

REGULAR SESSION

JANUARY 11, 2016

The City Council of the City of Athens met in Regular Session on Monday, January 11, 2016, 5:30 p.m. in the Derek D. Daniels Conference Room of the Athens Partnership Center, 201 W. Corsicana St., Athens, Texas with the following members present, to-wit:

Jerry D. Vaught, Mayor
Tres Winn
Joe Whatley
Charles Elliott

Philip Rodriguez, City Manager
Bonnie Hambrick, City Secretary
Blake Armstrong, City Attorney

others present: David Hopkins, Buddy Hill, John McQueary, Gordon Mayer, Gary Whittle, Blake Wilson, Nasi Kombos, Buck Kelly, Michael Hannigan, Tyler Hendrickson, Bob Morton, Dianne McVay, Larry Stauffer, James Murphy, Jonathan Day, David and Cindy Wood, Jody and Janice Vincik, Keith Knighton, Jeremiah Diamond, David Mahan and other interested citizens;

with the following member absent: Monte Montgomery;

constituting a quorum at which time the following proceedings were enacted, to-wit:

The invocation was given by David Hopkins.

DECLARATION OF CONFLICT OF INTEREST

There was no discussion.

DISCUSS APPOINTMENTS TO ZONING COMMISSION.

Bonnie Hambrick, City Secretary, stated that Chris Tinsley and Donna Meredith have served two (2) consecutive terms on the Zoning Commission, and are not eligible for reappointment. She stated Staff is seeking a recommendation for two (2) new appointments on the Zoning Commission.

Councilmember Winn stated that he spoke with a citizen regarding this board, and that he would be more than willing to serve. Mayor Vaught stated that he would just need to fill out the application for this position.

OPPORTUNITY FOR CITIZENS TO EXPRESS ITEMS OF CONCERN RELATING TO THE CITY OF ATHENS.

Donald Ball, introduced himself, and stated that he has been before Council before, but has failed to get approval. He purchased 49 acres of land just past Loop 7 on Highway 175, with the help of Steve Grant. He is going to build 80 units. There is no sewer on the land, so he spoke with Philip Rodriguez, and Mr. Rodriguez pointed him to Lisa Denton with AEDC. He stated that there was a piece that would need to be annexed by the City, two thirds of the property is already annexed, so one third would need to be annexed and zoned. Mr. Ball stated that he would like to appear before Council during the next session.

Diane McVay, stated that she was speaking on behalf of Dr. Vernon Johnson. She stated that she listened to the minutes of the last Council Meeting, and there seems to be some concerns in what he was applying for. She stated that he was a doctor that meets with patients, and he was asking to have an office to meet with his patients.

Ms. McVay stated that when they talked about patients, comments were made as to what the children would see. They would see old people, young people, and people who have insurance or who parents have insurance, walk into the office and that is all they would see. These individuals are seeking help for depression, anxiety, and alcohol and drug issues. They go in for therapy, they walk into a room and sit down with their counselor, and the counselor talks to them about their issues they have. They do that for the purposes of helping people get set free and delivered from their addiction. Ms. McVay stated that she was very disturbed by what she heard on the tapes. She stated that this facility was for the Athens Community.

She further stated that Dr. Johnson is one (1) of seventy Child Psychiatrists in the State of Texas. He has come to this community, to help this community that has a huge methamphetamine issue. He is only here to be a doctor to help people. He is not trying to have an inpatient center, where people are sleeping overnight, like the foot doctor around the corner. He is not attempting to do other things like the Neurologist who has an office similar just 1,000 feet away. Who all have their contracts issued under Retail, he is not even like the CPS place that was originally there. Where you have people showing up whose kids have been taken away. He is there as a doctor trying to provide services for this community, and that is all he is trying to do. This is not something unusual, it will not have a big sign that says "drug and rehabilitation center", even though Council has attempted to designate it like that, which is inappropriate. He is a doctor's office, he is providing a service for people.

Ms. McVay asked if Council received the letter from Stephen Polin that outlined the law in the nation. She stated that they do not want to use a lot of litigation, and she stated that she was sure Council didn't want to spend the money that way nor did Dr. Johnson. She stated that this is the law, people are allowed to walk into an office and get treatment. She stated that people cannot discriminate based upon the fact of what type of office it is. She stated that they are asking Council to do the right thing for the people in this community who really do need help.

Ed McCain stated that his personal life has been touched by friends and family members who have suffered with addiction. He stated that he is sensitive to the issue and respects anyone who wants to assist others, through their troubled time, however he is not in support of the location of this facility. The community stepped up to the plate last year and committed 60 million dollars to the future of AISD. He stated that new facilities would attract young families to Athens. He is not of the opinion that new or existing parents would like for the facility to be this close to the High School.

Blake Stiles, AISD Superintendent, stated that he would agree that this community needs a drug and alcohol rehab facility. He stated that he thinks it is a really bad idea to have this facility directly across the street from the front entrance of the High School. Imagine, not even thinking about safety concerns, but imagine if a child went to school and their parent walked into this drug rehab facility, and another child sees them and brings it up at school. That kid would be crushed, or what if one our Athens' students goes into that facility, all the other students would see that, and that would be a terrible thing. He stated that we are all in agreement that we would like to see this city grow and see the school district grow and all progress, but he just doesn't think that this is the right move. He stated that his recommendation is that, yes bring in drug rehab facilities, but not across from the High School, or even in a school zone for that matter.

CONSENT AGENDA;

- A) CONSIDER APPROVING MINUTES OF THE DECEMBER 7, 2015 SPECIAL SESSION, AND DECEMBER 14, 2015 REGULAR SESSION.

A motion was made by Councilmember Elliott, and seconded by Councilmember Whatley, approving the minutes of the December 7, 2015 Special Session and the December 14, 2015 Regular Session. The motion carried unanimously.

CONSIDER FINAL READING OF AN ORDINANCE CREATING SITE PLAN AND REZONING OF LOT 16 BLOCK A, MATTHEWS ADDITION FROM RETAIL TO RETAIL-SPECIFIC USE PROVISION, OWNED BY DAL RIATA, LLC (115 MURCHISON).

Ms. Hambrick read the Zoning Ordinance aloud. The item died from lack of a motion.

CONSIDER FINAL READING OF AN ORDINANCE CREATING OF SITE PLAN AND REZONING OF LOT 55F BLOCK TR227, PARK NINETEEN ADDITION FROM SINGLE FAMILY 10 TO SINGLE FAMILY 7, OWNED BY ATHENS INTEREST LLC AND TOTAL FINANCING, (S. PALESTINE).

Gordon Mayer, Interim Director of Development, stated that the first public hearing was held in the December meeting, and the owner of the property was present to answer any questions.

Ms. Hambrick read the Zoning Ordinance aloud.

Councilmember Elliott asked what the difference in Single Family 10 and Single Family 7 was, with Mr. Mayer stating that Single Family 10 is a 10,000 square foot lot, and a Single Family 7 is a 7,000 square foot lot.

A motion was made by Councilmember Winn, seconded by Councilmember Elliott, approving the final reading of an ordinance creating of site plan and rezoning of Lot 55F Block TR227, Park Nineteen Addition from Single Family 10 to Single Family 7. The motion passed unanimously.

DISCUSS/CONSIDER PRELIMINARY PLAT OF LOT 55F BLOCK TR227, PARK NINETEEN ADDITION FROM SINGLE FAMILY 10 TO SINGLE FAMILY 7, OWNED BY ATHENS INTEREST LLC AND TOTAL FINANCING,LLC, (S. PALESTINE)

Mr. Mayer stated that there are items that need to be addressed. The first being the length of the cul-de-sac, the Ordinance states that the maximum length can only be 600 feet, this cul-de-sac in the proposed subdivision is 1,200 feet. Staff recommends requiring 40 foot wide pavement to provide the additional width for emergency vehicles. Lots 115 and 116 will need adjustments to meet the required width.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn, approving the preliminary plat of Lot 55F Block TR227, Park Nineteen Addition from Single Family 10 to Single Family 7, with the recommended changes of a 1,200 foot cul-de-sac, and adjustments to Lot 115 and 116. The motion passed unanimously.

DISCUSS/CONSIDER SOLID WASTE AND RECYCLING SERVICES.

Philip Rodriguez, City Manager, stated that the City of Athens has been operating under a contract with Republic Services since 1994. He stated that since his time as City Manager he has had multiple discussions with citizens and staff that want enhanced recycling services. Mr. Rodriguez and Gene Keenon, worked together to create a recycling pilot program that would use two carts, one for recycling and one for solid waste, with once a week trash pickup and once a week recycling pickup. There were 160 residents across the city to start the program.

Mr. Rodriguez updated Council on the survey results regarding the pilot program, with 66 individuals responding to the survey, which is about a 57% response rate. The vast majority of the citizens who responded were 45 or older. Nearly 66% of respondents preferred having once a week trash, recycling, and brush pickup, rather than the twice a week trash pickup.

Mr. Rodriguez stated 41 of the respondents stated that the carts were either very easy to use or somewhat easy to use. If citizens are having a hard time handling the cart, they can let the city know, and Republic Services can have their employees get the cart on pickup day, and replace the cart exactly where it was located. This assistance is available to anyone who is handicapped, or is a senior that needs assistance. Staff recommends that Council proceeds with the recycling program based upon the results of the pilot program.

Mr. Rodriguez stated that Republic Services ran a pro forma of the service area, and it actually reduced the monthly rate of services by 50 cents a month to \$12.36. This would include once a week trash pickup, once a week brush pickup, and once a week recycling pickup. Republic will provide a cart to the citizens at no cost, if they elect to recycle.

Mr. Rodriguez stated that the contract has not been updated since 1994, except some pricing modifications. He stated that there is some language and people referenced that needs updated. He further stated, that Republic Services needs the approval of Council to start purchasing the carts and some new trucks that will be used. The trucks will be lighter and have automated arms, which will make the process cleaner and more efficient. If Council approves this, then Staff will work with the City Attorney to update the contract with Republic Services.

Jerry Don Vaught, Mayor, stated that the program is a great program for Athens, and it is much needed in the community. He asked if there was any way to change the color of the carts, with Gene Keenon stating that it would be difficult to change because that is their signature color, but he will look into it. Mr. Keenon stated that the issue with changing the color would be if another company in a few years came in and proposed the same services for a lower cost, and Council decided to use that company, then Republic Services is left with the different colored carts that probably would not be used anywhere else.

Mayor Vaught also asked about the replacement method of the carts, with Mr. Keenon stated that they have an employee that his job is to drive around and replace broken carts. Mr. Keenon also stated that there would not be an extra cost to the citizens that replacement cost is built into the monthly charge.

Councilmember Elliot stated that he had some concerns about the smell if the trash was only going to be picked up once a week. Mr. Keenon stated that if the bags are tight, and the lid is shut well, then the smell won't be noticeable from the outside. However, if something was to leak inside of the cart, then it would need to be washed out so that the smell would not remain in the cart.

Mr. Keenon stated that for the City of Athens, the citizens that wish not to participate in the recycling program, they will have the option to purchase a second trash cart for one (1) dollar extra a month.

Mayor Vaught asked Council to think about an ordinance that stated a specific length of time that the citizens had to bring the carts back up to their house. Mr. Keenon recommended that the city allow a 48 hour window to allow the citizens to pull the carts back to their house.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn, approving the solid waste and recycling services for once a week trash pickup, once a week brush pickup, and once a week recycle pickup. The motion carried unanimously.

DISCUSS/CONSIDER ADDING AN ADDITIONAL DEFERRED COMPENSATION
457-B PLAN

Jeremiah Diamond, Primerica Representative, spoke to Council about a 457-B deferred compensation plan, for all City Employees who wish to participate. Mr. Diamond stated that the city has a deferred compensation plan with Mass Mutual, but he stated that what he offers different from Mass Mutual, is that he is local. Participants can contact him at any time, and he is available.

Mr. Diamond said that he has 700 clients in his eight (8) years of working in Athens. Mr. Diamond stated that the Weighted Average of Return for his plan is 1.216%, which compares to Mass Mutual at 1.504%. Every carrier will have a daily asset charge, which is how the fund manager receives his pay. The best case will be a 0% daily charge, and the most the daily charge will be is 1.255%. Mr. Diamond stated that his daily asset charge is .3%.

Mr. Rodriguez stated that this plan is elective for the employees to participate. This is another tool for the employees to use if they wish for their retirement. Adding this plan will not eliminate Mass Mutual, it is just adding an additional plan.

Councilmember Elliott asked if the fees would increase over time, with Mr. Diamond stating that the fund fees are not set by his office, but he stated that his fees that he charged would not increase, it would stay the same for the life of the plan.

Mr. Diamond stated that with this plan employees would have a post-tax deferral option, which means that the taxes would be paid now, and when the funds are withdrawn there will not have to be tax paid on the amount. This means when employees separate from service they have access to their money, to use how they wish without the 10% IRS penalty.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn, approving adding an additional deferred compensation 457-B Plan. The motion passed unanimously.

DISCUSS/CONSIDER A RESOLUTION AUTHORIZING PHILIP RODRIGUEZ, CITY MANAGER AND DAVID HOPKINS, DIRECTOR OF FINANCE TO ESTABLISH THE CITY OF ATHENS HEALTH INSURANCE TRUST AND ESTABLISH A BANK ACCOUNT FOR PAYMENT OF INSURANCE PREMIUMS FOR THE TRUST

David Hopkins, Director of Finance, stated that under Chapter 222 of the Texas Insurance Code, premiums paid out of a single non-profit trust can be excluded from Gross Premium Tax, in which Blue Cross informed staff of this regulation. The purpose is to setup the trust to pay the premiums out of a separate bank account. The trustees would be Philip Rodriguez, City Manager, and David Hopkins. By paying the premiums from the trust it would lower the premiums by about 1.75%, the premiums would decrease from 535 to 525.64, which reciprocates to approximately \$14,000 a year. Staff recommends to approve the resolution establishing the trust, and authorizing David Hopkins to establish the bank account to pay the premiums. A motion was made by Councilmember Whatley, seconded by Councilmember Winn, approving the Resolution and authorizing Philip Rodriguez and David Hopkins to establish the City of Athens Health Insurance Trust and to establish a bank account for the payment of insurance premiums for the trust. The motion carried unanimously.

DISCUSS/CONSIDER A RESOLUTION ADOPTING A FUND BALANCE POLICY FOR GENERAL FUND.

Mr. Hopkins stated that Council previously authorized the establishment of a Reserve of 1.8 million dollars in the General Fund. This equates to a 60 day financial reserve. This Resolution is the official action allowing the funds to be moved, and this gives a policy going forward when formulating the budget.

Jerry Don Vaught, Mayor, asked if there would be interest earned on this amount, with Mr. Hopkins stating that these funds would be discussed in the Investment Policy, on where the money actually goes to, for example, deposit accounts, CDs, etc.

A motion was made by Councilmember Winn, seconded by Councilmember Whatley, approving the Resolution adopting a Fund Balance Policy for the General Fund. The motion carried unanimously.

DISCUSS/CONSIDER A RESOLUTION UPDATING THE CITY OF ATHENS
INVESTMENT POLICY.

Mr. Hopkins stated that the Public Funds Investment Act Section 2256.005E requires the governing body to review the Investment Policy once a year. There are no substantive changes except House Bill 870 lowered the two year educational requirement for the Investment Officer from ten (10) hours to eight (8), and changed the two (2) years to run concurrent with the Fiscal Year. The state encourages that cities use the information from the Public Funds Investment Act to formulate their own policy. This is also an annual procedure that is required by law.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn, approving the Resolution updating the City of Athens Investment Policy. The motion carried unanimously.

DISCUSS/CONSIDER AWARDED BID AND AUTHORIZING CONTRACT FOR
DEMOLITION & DISPOSAL SERVICES FOR OLD HENDERSON COUNTY
HOSPITAL

Mr. Rodriguez stated that Staff is looking to award the contract for the Demolition and Disposal Services for the Old Henderson County Hospital. He further stated that there was a bid process that included opening the bids publicly, on December 28th, 2015. There were eight (8) firms that bid, and the local bidder was a firm named KTWO Construction, LLC. The bid came in at \$147,935 without exclusions. Which means that everything that was requested was inclusive in the bid. He stated there was a draft contract in the packet, with a few changes.

The first change is in Article 4, there was a progress payment listed at February 17th, that the firm could come forward and ask for a progress payment up to \$50,000 depending on the progress that has been completed. The contractor requested due to his line of credit that the progress payment date be changed to February 12th. Mr. Rodriguez stated that he personally has no concerns on moving that date.

The second change is under Final Payment. Councilmember Montgomery wanted Staff to also add a Release of Lien under Final Payment which is Article 4.2.1. The next change is Section 6.1.3 under E, the company has asked that Staff indicates that the survey of the asbestos abatement is accurate, and has been given to the contractor.

Mr. Rodriguez introduced Richard McCullough, who is the owner of the company. The State of Texas requires a ten (10) day notice, so the actual date to proceed will be January 21st.

Councilmember Elliott stated that several people have personally questioned him if the company would sell them dump truck loads of riprap materials. Mr. McCullough stated that there are some state regulations that do not allow trash, and rebar in the material, so his company will cut out the rebar before moving it.

Councilmember Winn asked what the process would be for selling the material, with Mr. McCullough stating that he would not sell the material, he would deliver the material as long as it is within a reasonable distance. It would be more cost effective to deliver it locally rather than hauling it to Corsicana to be crushed.

Mr. McCullough stated that the reason the bid is lower is because there is not a lot of work for demolition companies in the winter.

Mayor Vaught asked what the estimate was for time of completion, with Mr. McCullough stating two (2) months. As long as the weather is permitting.

Councilmember Whatley asked how the site would be left, with Mr. McCullough stating that the site would be removed of all concrete and debris, and then grade the ground back where there would be no standing water on the property. There will be a clay/sand mixture to fill in where the building sits. Then topsoil from the site will be added where grass could be planted.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn, awarding the bid and authorizing demolition and disposal services of the Old Henderson County Hospital to KTWO Construction, LLC in the amount of \$147,935, with the changes recommended by Staff and approved by the City Attorney. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENTS TO AIRPORT ADVISORY BOARD

Ms. Hambrick explained the terms of Steve Grant, John Cain, and Larry Babb are expiring from the Airport Advisory Board, with all three members desiring reappointment.

A motion was made by Councilmember Elliott, seconded by Councilmember Whatley, to approve the reappointments of Steve Grant, John Cain, and Larry Babb to the Airport Advisory Board. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENTS TO PARKS ADVISORY BOARD

Ms. Hambrick explained the terms of Andrea Copeland, Chris Tinsley, Justin Boswell, and Bob Morton are expiring from the Parks Advisory Board, with all desiring reappointment.

A motion was made by Councilmember Winn, seconded by Councilmember Elliott, to approve the reappointments of Andrea Copeland, Chris Tinsley, Justin Boswell, and Bob Morton to the Parks Advisory Board. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENTS TO SUBSTANDARD BUILDING COMMISSION

Ms. Hambrick explained the terms of Tere Lawyer, Billy Murphree, and Tim Jones, are expiring from the Substandard Building Commission with all members desiring reappointment.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn, to approve the reappointments of Tere Lawyer, Billy Murphree, and Tim Jones to the Substandard Building Commission. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENT TO ZONING BOARD OF ADJUSTMENTS

Ms. Hambrick explained the terms of Jack Bateman and Mamie Stafford are expiring from the Zoning Board of Adjustments, with both desiring reappointment.

A motion was made by Councilmember Winn, seconded by Councilmember Elliott, to approve the reappointments of Jack Bateman and Mamie Stafford to the Zoning Board of Adjustments. The motion carried unanimously.

CITY MANAGER'S UPDATE

Mr. Rodriguez stated that the glass recycling container should be delivered to the City next week. The glass recycling program should start the end of January or first of February. The drop-off location will be the collection site on Herron Street.

The City of Athens pays the insurance for the Cain Center building, and the boiler went out, and the insurance reimbursed them for \$10,000 which was substantial for their budget this year. The Cain center staff thanked Council for their support.

MAYOR AND COUNCIL UPDATE

Mr. Elliott stated that a home behind Danny's BBQ is partially torn down, and asked that the Substandard Building Commission take a look at the home.

Buddy Hill, Police Chief, stated that the owner was given some time to demolish the building himself. Staff has contacted the homeowner to make him aware that his demolition permit has expired, and he needs to reapply and finish the demolition. He was informed that if this is not taken care of it would go before the Building Commission again, and it might require the City to finish Demolition.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 25th DAY OF JANUARY 2016.

Jerry D. Vaught, Mayor

ATTEST:

Bonnie Hambrick, City Secretary