

REGULAR SESSION

JUNE 9, 2014

The City Council of the City of Athens met in Regular Session on Monday, June 9, 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
Monte Montgomery
Tres Winn
Joe Whatley
Charles Elliott

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

others present: Ronnie Denton, Raymond Williams, Greg Phillips, Justin Miller, Chris Womble, Chris House, Craig Malouf, Lance West, Paul Crayton, Payton Lamb, Joy Kimbrough, Glen Herriage, Gary Crecelius, Buddy Hill, Haven Cox, John McQueary, Rich Flowers, David Thomas, Charles Spann, Alicia Watkins, Berta Winn, Hugh Armstrong, D.J. Warren, Ken Geeslin, Steve Grant 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

Councilmember Elliott filed a Conflict of Interest for items concerning Athens Economic Development Corporation's funding to the Cain Center, East Texas Arboretum & Botanical Society, and Henderson County Regional Fair Park.

READ AND APPROVE PROCLAMATION HONORING FIRST RESPONDERS

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve the Proclamation Honoring First Responders. The motion carried unanimously.

Mayor Vaught asked Fire Chief John McQueary, Police Chief Buddy Hill, and all First Responders to stand, stating it was his honor and privilege to recognize them, as he read aloud the Proclamation recognizing and honoring First Responders who risk their own safety in the execution of their duties during the Ag Services fertilizer storage facility fire on May 29, 2014. The First Responders received a standing ovation from those in attendance.

City Administrator Pam Burton stated that it is a privilege to serve as the City Administrator, expressing her feelings that the City currently has the most dedicated, qualified and trained personnel that it has had in the last 36 years, and she is very proud of them. She explained that unfortunately she was out of town during the incident and had to watch online and communicate by phone. She stated that over the past year, Fire Chief McQueary has constantly assured her that they were researching this possibility and were on top of it.

She stated that Mayor Vaught faced this tragedy and handled the situation wonderfully, City Secretary/Assistant City Administrator, Pam Watson, stepped up and assumed her role during her absence which was greatly appreciated, and she thanked all of the City Staff for their support.

Fire Chief John McQueary stated that Councilmember Montgomery, Councilmember Whatley, Gary Crecelius, Director of Planning & Development, and Glen Herriage, Director of Utilities, did an outstanding job in assisting with the shelters and it was greatly appreciated. Chief McQueary stated that he has been involved in the Fire Department for 41 years and served in the infantry in Vietnam,

and these First Responders were more than willing to put their lives on the line and were ready to engage before he got on the scene, stating that he couldn't be more proud. He explained that the devastation from the West tragedy had to be on everyone's mind, however, they stood their ground until he said to evacuate. The First Responders received repeated applause from those in attendance.

DISCUSS/CONSIDER SETTING TIME FOR WEDNESDAY SPECIAL COUNCIL SESSIONS

Councilmember Winn suggested changing the time of the Wednesday Special Council Sessions from 11:30 a.m. to 5:30 p.m. After discussion, a motion was made by Councilmember Elliott, seconded by Councilmember Whatley to set the time for Wednesday Special Council Sessions at 5:30 p.m. The motion carried unanimously.

HEAR/DISCUSS UPDATE REGARDING AG SERVICE FIRE, PRESENTED BY FIRE CHIEF JOHN MCQUEARY

Fire Chief John McQueary provided an update regarding the Ag Service fire at 105 W. Larkin St. on 5/29/14. He stated that the site investigation has been concluded and the State Fire Marshal's Office anticipates having a full report by 6/27/14. He explained that the owner was informed that he must secure the site due to ammonium nitrate remaining on the scene, therefore, he has placed a six ft. (6') fence surrounding the perimeter and is providing a 24/7 watch person on scene.

Chief McQueary stated that he has requested EPA, TCEQ, OSHA, and Texas Chemists to assist in preparing a plan for cleanup and removal, explaining that their regulations and policies must be followed. He explained that it was recommended that the owner hire a Consultant that is bonded and certified in waste removal to assist the owner in developing a plan for cleanup and removal.

Chief McQueary explained that a plan has been developed and provided to Texas Chemist for approval, returned to Chief McQueary for his recommendations, and is now ready to be forwarded to EPA, TCEQ and OSHA. He stated that this action will cover the City from future liability. He explained that after receiving approval by all agencies, the owner will blend the product down which will allow it to be safely removed. He stated that the Consultants will then take the product to be disposed of in a legal manner, the metal will be recycled, and the cinder blocks and wood components will go to a specialized landfill. He explained that all agencies will go back to the site upon completion and perform an environmental check.

Chief McQueary stated that a timeline for completion is unknown. He stated that he is asking for the agencies to expedite this as soon as possible, however, it must be done correctly.

DISCUSS TEXT AMENDMENT TO THE ZONING ORDINANCE

Ms. Burton explained that the current Zoning Ordinance prohibits hazardous or similar factors in the City and although it is not all inclusive with regard to fertilizer storage facilities, it should be sufficient to address the prohibition of the building or rebuilding of a hazardous material storage facility. She explained that Staff is currently drafting a proposed text amendment to be more specific, which will be forwarded to Legal Counsel and brought before the Council as soon as possible.

CONSIDER FIRST READING OF AN ORDINANCE ESTABLISHING A CHARGE FOR COLLECTION OF SOLID WASTE TO BE CHARGED FOR RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CUSTOMERS

Ms. Burton explained that Republic Services is proposing a 1% rate increase for the collection of solid waste, with an annual increase being allowed by Contract. City Secretary Pam Watson read the Ordinance aloud. A motion was made by Councilmember Montgomery, seconded by

Councilmember Whatley to approve FIRST READING OF AN ORDINANCE ESTABLISHING A CHARGE FOR COLLECTION OF SOLID WASTE TO BE CHARGED FOR RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CUSTOMERS. The motion carried unanimously.

CONSIDER FIRST READING OF AN ORDINANCE GRANTING A NON-EMERGENCY AMBULANCE TRANSPORTATION FRANCHISE TO IMPEL AMBULANCE SERVICE INC., AS REQUESTED BY ALICIA WATKINS

Ms. Burton explained that Ms. Watkins is requesting renewal of Impel's Non-Emergency Ambulance Transportation Franchise for a three (3) year period.

After discussion, Councilmember Elliott suggested granting a one (1) year Franchise, and increasing to a two (2) year Franchise upon expiration, to coincide with their State License which expires 7/31/15 and will be renewable every two (2) years.

A motion was made by Councilmember Winn, seconded by Councilmember Elliott to approve FIRST READING OF AN ORDINANCE GRANTING A ONE (1) YEAR NON-EMERGENCY AMBULANCE TRANSPORTATION FRANCHISE TO IMPEL AMBULANCE SERVICE INC. The motion carried unanimously.

DISCUSS/CONSIDER A RESOLUTION APPROVING PURCHASE OF REAL PROPERTY BY ATHENS ECONOMIC DEVELOPMENT CORPORATION, BEING APPROXIMATELY 95.5 ACRES LOCATED IN J.B. ATWOOD SURVEY

Brian Malone, President & CEO of Athens Economic Development Corporation, presented A.E.D.C.'s proposed purchase of approximately 95.5 acres of real property from LeeAnn McCausland and McHolt Properties LP at the purchase price of \$9,000 per acre, totaling \$859,000. He provided additional information concerning this property and explained that a Committee was established to investigate several possible sites.

Mr. Malone provided additional information concerning A.E.D.C.'s financial status. He explained that A.E.D.C. has one (1) long term debt obligation in the amount of \$343,034 for the Athens Partnership Center. He stated that the remainder of the agreements are performance based agreements with the maximum amount being \$634,355, which could be less and would be paid out over the next 2 to 3 years, however, a portion of this amount was provided by USDA funds in the amount of \$87,545, therefore, their maximum exposure is \$546,810. He stated that their cash reserve is \$2 million dollars.

Mr. Malone explained that upon research it was found that this property has great utilities, with water, sewer and electricity being readily available and accessible. He stated that water lines are in and around the property and there is a lot of water capacity. He stated that the property also has a lot of sewer capacity, having lines within and adjacent to the existing Park. Mr. Malone stated that according to Oncor, this is a superior site with no service issues, having the highest capacity wiring, two (2) transmission lines running across the property, and unlimited power due to a nearby substation. Mr. Malone explained that there is a drainage issue on the existing Park, and this would provide an opportunity to develop a drainage plan that will correct a problem that currently exists.

Mr. Malone stressed that there is an immediate need for additional land for future prospects.

After discussion, a motion was made by Councilmember Whatley, seconded by Member Montgomery to approve A RESOLUTION APPROVING PURCHASE OF REAL PROPERTY BY ATHENS ECONOMIC DEVELOPMENT CORPORATION, BEING APPROXIMATELY 95.5 ACRES LOCATED IN J.B. ATWOOD SURVEY. The motion carried unanimously.

DISCUSS/CONSIDER A RESOLUTION APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S FUNDING TO THE CAIN CENTER AND APPROVING PERFORMANCE AGREEMENT

Mr. Malone explained that A.E.D.C. has approved funding for three (3) Community Development Projects, with one (1) of the Projects being the Cain Center in the amount of \$31,095, to be used for renovations to lighting and flooring.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve A RESOLUTION APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S FUNDING TO THE CAIN CENTER AND APPROVING PERFORMANCE AGREEMENT. The motion carried by the following vote: Ayes: Mayor Vaught, Councilmembers Whatley, Winn, and Montgomery. Nays: None. Councilmember Elliott abstained.

DISCUSS/CONSIDER A RESOLUTION APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S FUNDING TO EAST TEXAS ARBORETUM & BOTANICAL SOCIETY AND APPROVING PERFORMANCE AGREEMENT

Mr. Malone explained that A.E.D.C. approved funding for another Community Development Project, with this one being the East Texas Arboretum & Botanical Society in the amount of \$18,580, to be used strictly for construction of playground equipment and other amenities.

A motion was made by Councilmember Montgomery, seconded by Councilmember Winn to approve A RESOLUTION APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S FUNDING TO EAST TEXAS ARBORETUM & BOTANICAL SOCIETY AND APPROVING PERFORMANCE AGREEMENT. The motion carried by the following vote: Ayes: Mayor Vaught, Councilmembers Montgomery, Winn, and Whatley. Nays: None. Councilmember Elliott abstained.

DISCUSS/CONSIDER A RESOLUTION APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S FUNDING TO HENDERSON COUNTY REGIONAL FAIR PARK AND APPROVING PERFORMANCE AGREEMENT

Mr. Malone explained that A.E.D.C. approved funding for another Community Development Project, with this one being the Henderson County Regional Fair Park in the amount of \$50,323, to be used strictly for a new lighting system.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve A RESOLUTION APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S FUNDING TO HENDERSON COUNTY REGIONAL FAIR PARK AND APPROVING PERFORMANCE AGREEMENT. The motion carried by the following vote: Ayes: Mayor Vaught, Councilmembers Whatley, Winn, and Montgomery. Nays: None. Councilmember Elliott abstained.

DISCUSS/CONSIDER APPROVING PROPOSED 2014 STREET PROGRAM, APPROVING BID SPECIFICATIONS AND AUTHORIZING STAFF TO ADVERTISE FOR BIDS

After discussion, a motion was made by Councilmember Winn, seconded by Member Whatley to approve the proposed 2014 Street Program, approve the bid specifications and authorize staff to advertise for bids. The motion carried unanimously.

DISCUSS/CONSIDER AWARDED BID FOR ONE (1) COLD PLANER WITH QUICK ATTACH MOUNTING SYSTEM

Glen Herriage, Director of Utilities, explained that two (2) bids were received for the Cold Planer. He explained that the low bidder, Asphalt Zipper, Inc., did not meet minimum specifications, therefore, he is recommending the bid be awarded to RDO Equipment Co. at a cost of \$123,267.06.

A motion was made by Councilmember Montgomery, seconded by Councilmember Elliott to award the bid for one (1) Cold Planer with Quick Attach Mounting System to RDO Equipment Co. at a cost of \$123,267.06. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENT OF CONSULTANT/LIAISON TO TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION AND FEDERAL AVIATION ADMINISTRATION, AS RECOMMENDED BY AIRPORT ADVISORY BOARD

Ms. Burton explained that the Airport Advisory Board has recommended the appointment of Phil Becker as Consultant/Liaison to Texas Department of Transportation Aviation Division and Federal Aviation Administration, with his only compensation being reimbursement for out-of-pocket travel expenses.

Councilmember Whatley thanked Mr. Becker for offering his services. A motion was made by Councilmember Whatley, seconded by Councilmember Elliott to appoint Phil Becker as the City's Consultant/Liaison to Texas Department of Transportation Aviation Division and Federal Aviation Administration. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENT TO ZONING COMMISSION

Ms. Burton explained that Aaron Smith has been nominated for appointment to the Zoning Commission. A motion was made by Councilmember Elliott, seconded by Councilmember Whatley to appoint Aaron "Bubba" Smith to serve on the Zoning Commission. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENT TO ZONING BOARD OF ADJUSTMENTS

No action was taken.

CONSENT AGENDA;

- A) CONSIDER APPROVING MINUTES OF THE MAY 7, 2014 SPECIAL SESSION;
MAY 12, 2014 REGULAR SESSION; AND MAY 21, 2014 SPECIAL SESSION

A motion was made by Councilmember Montgomery, seconded by Councilmember Whatley to approve the Consent Agenda. The motion carried by the following vote: Ayes: Mayor Vaught, Councilmembers Montgomery, Whatley, Winn. Nays: None. Councilmember Elliott abstained, stating the reason was due to not being on the City Council on these dates.

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

1. Charles Spann, 702 Mulberry Dr., Athens
 - A) Encouraged the City Council to consider looking at industry guidelines for potentially dangerous substances and chemicals, including ammonium nitrate.
 - B) Would like to see more citizen friendly information on website; Would like to see the minutes before they are approved by the City Council; Would like to see most recent minutes listed first; Citizens would like to be more informed.
2. Lisa Allen, 7142 F.M. 1615, Athens
 - A) Stated that her house is located within the proposed airport expansion area and she is upset about a letter she received concerning the cutting of her trees for the FAA; Feels she is the most impacted by the proposed expansion and would like more information and to be more informed.

Ms. Burton clarified that the letter was sent to Ms. Allen asking for permission to go onto her property to measure the height of trees that are in the current fly zone and that it has nothing to do with the proposed airport expansion. Ms. Burton offered to meet with Ms. Allen to provide more clarification.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 23RD DAY OF JUNE, 2014.

Jerry D. Vaught, Mayor

ATTEST:

Pam Watson, City Secretary