

REGULAR SESSION

APRIL 28, 2014

The City Council of the City of Athens met in Regular Session on Monday, April 28, 2014, 5:30 p.m. in the Council Chambers of the City Hall Annex with the following members present, to-wit:

Jerry D. Vaught, Mayor  
Carol Barton  
Monte Montgomery  
Elaine Jenkins  
Aubrey Jones

Pam Burton, City Administrator  
Pam Watson, City Secretary  
Conor Bateman, City Attorney

others present: Glen Herriage, Gary Crecelius, Buddy Hill, John McQueary, David Hopkins, Haven Cox, Sherri Skeeters, Marlin Smith, Michael Hannigan, Corey Frentress, David Thomas, Chad Wilson, and other interested citizens;

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

The invocation was given by Councilmember Jenkins.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

PRESENTATION OF AUDIT REPORT FOR FISCAL YEAR ENDING  
SEPTEMBER 30, 2013

Marlin Smith with Smith, Lambright & Associates presented the Audit Report for fiscal year ending September 30, 2013, including their opinion that the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the City as of September 30, 2013, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Mayor Vaught asked if the City of Athens is in good financial condition for a City its size, with Mr. Smith responding yes, the City has \$3.8 million dollars in unrestricted assets.

Mayor Vaught asked Mr. Smith if in his opinion, the financial staff is managing the finances of the City appropriately, with Mr. Smith stating that the City has one of the best financial staffs in the area.

Mayor Vaught asked for the cash position of the Utility Fund, with Mr. Smith explaining that the Utility Fund started the year with \$2.5 million dollars, the cash was increased by \$341,000, leaving a cash balance of \$2.89 million dollars.

Mayor Vaught asked, if when auditing, Mr. Smith found the City's finances to be managed well the last 18 years that David Hopkins has been with the City, with Mr. Smith responding that he has found them to be managed well.

Mayor Vaught asked Mr. Smith if he is also the Auditor for Athens Municipal Water Authority, with Mr. Smith responding that he is.

Mayor Vaught asked if the opinion that the City has received is the highest opinion that Auditors give in this type of Audit, with Mr. Smith stating yes, it is an unmodified opinion which means they have nothing negative to say, and it is very good.

**DISCUSS/CONSIDER ACCEPTING AUDIT REPORT FOR FISCAL YEAR  
ENDING SEPTEMBER 30, 2013**

A motion was made by Councilmember Jones, seconded by Councilmember Jenkins to accept the Audit Report for fiscal year ending September 30, 2013. The motion carried unanimously.

**PUBLIC HEARING CONCERNING REZONING OF LOT 29D, B.C. WALTERS  
SURVEY FROM AGRICULTURE TO SINGLE-FAMILY RESIDENTIAL-7,  
OWNED BY DORA CERRILLO (1105 MAGNOLIA)**

Gary Crecelius, Director of Planning & Development, explained that a manufactured home is currently located on a portion of this lot and the owner is planning to construct a residential dwelling on the same lot, which will require rezoning and replatting of the property. He stated that eight (8) surrounding property owners were notified, no objections were received, and the Zoning Commission approved the rezone on 4/15/14. There was no discussion and the public hearing was closed.

**CONSIDER FIRST READING OF AN ORDINANCE REZONING LOT 29D, B.C.  
WALTERS SURVEY FROM AGRICULTURE TO SINGLE-FAMILY  
RESIDENTIAL-7, OWNED BY DORA CERRILLO (1105 MAGNOLIA)**

City Secretary Pam Watson read the Ordinance aloud. A motion was made by Councilmember Barton, seconded by Councilmember Montgomery to approve FIRST READING OF AN ORDINANCE REZONING LOT 29D, B.C. WALTERS SURVEY FROM AGRICULTURE TO SINGLE-FAMILY RESIDENTIAL-7. The motion carried unanimously.

**DISCUSS/CONSIDER REPLAT OF LOT 29D, B.C. WALTERS SURVEY, OWNED  
BY DORA CERRILLO (1105 MAGNOLIA)**

Mr. Crecelius explained that this will replat one (1) lot into two (2) lots, with the Zoning Commission approving the replat on 4/15/14. A motion was made by Councilmember Montgomery, seconded by Councilmember Jones to approve the replat of Lot 29D, B.C. Walters Survey. The motion carried unanimously.

**DISCUSS/CONSIDER APPROVING TASK ORDER WITH VELVIN & WEEKS  
CONSULTING ENGINEERS FOR GENERAL DISCHARGE PERMIT UPDATE**

Glen Herriage, Director of Utilities, explained that this Task Order will authorize Velvin & Weeks Consulting Engineers to review and update the General Discharge Permit, at a cost ranging between \$200 - \$500. A motion was made by Councilmember Barton, seconded by Councilmember Jenkins to approve Task Order with Velvin & Weeks Consulting Engineers for General Discharge Permit Update. The motion carried unanimously.

**CONSENT AGENDA;**

**A) CONSIDER APPROVING MINUTES OF THE APRIL 9, 2014 SPECIAL SESSION  
AND APRIL 14, 2014 REGULAR SESSION**

A motion was made by Councilmember Jones, seconded by Councilmember Montgomery to approve the Consent Agenda. The motion carried unanimously.

**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 551.071 CONSULTATION WITH ATTORNEY; CONSULTATION REGARDING PENDING LITIGATION IN CAUSE NO. 2013A-1145, ATHENS MUNICIPAL WATER AUTHORITY V. CITY OF ATHENS IN THE 173<sup>RD</sup> JUDICIAL DISTRICT COURT, HENDERSON COUNTY, TEXAS; AND CASE NO. 12-14-00017, THE CITY OF ATHENS, TEXAS, A MUNICIPAL CORPORATION OF THE COUNTY OF HENDERSON, TEXAS V. ATHENS MUNICIPAL WATER AUTHORITY, A MUNICIPAL UTILITY DISTRICT AND POLITICAL SUBDIVISION OF THE STATE OF TEXAS, IN THE TWELFTH COURT OF APPEALS, TYLER, TEXAS

The City Council adjourned to Executive Session.

The City Council returned to Regular Session.

CONSIDER ACTION REGARDING PENDING LITIGATION IN CAUSE NO. 2013A-1145, ATHENS MUNICIPAL WATER AUTHORITY V. CITY OF ATHENS IN THE 173<sup>RD</sup> JUDICIAL DISTRICT COURT, HENDERSON COUNTY, TEXAS; AND CASE NO. 12-14-00017, THE CITY OF ATHENS, TEXAS, A MUNICIPAL CORPORATION OF THE COUNTY OF HENDERSON, TEXAS V. ATHENS MUNICIPAL WATER AUTHORITY, A MUNICIPAL UTILITY DISTRICT AND POLITICAL SUBDIVISION OF THE STATE OF TEXAS, IN THE TWELFTH COURT OF APPEALS, TYLER, TEXAS

Mayor Vaught asked City Attorney Conor Bateman to provide an update on the Mediation status, with Attorney Bateman stating that Mediation remains ongoing, the details are confidential, and active discussions are ongoing. Attorney Bennett made the Council aware that the \$4 million dollar claim that is part of the lawsuit remains on file, and there has not been any filing in any Court of Record that he is aware of and no action taken with respect to the removal of that part of the lawsuit against Athens.

A motion was made by Mayor Vaught, seconded by Councilmember Montgomery that 1) The City continue settlement discussions with Athens Municipal Water Authority, if Athens Municipal Water Authority formally files a motion to dismiss its \$4 million dollar claim against the City with the Court.; and 2) The City Council authorize the City Attorney and his designees to take all reasonable and necessary actions to defend the continuation of the May 10, 2014 Election and the Athens Municipal Water Authority ballot measure. The motion carried unanimously.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 12<sup>TH</sup> DAY OF MAY, 2014.

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Jerry D. Vaught, Mayor

ATTEST:

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Pam Watson, City Secretary