

CITY COUNCIL MEETING
May 28th 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 May 28th 2015, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Archibald was present and presiding with Councilmen Shane Price, Bruce Kreitler, Anthony Williams, Jay Hardaway, Kyle McAlister and Steve Savage. Also present were City Manager Robert Hanna, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Steve Savage gave the invocation.

Mayor Archibald introduced Louange Tuyishime (LuLu) a 5th grade student at Ortiz Elementary School. LuLu led the Pledges of Allegiance to the Flag of the United States of America and the State of Texas Flag.

PROCLAMATION

Mayor Archibald presented the following proclamation

Older Americans and Elder Abuse Prevention Month Proclamation was received by Michelle Parker Director of Area Agency on Aging. Several representatives from various agencies were also in attendance.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the May 12th Joint Meeting with the DCOA, May 14th Regular Called Meeting and May 18th Special Called Meeting there being no deletions, no additions, and no corrections. Councilman Williams made a motion to approve the minutes as presented. Councilman Hardaway seconded the motion, motion carried.

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

CONSENT AGENDA

Councilman Savage pulled item 6.2, 6.3 and 6.7. Councilman Kreitler pulled item 6.5. Councilman Savage made the motion to approve items 6.1, 6.4 and 6.6 as presented by staff. Councilman Price seconded the motion, motion carried. Councilmen Price, Williams and McAlister declared a conflict on item 6.2. Councilman Hardaway declared a conflict with 6.3.

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

Oral Resolutions

6.1 **Oral Resolution:** City Council approved a Street Use License for Abilene Cultural Affairs Council and The Center for Contemporary Arts to hold "Children's Art & Literacy Festival" on North 1st from Cedar Street to Cypress to be held June 11-13, 2015

The Abilene Cultural Affairs Council and The Center for Contemporary Arts have submitted a Street Use License (SUL) application to hold a public event entitled "Children's Art & Literacy Festival" within the

public right-of-way on North 1st Street and Cedar Street. The applicant wishes to close North 1st Street from the east right-of-way line of Cedar Street to the west right-of-way line of Cypress Street and Cedar Street from north right-of-way line of North 151 Street to the south right-of-way line of North 2nd for this event. The event will take place from Thursday, June 11th through Saturday, June 13th 2015 throughout much of downtown. However, the applicant only wishes to close the aforementioned right-of-way for the event during the following times:

From 3:00p.m.- 9:00p.m. on Thursday, June 11, 2015
From 8:00a.m.- 6:00p.m. on Friday, June 12, 2015
From 8:00a.m.- 6:00p.m. on Saturday, June 13, 2015

The applicant has obtained the approval of all affected property owners and/or business tenants for this event.

- 6.2 Oral Resolution:** Approving a Street Use License for Abilene Christian University for “Christian Scholars Dinner”. *Item pulled by Councilman Savage.*

Ordinances:

- 6.3 Ordinance:** *(First Reading)* **CUP-2015-02** - On a request from Star Towers, LLC, agent Alec Broadus, for a Conditional Use Permit to allow for ‘Antenna Tower - Commercial’ on property zoned PD (Planned Development), being the south side of the 600-700 block of E. Stamford St; and setting a public hearing for June 11, 2015. *Item pulled by Councilman Savage.*

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

- 6.4 Ordinance:** *(First Reading)* **TC-2015-02** - On a request from the City of Abilene to abandon Foot Hills Ct., east of Foot Hills Dr. in the Lake Fort Phantom Hill Subdivision, Section 4; and setting a public hearing for June 11, 2015.

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.

- 6.5 Ordinance:** *(First Reading)* Amending Chapter 5 “Ambulance” of the Abilene City Code; and setting a public hearing for June 11, 2015. *Item pulled by Councilman Kreidler.*

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE DELETING AND REPLACING CHAPTER 5, “AMBULANCES” OF THE ABILENE CODE OF ORDINANCES AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

- 6.6 Resolution:** Approving a negotiated settlement between the Atmos Corporation Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2014 and 2015 Rate Review Mechanisms filings.

Abilene is a member of the Atmos Cities Steering Committee (“ACSC”). The Rate Review Mechanism (“RRM”) Tariff was adopted by the City as an alternative to the Gas Reliability Infrastructure Program

(“GRIP”), the statutory provision that allows Atmos to bypass the City’s rate regulatory authority to increase its rates annually to recover capital investments. In February 2014, Atmos Mid-Tex filed its second annual filing under the RRM Tariff, seeking an increase of \$45.7 million and the City in 2014 adopted a Resolution denying the requested rate increase. The Company appealed the City’s denial to the Railroad Commission of Texas (“Commission”), and revised the increase to \$43.8 million. On April 28, 2015, the Commission’s Hearings Examiner issued his Proposal for Decision (“PFD”) in the Company’s appeal of the City’s denial of the 2014 RRM rate increase recommending a reduction of approximately \$860,000 to the Company’s adjusted 2014 filing.

While the parties were waiting for the PFD from the Hearings Examiner, Atmos Mid-Tex filed with the City another rate increase request under the RRM Tariff, seeking additional revenues in the amount of \$28.762 million (total system) or \$24.0 million (affected cities). The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its 2015 request to increase rates. The Resolution and attached Settlement Agreement and tariffs are the result of negotiation between the Mid-Tex Executive Committee and the Company to resolve issues raised by ACSC during the review and evaluation of Atmos Mid-Tex’s filing and also requires Atmos to abate its appeal of the City’s rejection of the 2014 RRM rate.

The attached Resolution and Settlement tariffs approve rates that will increase the Company’s revenues by \$65.7 million for the Mid-Tex Rate Division, effective for bills rendered on or after June 1, 2015. The monthly residential customer charge will be \$18.60. The consumption charge will change from \$0.08819 per Ccf to \$0.09931 per Ccf. The monthly bill impact for the typical residential customer consuming 60 Ccf will be an increase of \$1.14 (about a 1.59% increase in the base bill). The typical commercial customer will see an increase of \$2.69 or 0.96%.

Resolution #33-2015

AN RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2014 AND 2015 RATE REVIEW MECHANISM FILINGS; APPROVING A SETTLEMENT AGREEMENT WITH ATTACHED RATE TARIFFS AND PROOF OF REVENUES; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

- 6.7** **Resolution:** of Support for the Abilene Child Advocacy Center’s Other Victim Assistance Grant Application. *Item pulled by Councilman Savage.*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS SUPPORTING THE APPLICATION TO THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS, CRIME VICTIMS SERVICES DIVISION, FOR AN OTHER VICTIMS ASSISTANCE GRANT.

ITEMS PULLED FROM CONSENT

- 6.2** **Oral Resolution:** Approving a Street Use License for Abilene Christian University for “Christian Scholars Dinner”. *Item was pulled from consent.*

Councilman Savage had questions regarding the times that the event is scheduled to take place and the insurance certificate that is not the correct one that was provided in the packet by ACU. Megan Santee Director of Public Works explained that the times were corrected later when it became clear exactly when they needed the license for, also staff has requested an insurance certificate with the correct dates and as of this morning we had not received the updated certificate.

Mayor Archibald made the motion to TABLE this item until staff can contact ACU for the updated Insurance certificate and to be brought back later in the meeting. Councilman Hardaway seconded the motion, motion carried.

AYES: Councilmen Kreitler, Hardaway, Savage and Mayor Archibald

NAYS: None

ABSTAIN: Councilmen Price, Williams, and McAlister

- 6.3** **Ordinance:** (*First Reading*) **CUP-2015-02** - On a request from Star Towers, LLC, agent Alec Broadus, for a Conditional Use Permit to allow for 'Antenna Tower - Commercial' on property zoned PD (Planned Development), being the south side of the 600-700 block of E. Stamford St; and setting a public hearing for June 11, 2015. *Item pulled by Councilman Savage.*

Councilman Savage had questions regarding issues that might arise out of an antenna tower being placed on this property and if it would affect ham radio operators in the area. Jon James Director of Planning Development Services explained that the FCC regulates these issues and the city cannot.

Councilman Savage made the motion to approve the first reading on the **CUP-2015-02** a request from Star Towers, LLC, agent Alec Broadus, for a Conditional Use Permit to allow for Antenna Tower-Commercial on property zoned PD (Planned Development), being the south side of the 600-700 block of E. Stamford St; and setting a public hearing for June 11, 2015. Councilman Price seconded the motion, motion carried.

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

NAYS: None

ABSTAINED: Councilman Hardaway

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

- 6.5** **Ordinance:** (*First Reading*) Amending Chapter 5 "Ambulance" of the Abilene City Code; and setting a public hearing for June 11, 2015. *Item pulled by Councilman Kreitler.*

Councilmen Kreitler and Savage had questions on section 5.33 section (b) of the ambulance ordinance. Both Dan Santee City Attorney and Chief Standridge explained that this is the standard language that the city has in other ordinances regarding licensing or permitting and the license is for the company. This is normal practice for public safety issues and licenses.

Sec. 5-33. Revocation or suspension of license.

Every license issued under this article shall be subject to revocation or suspension by the city council where it shall appear that any of the following has occurred:

(a) The Licensee has failed or neglected to render the full service authorized by his license, including the performance of all emergency responses.

(b) The Licensee, or an officer or employee of the Licensee, is charged with a felony or any criminal offense involving moral turpitude.

Councilman Price made the motion to approve the first reading of the amendment to the Ambulance Ordinance Chapter 5. Councilman Williams seconded the motion, motion carried.

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

NAYS: Councilmen Kreitler and Savage

6.7 **Resolution:** of Support for the Abilene Child Advocacy Center's Other Victim Assistance Grant Application. *Item pulled by Councilman Savage.*

The Abilene Child Advocacy Center wishes to apply for an Other Victim Assistance Grant (OVAG) which will be used to fund a full-time forensic interviewer at the Child Advocacy Center. The forensic interviewer conducts interviews of children who have been victims of abuse. In FY2014 we conducted approximately 363 child interviews at the Center. The application process requires a resolution of support from the governing body.

The OVAG grant will reimburse the City for a large portion of the Forensic Interviewer salary. This is a two year grant and would cover FY 2016 and 2017. The City will not incur any expense for the grant.

Councilman Savage had questions concerning salaries of the employees and the grant. Chief Standridge explained that the employees are city employees and the city seeks support from the state through the grant process to repay the city for costs occurred.

Councilman Savage made the motion to approve the Resolution supporting the Abilene Child Advocacy Center's Other Victim Assistance Grant Application. Councilman Hardaway seconded the motion, motion carried.

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

NAYS: None

Resolution **#34-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS SUPPORTING THE APPLICATION TO THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS, CRIME VICTIMS SERVICES DIVISION, FOR AN OTHER VICTIMS ASSISTANCE GRANT.

REGULAR ITEMS

7.1 Rodney Taylor Interim Director of Water Utilities briefed the council on the Resolution awarding a bid to Purcell Contracting Ltd. for the finished water flow meter and piping improvements project.

On April 29, 2015 the City of Abilene received bids for the Finished Water Flow Meter and Piping Improvements Project **CB-1528** (Project). Three bids were received. The low bid was submitted by Purcell Contracting, Ltd. (Purcell) of Meridian, TX in the amount of \$197,000. The Engineer, after evaluating the bid submittal and investigating Purcell, does recommend awarding the bid to the low bidder.

The Project is for the installation of a new flow meter, concrete vault and related appurtenances on the finished water pipeline at the Northeast Water Treatment Plant (WTP), and for the installation of an air release valve assembly adjacent to the existing flow meter on the finished water piping at the Grimes WTP. The project will significantly improve the accuracy of measuring the finished water flow at each WTP. The Texas Commission on Environmental Quality requires that Abilene develop a water conservation plan (Plan) that includes the use of accurate flow measuring devices that are calibrated annually. The Plan is prepared and submitted to the Texas Water Development Board annually to demonstrate that Abilene is carefully monitoring its water usage. Abilene has already installed new flow meters on the Lake Fort Phantom Hill raw water pipelines and the raw water pipelines supplying both the Northeast and the Grimes WTP's. The Project will greatly improve Abilene's ability to accurately monitor its treated water production in order to determine losses during the treatment process, establish base values for treated water delivered, and more closely calculate water losses in the distribution system. Enprotec/Hibbs & Todd, Inc. was hired by Abilene to work with City staff in evaluating the City's water treatment plant metering needs, to develop contract documents, to assist with the bidding process, and to provide general supervision and contract administration during construction.

Funding for the Project was designated in the FY 2015 Water Department annual operating budget.

Council and Staff discussion included: 1) age of the current meter and the life of the meters.

Councilman Savage made the motion to approve the Resolution for the award of bid to Purcell Contracting Ltd. for the finished water flow meter and piping improvements project in the amount of \$197,000.00. Councilman Price seconded the motion, motion carried.

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

Resolution **#35-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDED
BID TO PURCELL CONTRACTING, LTD FOR THE FINISHED WATER FLOW METER AND
PIPING IMPROVEMENTS PROJECT

7.2 Rodney Taylor Interim Director of Water Utilities briefed the council on the Resolution authorizing amendment #2 to the contract with Alan Plummer Associates, Inc. for the Hamby Wastewater Treatment Plant Texas Pollution Discharge Elimination System Permit Application.

The Water Department is requesting that the Abilene City Council approve a resolution authorizing Amendment No. 2 to the Professional Engineering Services Agreement with Alan Plummer Associates Inc. (APAI) in the amount not to exceed \$55,000.00 for the Hamby Wastewater Treatment Plant Texas Pollution Discharge Elimination System (TPDES) Permit Application (Agreement). Services provided under Amendment No. 2 is to address the Texas Commission on Environmental Quality (TCEQ) requirements to develop the Technically Based Local Limits (TBLLs) for the modified treatment facilities resulting from Phase II improvements to the Hamby Wastewater Treatment Plant (HWWTP). The TBLLs are site specific discharge limits established on identified Pollutants of Concern (POCs) in order to protect the wastewater treatment facility, receiving water quality, worker health and safety, and to allow for beneficial use of sludge.

On February 28, 2008 the Abilene City Council authorized an Agreement with APAI for professional services for assistance with the HWWTP TPDES permit application. On July 9, 2009 the Abilene City Council authorized Amendment No 1. to the Agreement in order to assess and modify as necessary the City's Pretreatment Program including the assessment of the TBLLs. The result of Amendment No. 1 was that there

was not a need to develop new TBLLs at that time. During the permit renewal process the City developed the HWWTP Phase II improvements as the initial first stage drought response strategy. Because the City proposed significant changes to the treatment processes the permit renewal became an amendment to the permit. The new TPDES permit was issued on December 18, 2014, and it requires that Abilene develop new TBLLs to account for the new Phase II treatment processes within one year of activating Outfall 003 into Lake Fort Phantom Hill, which occurred on January 7, 2015. Amendment No. 2 authorizes APAI to develop new TBLLs at a maximum value not-to-exceed \$55,000 for Basic Services described in the scope of work.

Council and Staff discussion included: 1) new outfall at Ft. Phantom; 2) RO process; and 3) micro filtration process.

Councilman Hardaway made the motion to approve the Resolution authorizing amendment #2 to the contract with Alan Plummer Associates, Inc. for the Hamby Wastewater Treatment Plant Texas Pollution Discharge Elimination System Permit Application. Councilman Williams seconded the motion, motion carried.

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

Resolution: **#36-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING AMENDMENT NO. 2 TO THE AGREEMENT WITH ALAN PLUMMER ASSOCIATES, INC. FOR PROFESSIONAL SERVICES RELATED TO THE HAMBY WASTEWATER TREATMENT PLANT TEXAS POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT RENEWAL APPLICATION.

7.3 Megan Santee Director of Public Works briefed the council on the bid award for the reconstruction of EN 13th/EN 16th street project.

This project is for the rehabilitation of existing pavement on EN 13th, College and EN 16th between Treadaway Blvd. and Judge Ely Blvd.; Washington Blvd. between E Highway 80 and EN 16th Street, Green Valley Dr. between Gill Dr. and EN 10th Street, and Gill Dr. between Green Valley Dr. and Scott Place. This project also includes constructing new sidewalks with curb ramps along the North side of EN 13th St. from Treadaway Blvd. to College Dr. which, when connecting to existing sidewalk on College Dr., will provide a pedestrian path from Treadaway Blvd. to Judge Ely Blvd. Also included in the project is replacing driveway aprons to accommodate new sidewalk, replacing sections of concrete curb and gutter, and replacing valley gutters. Advertisements were published May 3, 2015 and May 10, 2015. Bids were opened May 19, 2015 at 11:00 a.m.

Council and Staff discussion included: 1) warranty on the street projects. Normal is 1 year and is the industry standard; and 2) concern about timing of the project with college starting back up in the fall.

Councilman Price made the motion to approve the bid award for the reconstruction of EN 13th/EN 16th street project to Bontke Brothers in the amount of \$1,172,623.20. Councilman Hardaway seconded the motion, motion carried.

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

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 9:45 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 in Open Session at 10:53 a.m. and reported no votes or action was taken in Executive Session in regards Personnel Matters Section 551.074 and Real Property Section 551.074.

Mayor Archibald made the motion to remove from the TABLE the item for the Street Use License for Abilene Christian University for "Christian Scholars Dinner". Councilman Hardaway seconded the motion, motion carried.

AYES: Councilmen Kreidler, Hardaway, Savage and Mayor Archibald

NAYS: None

ABSTAINED: Councilmen Price, Williams and McAlister due to a conflict of interest

Megan Santee Director of Public Works notified the council that staff has received the insurance certificate that is needed for the Street Use License.

Mayor Archibald made the motion to approve the Street Use License for Abilene Christian University for "Christian Scholars Dinner." Councilman Hardaway seconded the motion, motion carried.

AYES: Councilmen Kreidler, Hardaway, Savage and Mayor Archibald

NAYS: None

ABSTAINED: Councilmen Price, Williams and McAlister due to a conflict of interest

There being no further business the meeting was adjourned at 10:57 p.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor