); 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.

**Garney Companies GMP Proposal No. 2
 PK Pipelines**

	<u>GMP No. 1</u>	<u>GMP No. 2</u>	<u>Total</u>
CMAR Fee	\$1,071,600	\$616,800	\$1,688,400
Project General Conditions	\$2,310,000	\$0	\$2,310,000

Piping, Valves and Accessories	\$9,950,000	\$343,000	\$10,293,000
Clearing/Construction Staking	\$1,000,000	(\$127,000)	\$873,000
Permanent Fencing	\$0	\$233,000	\$233,000
Directional Drilling/Boring	\$2,000,000	\$4,361,000	\$6,361,000
12” Pipeline Installation	\$730,000	\$4,124,000	\$4,854,000
36” Pipeline Installation	\$1,870,000	\$1,346,000	\$3,216,000
TOTAL	\$18,931,600	\$10,896,800	\$29,828,400

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.

Councilman Williams made the motion to approve payment to Garney Companies, Inc. for Construction Services Guaranteed Maximum Price Proposal No. 2 for the Possum Kingdom Raw Water Transmission System for Second Stage Drought Strategy. Councilman Price seconded the motion, motion carried.

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

Resolution #23-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING PAYMENT TO GARNEY COMPANIES, INC. FOR CONSTRUCTION SERVICES GMP PROPOSAL NO. 2 FOR THE POSSUM KINGDOM RAW WATER TRANSMISSION SYSTEM FOR THE SECOND STAGE SHORT-TERM DROUGHT STRATEGY.

7.4 Tommy O’Brien Director of Water Utilities briefed the council authorizing Interim City Manager to negotiate and execute agreements with the Brazos River Authority for the purchase and transport of raw water from Possum Kingdom Lake for second stage Short-Term Drought Strategy.

Due to the continuing drought, the City is implementing its second stage short-term drought strategy. One of the main strategies is to deliver raw water from Possum Kingdom Lake (PK) to Abilene. To accomplish this it is necessary for Abilene to purchase raw water in PK from the Brazos River Authority (BRA), and use BRA’s existing raw water transmission system to transport the raw water from PK to Abilene’s pipeline being constructed to convey the raw water to Abilene’s Roughing Facility.

Three Agreements with BRA are necessary to allow PK raw water to be delivered to Abilene: (1) System Water Availability Agreement; (2) Water Transportation Agreement; and (3) Facilities Improvement and Operation Agreement

System Water Availability Agreement: Provides Abilene with an annual supply of 4,481 Acre-Feet (AF) (4 MGD) of raw water. Raw water will be purchased at BRA’s System Rate, which is currently \$69.50 per AF.

BRA's System Rate is set annually by the BRA Board of Directors. The annual cost for 4,481 AF at the current System Rate is approximately \$311,430.

Supply (System Water Availability Agreement)

- Purchase: 4,481 AF (4 MGD)
- BRA System Rate: \$69.50/AF
- Total Annual Cost: \$311,430

Water Transportation Agreement: Allows BRA to transport water from PK to Abilene's pipeline which will convey the raw water to Abilene's Roughing facility. The annual cost for transporting 4,481 AF will be based on a Fixed Portion Rate and a Variable Portion Rate. The Fixed Portion Rate is based on the total amount of raw water to be purchased (4,481 AF), and is currently \$123.72 per AF. The Variable Portion Rate is based on the amount of raw water actually transported, and is currently \$163.37 per AF. These rates are set annually by the BRA Board of Directors. To transport 4,481 AF annually at the current fixed/variable rates would cost Abilene approximately \$1,286,450.

Transportation (Water Transportation Agreement)

- Fixed Portion Rate
 - ✓ Volume Purchased: 4,481 AF
 - ✓ BRA Fixed Rate: \$123.72/AF
 - ✓ Total Annual Cost: \$554,389
- Variable Portion Rate
 - ✓ Volume Transported: Varies
 - ✓ BRA Variable Rate: \$163.37
 - ✓ Total Annual Cost (For Transporting 4,481 AF): \$732,061
- Total Transportation Costs: \$1,286,450

Facilities Improvements (Facilities Improvement and Operation Agreement)

- Allows Abilene to Make Improvements to BRA Facilities to Transport 14 MGD

City staff and its consulting engineer are finalizing discussions with other entities for the temporary purchase of additional raw water so at least a total of 14 MGD of raw water will be available. Once discussions have been finalized agreements for additional raw water will be prepared and presented to the City Council for consideration. It will also be necessary to enter into a second "Water Transportation Agreement" with BRA for BRA to transport additional water that will be secured.

FUNDING/FISCAL IMPACT

The proposed agreements will require Abilene's reimbursement for the purchase and transportation of the raw water. Annual costs are considered operation and maintenance costs which could total approximately \$1.6 million dollars to purchase and transport 4 MGD annually. Such costs will be included with the Water Department's annual budget.

Councilman McAlister made the motion to approve authorizing Interim City Manager to negotiate and execute agreements with the Brazos River Authority for the purchase and transport of raw water from Possum Kingdom Lake for second stage Short-Term Drought Strategy. Councilman Spano seconded the motion, motion carried.

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

Resolution #24-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AND EXECUTE AGREEMENTS WITH THE BRAZOS RIVER AUTHORITY FOR THE PURCHASE AND TRANSPORT OF RAW WATER FROM POSSUM KINGDOM LAKE FOR THE SECOND STAGE SHORT-TERM DROUGHT STRATEGY

7.1 Council took a short break and returned to take up item 7.1. Mayor Archibald made the motion to remove from the TABLE. Councilman Williams seconded the motion, motion carried.

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

David Vela Interim City Manager briefed the council on the discussion between the city staff and Jacob & Martin Engineering firm regarding the issues of the lead paint on the water tank. There was an agreement that was agreed upon between the city and the engineering firm that the Engineering contract will be lowered by \$25,000.00 for the issues regarding the lead paint.

Councilman McAlister made the motion to approve authorizing a change order to the contract with Tank Builders Inc. for the Northwest 7.5MG Ground Storage Tank Renovation Project. Councilman Williams seconded the motion, motion carried.

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

Resolution #21-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING A CHANGE ORDER TO THE CONTRACT WITH TANK BUILDERS INC FOR THE NORTHWEST 7.5 MG GROUND STORAGE TANK REHABILITATION PROJECT

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 10:31 am 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 12:07 pm and reported no votes or action was taken in Executive Session in regards Section 551.072 Real Property and Personnel Matters Section 551.074. Councilmen Williams and Spano left during executive session.

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 12:07 pm

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor