

CITY COUNCIL MEETING
June 25th 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 June 25th 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 Bruce Kreitler gave the invocation.

Mayor Archibald introduced Alexcia Crisp a 1st grade student at Reagan Elementary School. Alexcia led the Pledges of Allegiance to the Flag of the United States of America and the State of Texas Flag.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the June 11th Regular 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 6.3 and Councilman Kreitler pulled item 6.4. Councilman Hardaway made the motion to approve items 6.1, 6.2 and 6.5 as presented by staff. Councilman Savage seconded the motion, motion carried.

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

Ordinances:

- 6.1** **Ordinance:** (*First Reading*) **Z-2015-14** A request from Carla Varner Knight, to rezone property from GC (General Commercial) & MF (Multi-Family Residential) to GR (General Retail) zoning, located at 3450 N. 10th St; and setting a public hearing for July 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.

- 6.2** **Ordinance:** (*First Reading*) **Z-2015-15** A request from LWMW Management, LLC, agent Harris Acoustics, Ltd., to rezone property from LI (Light Industrial) to GR (General Retail) zoning, located at 981 E. Hwy 80; and setting a public hearing for July 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.

- 6.3** **Ordinance:** (*First Reading*) **Z-2015-16** A request from Neldon & Anna Watson, agent Derek Peterson, to rezone property from HI (Heavy Industrial) to HC (Heavy Commercial) zoning, located at 158 Tannehill Dr; and setting a public hearing for July 9, 2015. *Item pulled by Councilman Savage.*
- 6.4** **Ordinance:** (*First Reading*) **TC-2015-03** A request from Dempsey D. Peterson and the City of Abilene to abandon an unimproved alley along the rear (north side) of the properties located at 2650, 2658, 2666, 2674, 2682 & 2690 Madison Ave and 2650, 2654, & 2660 Garfield Ave; and setting a public hearing for July 9, 2015. *Item pulled by Councilman Kreitler.*
- 6.5** **Resolution:** Council approved the cooperation with the cities served by AEP to review AEP Texas North Company's requested approval of an adjustment to its energy efficiency cost recovery factor.

On June 1, 2015, AEP Texas North Company ("TNC" or "Company"), pursuant to the Public Utility Regulatory Act ("PURA") and Public Utility Commission of Texas ("Commission" or "PUC") rules filed with the Commission an application for a 2016 Energy Efficiency Cost Recovery Factor.

Last year the Commission authorized TNC to adjust its 2015 EECRF to recover \$2,213,821. In this filing, TNC is seeking to adjust its EECRF to collect \$1,717,648 for five components: (1) \$1,480,871 in forecasted 2016 energy efficiency program costs; (2) a refund of \$330,517 for over-recovery of costs in 2014; (3) \$518,092 representing the 2014 performance bonus for achieving demand and energy savings that exceeded its minimum goal to be achieved in 2014; (4) \$32,247 representing the estimated evaluation, measurement and verification ("EM&V") costs projected to be incurred in 2015; and (5) \$16,955 in 2014 EECRF rate case expenses. If approved the monthly impact on residential customers will be \$0.44 per 1,000 kWh.

This resolution authorizes the City of Abilene to join with the Cities serviced by AEP TNC to evaluate the filing, determine whether the filing complies with the law, and if lawful, to determine what further strategy, including settlement, to pursue.

Resolution **#38-2015**

RESOLUTION OF THE CITY OF ABILENE APPROVING COOPERATION WITH THE CITIES SERVED BY AEP TNC TO REVIEW AEP TEXAS NORTH COMPANY'S REQUESTED APPROVAL OF AN ADJUSTMENT TO ITS ENERGY EFFICIENCY COST RECOVERY FACTOR; HIRING LEGAL AND CONSULTING SERVICES TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO LEGAL COUNSEL.

ITEMS PULLED FROM CONSENT

- 6.3** **Ordinance:** (*First Reading*) **Z-2015-16** A request from Neldon & Anna Watson, agent Derek Peterson, to rezone property from HI (Heavy Industrial) to HC (Heavy Commercial) zoning, located at 158 Tannehill Dr; and setting a public hearing for July 9, 2015. *Item pulled by Councilman Savage.*

Council and Staff discussion included: 1) Heavy Commercial allows for more retail uses; and 2) whether there would be time limits set on the establishment due to noise levels – staff advised that in the current land development code at 11 pm the noise would have to be reduced.

Motion made by Councilman Savage to approve the first reading of the Ordinance for Case #**Z-2015-16** A request from Neldon & Anna Watson, agent Derek Peterson, to rezone property from HI (Heavy Industrial) to HC (Heavy Commercial) zoning, located at 158 Tannehill Dr; and setting a public hearing for July 9, 2015. Councilman Hardaway seconded the motion, motion carried.

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

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.

- 6.4** **Ordinance:** (*First Reading*) **TC-2015-03** A request from Dempsey D. Peterson and the City of Abilene to abandon an unimproved alley along the rear (north side) of the properties located at 2650, 2658, 2666, 2674, 2682 & 2690 Madison Ave and 2650, 2654, & 2660 Garfield Ave; and setting a public hearing for July 9, 2015. *Item pulled by Councilman Kreitler.*

Council and Staff discussion included: 1) who would be responsible to replat – staff advised that it would be each property owner; 2) staff is recommending that the time limitation on the replat would not be required on this property; 3) costs of plats is \$500.00 and surveying would cost approximately \$ 4,000; and 4) the alley is width is 20' wide and would remain as the city if the property owners do not replat.

Councilman Price made the motion to approve the first reading on the Ordinance for Case #**TC-2015-03** A request from Dempsey D. Peterson and the City of Abilene to abandon an unimproved alley along the rear (north side) of the properties located at 2650, 2658, 2666, 2674, 2682 & 2690 Madison Ave and 2650, 2654, & 2660 Garfield Ave; and setting a public hearing for July 9, 2015. Councilman Kreitler seconded the motion. Motion carried.

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

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.

REGULAR ITEMS

- 7.1** Rodney Taylor Interim Director of Water Utilities, briefed the council on the bid to Starks Construction Company for the Wastewater Flow Diversion Modifications Project.

On May 8, 2015 the City of Abilene received bids for the Wastewater Flow Diversion Modifications Project CB-1536 (Project). The sole bid was submitted by Starks Construction Company of Abilene, TX in the amount of \$222,438. The Engineer, after evaluating the bid submittal and investigating Starks, does recommend awarding the bid to the sole bidder.

Effective June 19, 2013 Abilene entered into a Sanitary Sewer Overflow Initiative Agreement with the Texas Commission on Environmental Quality for the purpose of reducing the number of sanitary sewer

overflows from Abilene's sanitary sewer collection system. The agreement provided a schedule for implementing certain provisions related to collection system management, maintenance, and infrastructure improvements. This project will satisfy Provisions 3.a and 3.b of the Agreement.

The Project is for the replacement of two existing dilapidated diversion junction boxes in two separate locations within the Abilene City limits. Sewer flow diversion structures allow the collection system operator to evaluate flow quantities in large interceptors and adjust diversion gates to direct those flows to the interceptor having the most available capacity. Flow Diversion 1 addresses Provision 3.b and is located about 1,000 feet west of the intersection of Old Anson Road and Anson Avenue in north Abilene. The diversion can be adjusted to pass sewage flows into the older Northside Interceptor or to divert a portion of the sewage flow into the modern 36" Anson Avenue Interceptor. Flow Diversion 2 addresses Provision 3.a and is located near the intersection of Lockheed Way and Wall Street in west Abilene. Diversion 2 can be adjusted to pass sewage flows into the Air Base Interceptor or to divert a portion of the sewage flow into the Little Elm Interceptor. Abilene contracted with Enprotec/Hibbs & Todd, Inc. to prepared design plans and contract documents, to provide general project supervision, and to provide project administration.

FINANCIAL IMPACT

Funding for the Project will come from the FY 2015 Water Department annual operating budget.

Council and Staff discussion included: 1) the city has had approximately 75 to 100 overflows a year; 2) the city has not been fined by TCEQ or EPA; and 3) these are projects that staff has seen as much needed improvements to the system.

Councilman Price made the motion to approve the bid to Starks Construction Company for the Wastewater Flow Diversion Modifications Project in the amount of \$222,438. Councilman Hardaway seconded the motion, motion carried.

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

Resolution: #39-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDED BID TO STARKS CONSTRUCTION COMPANY FOR THE WASTEWATER FLOW DIVERSION MODIFICATIONS PROJECT

7.2 Rodney Taylor Interim Director of Water Utilities briefed the council on the resolution to approve the authorization on an amendment to the On Demand General Engineering Services Contract for Engineering Services for the relocation of the Elmdale Pump Station and Water Line Improvements Project.

There exists a professional services contract with Jacob and Martin, Ltd. for On Demand General Engineering Services for the City of Abilene Water Department. This amendment to the on demand contract is for Engineering Services for the Relocation of the Elmdale Pump Station and Water Line Improvements project (Amendment). The Amendment has a value not to exceed \$150,000.00.

The Elmdale Pump Station (EPS) is located in far east Abilene adjacent to Interstate Highway 20. The EPS is an important component of Abilene's potable water distribution system and is heavily relied upon to meet the residential, industrial and wholesale water customer demands on the far east end of Abilene's Second Pressure Plane (2PP). The EPS is supplied water from the First Pressure Plane (1PP) via approximately X miles of parallel 12inch and 16inch diameter water mains. Because of the high elevation of the EPS and the friction losses in the lengthy pipelines, there is not an adequate quantity of water to supply the EPS.

Abilene contracted with Jacob & Martin, Ltd. (J&M) to evaluate the EPS and the east end of the 2PP and make a recommendation to City staff for resolving the issues with the EPS. J&M recommends relocating the EPS to a site near a large distribution supply pipeline of the 1PP, installing a ground storage tank, and constructing related pipeline improvements in the 2PP. In response to a routine comprehensive compliance investigation (CCI) by the Texas Commission on Environmental Quality (TCEQ) Abilene must implement a permanent solution for the EPS by March 2016. The Amendment authorizes J&M to provide the professional engineering services necessary for preparation of plans and contract documents, and provide bidding assistance, construction oversight, and contract administration for the relocation of the EPS and water line improvements. The Amendment does not provide for Resident Project Representation. The Amendment has a value not to exceed \$150,000.00 and the funds will come from the Water Department FY 2015 Operating Budget.

Council and Staff discussion included: 1) water line improvements due to gradual growth in the last year.

Councilman Hardaway made the motion to approve the resolution to approve the authorization on an amendment to the On Demand General Engineering Services Contract for Engineering Services for the relocation of the Elmdale Pump Station and Water Line Improvements Project. Councilman Savage seconded the motion, motion carried.

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

Resolution: **#40-2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING AN AMENDMENT TO THE ON DEMAND CONTRACT WITH JACOB AND MARTIN, LTD FOR ENGINEERING SERVICES FOR THE RELOCATION OF THE ELMDALE PUMP STATION AND WATER LINE IMPROVEMENTS PROJECT.

Rodney Taylor Interim Director of Water Utilities briefly went over the water strategies that council has implemented in regards to the Second Stage Short-term Drought Strategy and where the levels of our lakes are after the rains that we have had over the last month.

7.3 Rodney Taylor Interim Director of Water Utilities briefed the council on the resolution approving payment to Pepper Lawson Waterworks, LLC for Construction Services GMP Proposal No. 3 for the Possum Kingdom Raw Water Roughing Facility for the Second Stage Short-Term 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. GMP Proposal No. 2 was authorized by the City Council on February 12, 2015 in an amount of \$13,500,000. This Written Resolution authorizes funds in the amount not to exceed \$9,852,130 for GMP Proposal No. 3. The work associated with GMP No. 3 provides funding for:

- CMAR Fee \$ 378,870.
- Mechanical Piping Packages \$ 1,597,140.
- Site Civil Packages \$ 1,094,950.
- Structural Concrete Packages \$ 410,000.
- Buildings and Finishes Packages \$ 3,582,620.
- Electrical Packages \$ 1,788,550.
- Contingency \$ 1,000,000.

Primary work associated with this GMP Proposal No. 3 includes: mechanical piping packages (piping between/within structures); site civil packages (excavation and backfill for structures, and final site grading); structural concrete packages (process building and ancillary structures); buildings and finishes packages (precast walls for process building, doors, windows and HVAC); electrical packages (process building and pump stations); and contingency (CMAR-directed contingency in accordance with terms of the CMAR contract).

FUNDING/FISCAL IMPACT

The proposed CMAR services will be funded through the combination tax and revenue certificates of obligation previously sold for the drought projects.

Councilman Hardaway made the motion to approve the resolution approving payment to Pepper Lawson Waterworks, LLC for Construction Services GMP Proposal No. 3 for the Possum Kingdom Raw Water Roughing Facility for the Second Stage Short-Term Drought Strategy. Councilman Williams seconded the motion, motion carried.

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

Resolution: **#41-2015**

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. 3 FOR THE POSSUM KINGDOM RAW WATER ROUGHING FACILITY FOR THE SECOND STAGE SHORT-TERM DROUGHT STRATEGY.

7.4 Rodney Taylor Interim Director of Water Utilities briefed the council on the resolution to approve the payment to Garney Companies, Inc. for construction services GMP Proposal No. 3 for the Possum Kingdom Raw Water Transmission System – Second Stage Short-Term 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 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 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. GMP Proposal No. 2 was authorized by the City Council on March 26, 2015 in the amount of \$10,896,800. This Written Resolution authorizes funds in the amount not to exceed \$9,154,160 for GMP Proposal No. 3. The work associated with GMP No. 3 provides funding for:

- CMAR Fee \$ 518,160.
- Piping, Valves and Accessories \$ 446,000.
- Clearing/Construction Staking \$ 168,000.
- Directional Drilling/Boring \$ 2,390,000.
- 12" Pipeline Installation \$ (27,000.)
- 36" Pipeline Installation \$ 4,724,000.
- Surface Restoration \$ 935,000.

Primary work associated with this GMP Proposal No. 3 includes: 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 of roadway and waterbody crossings; pipeline installation for the 12" reverse osmosis concentrate discharge pipeline and the 36" raw water transmission pipeline; and surface restoration of completed pipeline rights-of-way.

FUNDING/FISCAL IMPACT

The proposed CMAR services will be funded through the combination tax and revenue certificates of obligation previously sold for the drought projects.

Councilman Price made the motion to approve the resolution to approve the payment to Garney Companies, Inc. for construction services GMP Proposal No. 3 for the Possum Kingdom Raw Water Transmission System – Second Stage Short-Term Drought Strategy. Councilman McAlister seconded the motion, motion carried.

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

Resolution #42-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING PAYMENT TO GARNEY COMPANIES, INC. FOR CONSTRUCTION SERVICES GMP PROPOSAL NO. 3 FOR THE POSSUM KINGDOM RAW WATER TRANSMISSION SYSTEM FOR THE SECOND STAGE SHORT-TERM DROUGHT STRATEGY

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 10:03 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 11:00 a.m. and reported no votes or action was taken in Executive Session in regards Personnel Matters Section 551.074 and Economic Development Section 551.087.

There being no further business the meeting was adjourned at 11:03 am.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor