

CITY COUNCIL MEETING

May 25th, 2017, 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 25th, 2017, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Pro-tem Shane Price was present and presiding with Councilmen Bruce Kreitler, Weldon Hurt, Kyle McAlister, Steve Savage and Councilwoman Donna Albus. Mayor Norm Archibald was absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Kreitler gave the invocation.

Mayor Pro-tem Price led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATION

Mayor Pro-tem Price presented the following proclamation:

Older Americans and Elder Abuse Prevention Month

Rea Barry, Regional Director for Community Care Services with the Health and Human Service Department HHSC Community Care accepted the proclamation.

Also in attendance were the representatives from the following agencies.

Carrie Fritz – Aging & Disability Resource Center

Josh Pauley – Area Agency on Aging

Max Ann Bowlin – RSVP (Retired Senior Volunteer Program)

Chelsea Murphy – Adult Protective Services

Jeff White – City of Abilene Senior Services.

DISPOSITION OF MINUTES

5.0 Mayor Pro-tem Price stated Council has been given the minutes from the Special Called Workshop April 25th, the Regular Called Meeting April 27th, the Regular Called Meeting May 11th, the Special Called Meeting May 15th 2017 there being no deletions, no additions, and no corrections. Councilman Savage made a motion to approve the minutes as presented. Councilman Kreitler seconded the motion, motion carried.

AYES: Councilmen Kreitler, Hurt, McAlister, Savage, Councilwoman Albus and Mayor Pro-tem Price

NAYS: None

CONSENT AGENDA

Councilman Savage pulled items 6.1 and 6.2. Councilman Kreitler made the motion to approve items 6.3 and 6.4 as presented by staff. Councilman McAlister seconded the motion, motion carried.

AYES: Councilmen Kreitler, Hurt, McAlister, Savage, Councilwoman Albus and Mayor Pro-tem Price

NAYS: None

Resolutions:

- 6.1 **Resolution:** To approve the donation of a CityLink Bus to Abilene Christian University. *Item pulled from consent by Councilman Savage.*
- 6.2 **Resolution:** Denial of AEP Texas Inc.'s application to amend its distribution cost recovery factors to increase distribution rates within the City of Abilene. *Item pulled from consent by Councilman Savage.*
- 6.3 **Resolution:** City council approved a negotiated settlement between the Atmos Cities Steering Committee (ACSC) and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2017 Rate Review Mechanism (RRM) filings.

The tariffs attached to the Resolution approve rates that will increase the Company's revenues by \$38.8 million for the Mid-Tex Rate Division, effective for bills rendered on or after June 1, 2017. The monthly residential customer charge will be \$19.60. The consumption charge will be \$0.14 per Ccf. The monthly bill impact for the typical residential customer consuming 46.8 Ccf will be an increase of \$2.04, or about 3.87%. The typical commercial customer will see an increase of \$6.27, or 2.37%.

The ACSC Executive Committee and its designated legal counsel and consultants recommend that all Cities adopt the Resolution with its attachments approving the negotiated rate settlement resolving the 2017 RRM filing, and implementing the rate change.

Resolution: #74-2017

A 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 2017 RATE REVIEW MECHANISM FILINGS; 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 ECONCILIATION AND RATE ADJUSTMENTS IF FEDERAL INCOME TAX RATES CHANGE; TERMINATING THE RRM PROCESS FOR 2018 PENDING RENEGOTIATION OF RRM TERMS AND CONDITIONS; REQUIRING THE COMPANY TO REIMBURSE ACSC'S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE 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.

- 6.4 **Ordinance:** *(First Reading)* On Case #Z-2017-06 a request from Orange Theory Fitness., agent Enprotec/Hibbs & Todd, to amend the terms and conditions of PD77 (Planned Development 77) to allow for increased hours of operation for 'Recreation and Commercial Recreation (Indoor)' from 6 a.m.-11 p.m. to 5 a.m.-11 p.m.; and setting a public hearing for June 8th 2017

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.

ITEMS PULLED FROM CONSENT

6.1 **Resolution:** Donation of a CityLink Bus to Abilene Christian University. *This item was pulled from consent by Councilman Savage.*

Mayor Pro-tem Price and Councilman McAlister declared a conflict on this item. Mayor Pro-tem Price turned the meeting over to Councilman Savage who will serve as the Presiding Officer for this agenda item.

This is a request from Abilene Christian University (ACU) for a donation of a retired CityLink bus to use for a student-led initiative to bring healthier food options to areas of Abilene where grocery stores are not easily accessible. Students involved in an entrepreneurial group called Enactus have adopted this idea from another university.

Council and Staff discussion included: 1) other past requests from Non-profit organizations and how council has handled them; 2) ACU was looking at a maintenance agreement with the City for the bus maintenance; 3) it is allowable under the law for the city to direct donate to ACU; 4) auction of the bus; and 5) Whitney Harrington with ACU spoke about the Enactus group and their plans for the bus.

Presiding Officer Savage opened a public hearing on this subject and council heard from:

- Doug Offermann – who suggested that the city should create a policy on donations

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

Councilman Kreitler made the motion to authorize the donation of a CityLink Bus to Abilene Christian University. Councilman Hurt seconded the motion, motion failed.

AYES: Councilmen Kreitler, and Hurt

NAYS: Councilwoman Albus and Presiding Officer Savage

ABSTAINED: : Mayor Pro-tem Price and Councilman McAlister

Mayor Pro-tem Price resumed the meeting.

6.2 **Resolution:** Denial of AEP Texas Inc.'s application to amend its distribution cost recovery factors to increase distribution rates within the City of Abilene. *This item was pulled from consent by Councilman Savage.*

On April 3, 2017, AEP Texas Inc. ("AEP" or "Company") filed an Application to amend its Distribution Cost Recovery Factor ("DCRF") to Increase Distribution Rates with each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of \$28,010,174 (\$21,365,072 for the Central Division and \$6,645,102 for the North Division).

The resolution authorizes the City to join with the Cities Served by AEP ("Cities") to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

Council and Staff discussion included: 1) this is the process that AEP goes through for the public process; 2) AEP is regulated by the Public Utility Commission.

Councilman McAlister made the motion to approve the denial of AEP Texas Inc.'s application to amend its Distribution Cost Recovery Factors to increase distribution rates within the City of Abilene. Councilman Kreitler seconded the motion, motion carried.

AYES: Councilmen Kreitler, Hurt, McAlister, Savage, Councilwoman Albus and Mayor Pro-tem Price
NAYS: None

Resolution: #75-2017

A RESOLUTION OF THE CITY OF ABILENE, TEXAS FINDING THAT AEP TEXAS INC.'S APPLICATION TO AMEND ITS DISTRIBUTION COST RECOVERY FACTORS TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; 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 THE COMPANY AND LEGAL COUNSEL

REGULAR AGENDA

7.1 Fire Chief Larry Bell briefed the city council on the Resolution authorizing the City Manager to execute a contract with Dailey-Wells Communications for the purchase of the Zetron Alerting System.

A purchase agreement was awarded to Spillman Technologies for a Computer Aided Dispatch and Records Management System in 2016. During the Implementation Phase, it was identified that the Abilene Fire Department's Zetron alerting system was incompatible with the new Spillman software. The Zetron Alerting System controls how fire units and stations are tracked, controlled, and dispatched to emergency incidents. It has been determined that the current Zetron system requires a complete upgrade of both hardware and software. The Zetron regional representative is Dailey-Wells Communication. Execution of contract with Dailey-Wells Communications and City of Abilene would allow purchase of upgraded equipment, upgraded software, and installation services in the amount of \$147,247.50.

Council and Staff discussion included: 1) time frame for the software to be up and running is anywhere from 6 to 8 weeks; 2) extended warranty – it is not included in the amount; and 3) discussion of Spillman software.

Councilman Savage made the motion to approve the Resolution that authorizes the City Manager to execute a contract with Dailey-Wells Communications for the purchase of the Zetron Alerting System in the amount of \$147,247.50. Councilman McAlister seconded the motion, motion carried.

AYES: Councilmen Kreitler, Hurt, McAlister, Savage, Councilwoman Albus and Mayor Pro-tem Price
NAYS: None

Resolution: #76-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH DAILEY-WELLS COMMUNICATIONS FOR THE PURCHASE OF A ZETRON ALERTING SYSTEM

7.2 Chris Taylor Assistant Director of Transportation Services briefed the city council on the purchase of two utility trucks from Arrow Ford.

The city conducted a bid (CB-1735) for three different utility truck models. Arrow Ford was the low responsive bidder for Item 1 (3/4-Ton Truck) and Item 3 (1-Ton DRW Truck). Item 1 was bid at \$32,548.00 and will be assigned to Facilities Maintenance and Item 3 was bid at \$39,450.00 and will be assigned to Water

Distribution.

Councilman McAlister made the motion to approve the bid award of **CB-1735** the purchase of one (1) ¾ ton Utility truck in the amount of \$32,548.00 and a 1-ton DRW Truck in the amount of \$39,450.00 from Arrow Ford. Councilman Savage seconded the motion, motion carried.

AYES: Councilmen Kreitler, Hurt, McAlister, Savage, Councilwoman Albus and Mayor Pro-tem Price
NAYS: None

Resolution: #77-2017

A RESOLUTION OF THE CITY OF ABILENE, TEXAS AWARDDING ITEMS 1 AND 3 OF BID CB-1735 TO ARROW FORD FOR ONE ¾ TON UTILITY TRUCK AND ONE 1 TON UTILITY TRUCK

7.3 Michael Rice Director of Public Works briefed the city council on the Application/Permit to Drill and/or Operate an Oil and/or Gas well – Schkade Bros. Operating Company: “Hughes Unit #7”, Permit No. 818071.

Schkade Bros. Operating Company of Abilene, Texas has submitted an application to drill the “Hughes Unit #7” well on property that they own, located northwest of the intersection of Vogel Avenue and Bridge Avenue. This well is being drilled under the applicant’s 167.84 acre “Hughes Unit”, comprised of multiple property and mineral interest owners as detailed within the supporting documentation for the permit application. The applicant is requesting a variance per sections 21-26 and 21-27 of Chapter 21 of the City of Abilene Code of Ordinances, Oil and Gas, to drill within 200 feet of an existing building(s) and the applicant has provided the notarized written consent of the property owners of those buildings. The City of Abilene owns no mineral or royalty interest under the streets and alleys within the 167.84 acre pooled unit. This application has been reviewed and approved by City Staff. All owners of real property within 500 feet of the proposed drill site have been notified of this application and of the city council meeting to consider its approval, as required by City ordinance.

Mayor Pro-tem Price opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Kreitler made the motion to approve the Application/Permit to Drill and/or Operate an Oil and/or Gas well – Schkade Bros. Operating Company: “Hughes Unit #7”, Permit No. 818071. Councilman Hurt seconded the motion, motion carried.

AYES: Councilmen Kreitler, Hurt, McAlister, Savage, Councilwoman Albus and Mayor Pro-tem Price
NAYS: None

EXECUTIVE SESSION

Mayor Pro-tem Price recessed the Council into Executive Session at 9:42 a.m. pursuant to the Open Meetings Act for the following:

Consultation with Attorney - Section 551.071

A) Regional Water Supply

1. City of Abilene, Texas v. Aurora Bumgarner; 104th Judicial District Court, Taylor County, Texas; filed November 17, 2011
2. Chad Carter v. City of Abilene, Texas; Cause No. 10138-D, In the 350th Judicial District Court, Taylor County, Texas, filed June 17, 2014

3. Margarita Mitchell, et al. v. The City of Abilene, et al., filed in the 350th Judicial District Court, Taylor County, Texas, on October 21, 2015
4. Susan Lewis King & Austin King MD vs Ken Paxton, Attorney General of Texas and the City of Abilene. Cause No. D-1-GN-16-001160, filed March 16, 2016
5. Abilene Matera LLC v. Board of Building Standards for the City of Abilene and City of Abilene, Cause No. 10696-D. March 17, 2016.
6. Ruby Flores and Cory Almanza v. Jesus Verastegui, Alfredo Verastegui, Rosalva Verastegui, and City of Abilene, Cause No. 49368-A, 42nd District Court, Abilene, Taylor County, Texas, filed April 13, 2016
7. E.G., et al. v. Barry Bond, City of Abilene, and Abilene Independent School District, Case 1:16-cv-00068-BL, U.S. District Court, Northern District, Abilene Division, filed April 28, 2016
8. Gary Corpian and Marilu Lee Corpian v. City of Abilene, Texas, Cause No. 49451-A, In the 42nd Judicial District Court, Taylor County, Texas, filed June 24, 2016
9. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
10. City of Abilene and Development Corporation of Abilene v. Texas Municipal League Governmental Risk Pool, Cause No. 11018-D In the 350th Judicial District Court, Taylor County, Texas, filed January 9, 2017
11. Texas Propane Gas Association v. Railroad Commission of Texas, et al., Cause No. D-1-GN-17-001089, In the 261st Judicial District Court, Travis County, Texas, filed March 13, 2017
12. Iris Guerrero, et al. v. Taylor County, Texas, et al., Civil Action No. 1:17-cv-00050-BL, In the U.S. District Court, Northern District of Texas, Abilene Division, filed April 6, 2017

Deliberations about Real Property – Section 551.072

A) Regional Water Supply

Business Prospect/Economic Development – Section 551.087

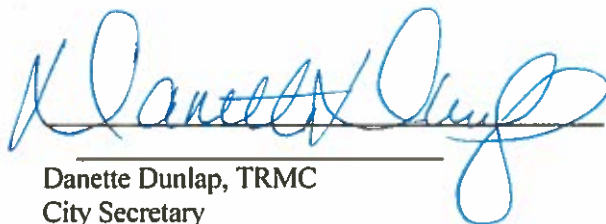
A) Hotel Proposals

The Council reconvened in Open Session at 11:18 am and reported no votes or action was taken in Executive Session.

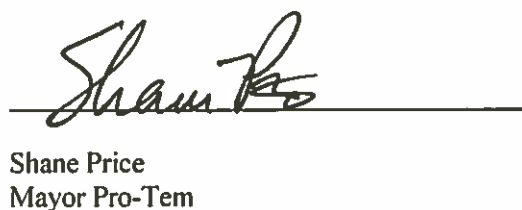
10.1 Oral Resolution: Discussion and possible action related to annual performance evaluations of City Manager, City Secretary, City Attorney and Municipal Judge.

No action taken on annual performances.

There being no further business the meeting was adjourned at 11:18 a.m.



Danette Dunlap, TRMC
City Secretary



Shane Price
Mayor Pro-Tem