

SPECIAL SESSION

DECEMBER 7, 2015

The City Council of the City of Athens met in Special Session on Monday, December 7, 2015, 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
Monte Montgomery, Mayor Pro-Tem
Tres Winn
Joe Whatley
Charles Elliott

Philip Rodriguez, City Manager

others present: David Hopkins, Buddy Hill, John McQueary, Gordon Mayer, Gary Whittle, Haven Cox, Blake Wilson, Nasi Kombos, Chris Tinsley, Blake Stiles, Buck Kelly, Keith Busby, Andy Arnold, Rich Flowers, Vernon Johnson, Gene Keenon, and other interested citizens;

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

The invocation was given by Councilmember Montgomery.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

INTRODUCTION OF NEW CITY EMPLOYEES

Philip Rodriguez, City Manager introduced two new employees with the City of Athens.

Buck Kelly is the new Building Official, he is a Master Code Professional, and only 800 individuals in the world have this accreditation.

Thanasis Kombos, comes from the City of Waxahachie. He has a Bachelor's in History where he graduated with honors. Also, he has a Masters of Public Administration, from Texas A&M.

CONSENT AGENDA;

CONSIDER APPROVING MINUTES OF THE NOVEMBER 9, 2015 REGULAR SESSION, AND NOVEMBER 19, 2015 SPECIAL SESSION.

A motion was made by Councilmember Winn, and seconded by Councilmember Elliott, to approve the minutes from the November 9, 2015 Regular Session. The motion carried with the following vote: Ayes: Mayor Vaught, Councilmember Montgomery, Councilmember Elliott, Councilmember Winn, Nays: None, Abstaining Councilmember Whatley.

A motion was made by Councilmember Winn, and seconded by Councilmember Whatley to approve the minutes from the November 19, 2015 Special Session. The motion carried with the following vote: Ayes: Mayor Vaught, Councilmember Montgomery, Councilmember Whatley, Councilmember Winn, Nays: None, Abstaining Councilmember Elliott.

PUBLIC HEARING CONCERNING CREATION OF 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)

Mr. Rodriguez stated that this item has been on a previous agenda as a public hearing and the question was asked if the Retail-Specific Use Provision under the current Zoning Ordinance is

appropriate and the Council asked Staff to review the Zoning Ordinance for the best solution. Mr. Rodriguez stated that in reviewing the application and meetings with the applicants there was some concern about the location, and exact use of the property. The applicant's believed the most expedient and the most agreeable solution was to amend the original application and look specifically at having an institution for alcoholic, narcotic or psychiatric patients which is allowable under the Retail-Specific Use.

Mr. Rodriguez further explained within the Zoning Ordinance there is a five (5) part test describing whether or not something should or should not be allowed under the SUP.

Mr. Rodriguez stated to the Council that they have legislative authority vested in you, and it is entirely up to the Council to provide for that specific use or not. That is not a compulsory action and if it was already provided for in the Ordinance or Code we would not need to bring that forward as a specific use.

The current category fits within the Retail SUP and it is Council's legislative action to accept or deny which would happen after the second public hearing on next Monday.

Mr. Rodriguez stated that Dr. Johnson was asked to sign off on the change to the application and supply a one page description of the services they are wanting to provide.

Mr. Rodriguez stated it is different from the initial request that the Council saw. The reason we are continuing with the same process is there is nothing they are requesting now that is more restrictive than what they were asking initially. What they are asking for now is actual less restrictive in the Zoning Ordinance, therefore it didn't require us to reboot the process and it certainly still falls under the Retail SUP. It is always within your purview as Council legislative body to decide whether or not you want to provide for that or not, but it is not something that is compulsory that will require you to do so. It is what you believe to be the best decision.

Councilmember Winn asked the reason they did not have to go back before the Zoning board again is because it's not any more stringent it was equal to or less than what they asked for in the beginning, is that correct? Mr. Rodriguez stated that was correct and what they asked for initially was still problematic under the Zoning Ordinance the way it was structured, and what they are asking for now is allowable under the Retail SUP. Mr. Rodriguez stated that is correct as it is less restrictive and it does not require any additional input or outputs from Staff.

Councilmember Winn stated the surrounding property owners are not aware of what was really going in, and Mr. Rodriguez stated that was the internal debate and the initial letter did not capture in good format what services would be offered.

Dr. Vernon Johnson stated this project was initially placed in three (3) parts and what they tried to accomplish with the assistance of Mr. Rodriguez is to start with the first two (2) projects. The first being an outpatient counseling services for seniors. The second portion of the program is an intensive outpatient program for individual that would benefit from chemical dependency treatment. He stated the category does fall within the SUP.

Mayor Vaught asked if they no longer wanted it to be inpatient services, with Dr. Johnson stating at some point they would like to bring it back up with Council. But at this time the focus is strictly on the outpatient treatment program.

Councilmember Winn asked are we not talking about people spending the night and Dr. Johnson stated that was correct.

Blake Stiles, Athens ISD Superintendent, stated he was responsible for 3,200 children every day and he has seen the problems of drug addiction and alcohol addiction and he appreciations what Dr. Johnson is trying to do, however he has an issue with the location of the facility being right across street from the main entrance of the High School Campus that houses more than 1,000 students.

Mr. Stiles stated that he would not have a problem with the facility if it was strictly a counseling center for senior students, but if the facility is being opened up to others that have addictions with drugs, alcohol or criminal behavior it would not be a good idea. It is a big safety concern to the students due to the location. Mr. Stiles he would be for the facility if it was in a different location. Mr. Stiles stated he would be against it in its current location, but possibly could be for it if it was in a different location.

Dr. Johnson, debated that he can understand the concerns, and can appreciate the integrity of the community. He stated that an empty building would provide more of a problem for the community than this facility would. It would not house any violent criminals or sex offenders. Only men who are recovering chemical dependents.

Mr. Rodriguez stated that this is the first hearing and Council would vote.

Mr. Mayer stating this is the continuation of the public hearing, and the first reading of the Ordinance and next week would be the second reading of the Ordinance without a public hearing.

Mayor Pro Tem Montgomery stated that this is a great program. He recently talked to two property owners in the near vicinity and they were against this facility going in at that current location. He stated he would have to back Mr. Stiles' opinion and he could not vote for this.

Jerry Don Vaught, Mayor, stated he felt that the process should start from the beginning again. He stated he doesn't believe the public is really aware of the type of facility that is being considered, and is not aware of the individuals that are going to be housed full time at the facility.

Councilmember Elliott, stated that he could never vote for this facility so close to the High School. He would like for it to be in a new location that is not near the High School.

Councilmember Whatley stated that there is so much opposition that there is no way he could vote for this facility in its current location.

Dr. Johnson stated there is some disappointment, and would like the Council to take this into context that they had appeared for the Planning and Zoning Board, the Zoning Commissioner, City Inspector, Fire Marshall and we were always transparent in providing in great detail their intent and purpose. He insured Council that he can understand their reservation with the location, but the kids have seen everything, but with that being said the kids would not see anything derogatory or misleading at the facility. They would acknowledge that there are people with chemical dependence problems, acknowledge that depression is a real illness. The treatment of that is not a secret, and it is not negative, and we should not be ashamed of that.

Mr. Rodriguez stated that the process was not as succinct as it should have been from the very beginning. One issue is that the target was constantly moving with different number of men staying each time the group met. The number of patients from Planning and Zoning to City Council had changed. He stated what we will do in the future is to make sure there is a written statement from the applicant, to ensure there is a descriptive narrative to verify what services are going to take place at the property location, and validate that it fits the Zoning Classification specifically.

CONSIDER FIRST 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).

After much deliberation and debate, the reading of an Ordinance creating site plan and rezoning Lot 16 Block A, died due to a lack of a motion.

DISCUSS/CONSIDER AUTHORIZING CONTRACT/AGREEMENT FOR THE DESIGN-BUILD (D-B) FIRM FOR THE DESIGN AND CONSTRUCTION AND REMODELING OF THE EMERGENCY OPERATIONS CENTER FACILITY.

Gordon Mayor, Interim Director of Development, stated that two proposals came in. The committee met and selected Hal Maris Architect. The contract is a standard AIE contract that has two parts. Part one is the agreement for the design. This contract lays out all the required documentation to move to the preliminary design.

Several changes to the contract will be made. In Article 5 part 1 we will make reference to the Texas Prompt Payment Act.

Article 9 spells out compensation for basic services. It is the construction cost times 15%. Monthly payments will be based on the amount of work presented in the continuation sheet. This will be based on schedule of values submitted by the contractor and agreed by the City.

9.3 is reimbursable expenses. We have agreed there will be no reimbursable expenses, so this section will be deleted.

Article 10 is other conditions and services. This is where the reference is to the previous comments that were made. Deleting arbitration as dispute resolution method.

The signature page notes that the budget is \$110,000. This contract is for the EOC building, which includes building offices, conference room, and bay area. Also will bring the restrooms up to ADA standards.

Part 2 addresses the construction of the project, and it contains the same changes as in Part 1. The City Attorney will finish reviewing, and provide additional comments.

Councilmember Elliott made mention that there will be a 15% fee included to the Architect and Builder. I want to make the public aware that this fee has to be included because of Texas Law.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve Hal Maris Architect, Inc as the architect and design/build as well as the changes recommended by Staff. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING CONTRACT/AGREEMENT FOR THE DESIGN-BUILD (D-B) FIRM FOR THE DESIGN AND CONSTRUCTION OF A CONCESSION PLAZA & PAVILION AT COLEMAN PARK.

Mr. Mayer stated that the contract is the same as the previous contract. This is for the Coleman Park Plaza that is to construct a new concession stand, restroom, and storage facility. This is also to remove the existing building that is located in the center of the four fields, and construct a pavilion at that location. The budget is \$315,000, and the same contract changes would be the same as the previous contract changes.

A motion was made by Mayor Pro Tem Montgomery, seconded by Councilmember Whatley to approve Hal Maris Architect, Inc. as the architect and design/build as well as the changes recommended by Staff. The motion carried unanimously.

DISCUSS/CONSIDER VOIDING RESOLUTION R-10-09 PASSED 4-27-09 AND CONSIDER A NEW RESOLUTION ABANDONING A PORTION OF OLD TOWN ALLEY LOCATED BETWEEN OWEN ST. AND ROYAL ST., AS REQUESTED BY ATHENS INDEPENDENT SCHOOL DISTRICT.

Blake Wilson, Finance & Compliance Specialist, stated that the resolution that was passed in 2009 could not be filed at the Court House due to the lack of notarization. After deliberation with the City Attorney it was his recommendation to void the resolution, create a new resolution and have it notarized and then file with the Court House.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn to Void Resolution R-10-09, and consider creating a new Resolution abandoning a portion of Old Town Alley located between Owen St and Royal St. The motion carried unanimously.

DISCUSS/CONSIDER VOIDING RESOLUTION R-11-09 PASSED 4-27-09 AND CONSIDER A NEW RESOLUTION ABANDONING BRUCE STREET, LOCATED BETWEEN ROYAL STREET AND OWEN STREET, AS REQUESTED BY ATHENS INDEPENDENT SCHOOL DISTRICT.

Mr. Wilson stated that the resolution that was passed in 2009 could not be filed at the Court House due to the lack of notarization. After deliberation with the City Attorney it was his recommendation to void the resolution create a new resolution and have it notarized and then file with the Court House.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn to Void Resolution R-11-09, and consider creating a new Resolution abandoning Bruce Street, located between Royal Street and Owen Street. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING THE CITY TO DEVELOP AND ISSUE A REQUEST FOR PROPOSAL (RFP) FOR DEMOLISHING AND DISPOSAL SERVICE FOR OLD HENDERSON COUNTY HOSPITAL LOCATED AT 405 LINDSEY.

Mr. Rodriguez reminded Council that they had previously authorized the City to take control of the Old Henderson County Hospital located at 405 Lindsey. We are now in possession of the asbestos reports from 2007-2008. It is safe for occupancy or demolition. An RFP will need to be issued due to the value and Texas Law.

He further explained that the cupola, chandelier, and approximately 500-600 bricks from the oldest part of the hospital will need to be pulled out before demolition has started. We would transport these items to our drop off location, so that we have controlled access to the bricks. These items could be used for a historical piece at the current location, or at other future locations. Citizens have also requested pieces from the Hospital. The bid opening date will be extended until December 28, 2015.

Councilmember Montgomery stated that there is some confusion to common bid practice. Will the bidders have the opportunity to come into City Hall and watch as the bids are open with Mr. Rodriguez stating the bids are opened and read aloud publicly.

Mr. Rodriguez stated that the process for selecting the bid is based on best value So, the low bid may not necessarily be the one that is selected.

Councilmember Elliott asked Gordon Mayer to see if we might could use some of the riprap from the demolition in future projects. Mr. Mayer responded by stating it would be something to look into.

A motion was made by Mayor Pro Tem Montgomery, seconded by Councilmember Whatley to approve the request to issue the RFP for demolishing and disposal service for the Old Henderson County Hospital. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENT TO NECHES & TRINITY VALLEYS GROUNDWATER CONSERVATION DISTRICT BOARD OF DIRECTORS.

Mr. Rodriguez explained that this position has typically been appointed to the Public Works Director. Mr. Rodriguez would like for Council to appoint Amy Williams, the new Director of Development, for this position, and he feels strongly that this will be a great opportunity for Amy as soon as she starts on December 14, 2015.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to appoint Amy Williams to the Neches & Trinity Valleys Groundwater Conservation District Board of Directors.

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

There was no discussion.

EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE,
SECTION 551.072 DELIBERATION REGARDING REAL PROPERTY:
CENTRAL PARK PROPERTY

The City Council adjourned to Executive Session at 6:37 p.m.

The City Council returned to Special Session at 7:05 p.m.

DISCUSS/CONSIDER ACTION RESULTING FROM DELIBERATIONS IN
EXECUTIVE SESSION:
CENTRAL PARK PROPERTY

No Action Taken.

CITY MANAGER'S UPDATE

Mr. Rodriguez updated Council on the following:

- Tonight's meeting was in lieu of the cancelled Regular Session meeting on December 28, 2015. The last meeting of the year will be December 14th, 2015 it will start at 5 PM.
- Mr. Rodriguez thanked all volunteer staff for helping with the Christmas Parade. He also thanked Republic Services, and Kevin Lilly's McDonalds for all of their help as well.
- The next Council meeting on the 14th the City will recognize employees for their service recognition awards.

MAYOR AND COUNCIL UPDATE

- Mr. Vaught thanked all the Staff for helping with the Christmas Parade.
- He has received numerous compliments about the parade. He would also like to thank Republic Service and Kevin Lilly's McDonalds for all of their help and participation as well.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 11th DAY OF JANUARY, 2016.

Jerry D. Vaught, Mayor

ATTEST:

Bonnie Hambrick, City Secretary