

REGULAR SESSION

JULY 28, 2014

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

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, Tyler Hendrickson, Michael Hannigan, Devan Hargrove, Elizabeth Kellow, Kelly Morgan, Mary Waddell, Lowayne Scarbrough, Vanessa Rogers, Greg Mason, Rich Flowers, Terri Hill, Jeff Weinstein, Charles Spann 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.

PUBLIC HEARING CONCERNING APPEAL OF THE ZONING COMMISSION'S DENIAL OF THE REZONING OF LOT 11, BLOCK 113, ATHENS ORIGINAL TOWN FROM SINGLE-FAMILY RESIDENTIAL-5 TO OFFICE, OWNED BY JEFFERY & WEADER ENOCH (726 UNDERWOOD)

Gary Crecelius, Director of Planning & Development, explained that this rezoning is being requested to allow for buildings to be moved onto the property and utilized as offices by the NAACP and Henderson County Black Rodeo Association (HCBRA). He stated that the Zoning Commission denied the rezoning of this property on 6/17/14, based upon opposition from surrounding neighbors and the fact that the same rezoning request was denied by the City Council in 2012. He explained that Mr. Enoch has appealed the Zoning Commission's denial to the City Council.

James Robertson, Media Representative for HCBRA, reviewed the history of the HCBRA and explained their need for a place to conduct business meetings and provided photos of proposed plans for the property. He explained their hardships due to having no official meeting place and no physical address and expressed his feelings that their plans will beautify the neighborhood area.

Councilmember Whatley asked if there was another option or location for placement of the buildings, with Mr. Robertson stating that Mr. Enoch owns this property and it has been gifted for this purpose.

Terri Hill, resident of Underwood St., expressed her opposition to the rezoning, explaining that her family has lived at this location for 50 years and feels that it should remain residential.

A citizen questioned what would happen to the property if it is rezoned and the HCBRA goes away, expressing her feelings that she does not want parties and loitering at the location.

Nicki Enoch, HCBRA Member, stated that this property would be utilized for meetings and there would be no parties. She stated that the JUGS facility is located nearby and a party was held at their location yesterday and there are several upcoming parties planned.

Mario Davis, JUGS President, explained that there was a birthday party at the JUGS facility, however, they usually allow the facility to be utilized for family reunions, funerals, etc. He stated that they have not allowed late night parties since he has become President.

Toni Johnson, HCBRA Representative, explained that this year they took steps to secure the stadium annually for the HCBRA. She explained that they have utilized her house as their office and held meetings in parking lots. She expressed her feelings that the issue is personal and they are not harming anyone.

Ms. Hill expressed her feelings that this is about the land and she feels the rezoning will devalue the community and the land. She expressed her feelings that she has no problem with the HCBRA or NAACP, however, she feels they are taking away from the neighborhood.

Mr. Enoch expressed his feelings that this change will greatly enhance the area and they are doing it all for the community.

Ms. Johnson expressed her compassion to the homeowners across the street, explaining that they are not there to degrade the area, however, they are asking for a one (1) year trial of the rezoning.

Councilmember Winn asked if JUGS would allow a meeting place for the HCBRA, with Mr. Davis stating that they have never been asked. Michael Hadnot, resident of Underwood St. and JUGS Member, stated that the HCBRA could have meetings at their facility, if it was available, however, they could not store items in the facility.

Mr. Enoch explained that it is not about using a place to meet, it is about wanting their own place.

The public hearing was closed.

CONSIDER FIRST READING OF ORDINANCE REZONING LOT 11,  
BLOCK 113, ATHENS ORIGINAL TOWN FROM SINGLE-FAMILY  
RESIDENTIAL-5 TO OFFICE, OWNED BY JEFFERY & WEADER ENOCH  
(726 UNDERWOOD)

City Secretary Pam Watson read the Ordinance aloud. Mayor Vaught expressed his feelings that both are great organizations, however, he expressed concerns with possible future use of the property if rezoned. After discussion, the item died for lack of a motion.

DISCUSS/CONSIDER REPLAT OF LOT 91A1, R.A. CLARK SURVEY, OWNED  
BY BRANDON AND BRITTANY ALLEN (208 CRESTWAY DR.)

Mr. Crecelius explained that this will replat one (1) lot into two (2) lots, with the Zoning Commission approving the item on 7/15/14. A motion was made by Councilmember Montgomery, seconded by Councilmember Elliott to approve the replat of Lot 91A1, R.A. Clark Survey. The motion carried unanimously.

DISCUSS/CONSIDER REQUEST TO CLOSE PORTIONS OF  
N. PRAIRIEVILLE ST. AND TYLER ST. ON SATURDAY, SEPTEMBER 20,  
2014 FOR UNCLE FLETCH HAMBURGER FESTIVAL, AS REQUESTED BY  
MICHAEL HANNIGAN

Jeff Weinstein stated that a committee has been working the last four (4) months toward bringing back the Uncle Fletch Hamburger Festival, with the event being scheduled for 9/20/14. He explained that the festival will include vendors and they are requesting that the streets be closed for the event, as set-up will begin at 7AM, actual hours for the festival will be from 10AM until 2PM, and a music portion will extend until approximately 4PM. Councilmember Elliott and Councilmember Whatley expressed their appreciation for the event being brought back.

After discussion, a motion was made by Councilmember Whatley, seconded by Councilmember Winn to authorize the closing of portions of N. Prairieville St. and Tyler St. on 9/20/14 (to include Hwy. 31 beginning at Hwy. 19 North and extending to Hwy. 31 West), as requested. The motion carried unanimously.

**DISCUSS/CONSIDER INCREASE IN HANGAR RENT FOR ATHENS JET CENTER (HANGAR LH#2), AS REQUESTED BY GAYLON ADDKISON AND WAYNE ADDKISON**

Gaylon Addkison, Athens Jet Center, questioned the 30% increase in his hangar rent, feeling that due to being the only one with an increase, they are being discriminated against.

After discussion, a motion was made by Mayor Vaught, seconded by Councilmember Whatley to amend the Lease Agreement with Athens Jet Center (Hangar LH#2) to the rate of \$525 per month (being .1944 per sq. ft.), for a two (2) year term. The motion carried unanimously.

**DISCUSS/CONSIDER AUTHORIZING SOLUTIANT GEOSCIENCES, INC. TO PERFORM ANNUAL SOIL-SLUDGE MONITORING REQUIREMENTS AND ANNUAL SLUDGE SUMMARY REPORT**

Glen Herriage, Director of Utilities, explained that this is a mandatory requirement and was previously paid by Athens Municipal Water Authority (A.M.W.A.), with Solutiant GeoSciences, Inc. providing an estimated cost of \$3,802.55 to perform the service.

After discussion, a motion was made by Councilmember Winn, seconded by Councilmember Elliott to authorize Solutiant GeoSciences, Inc. to perform Annual Soil-Sludge Monitoring Requirements and Annual Sludge Summary Report. The motion carried unanimously.

**DISCUSS/CONSIDER AUTHORIZING STAFF TO ADVERTISE FOR REMOVAL OF SLUDGE FROM SURFACE WATER PLANT LAGOONS AND DISPOSAL TO SLUDGE DISPOSAL SITE OWNED BY ATHENS MUNICIPAL WATER AUTHORITY**

Mr. Herriage explained that this item was previously paid by A.M.W.A., with the estimated cost for sludge removal and disposal ranging from \$38,000-\$39,000. After discussion, a motion was made by Councilmember Whatley, seconded by Councilmember Elliott to authorize staff to advertise for removal of sludge from surface water plant lagoons and disposal to sludge disposal site owned by A.M.W.A. The motion carried unanimously.

**DISCUSS/CONSIDER AUTHORIZING THE MOWING AND PLOWING OF SLUDGE DISPOSAL SITE OWNED BY ATHENS MUNICIPAL WATER AUTHORITY**

Mr. Herriage explained that the sludge site requires three (3) cuttings per year, with the cost of plowing and/or mowing being \$2,000 per cutting. He made the Council aware that this item was previously paid by A.M.W.A. After discussion, a motion was made by Councilmember Winn, seconded by Councilmember Elliott to authorize the mowing and plowing of sludge disposal site owned by Athens Municipal Water Authority. The motion carried unanimously.

DISCUSS/CONSIDER ACQUIRING SERVICES OF SURVEYOR FOR THE PURPOSE OF LOCATING, IDENTIFYING, MARKING AND DETERMINING THE HEIGHT OF TREES REPORTED TO BE PENETRATING THE IAP VISUAL 20:1 VISUAL SURFACE FOR RUNWAY 35 AT ATHENS MUNICIPAL AIRPORT

Councilmember Montgomery recommended that this item be handled through the bidding process. After discussion, a motion was made by Councilmember Montgomery, seconded by Councilmember Whatley to authorize staff to advertise for bids to acquire services of surveyor for the purpose of locating, identifying, marking and determining the height of trees reported to be penetrating the IAP Visual 20:1 Visual Surface for Runway 35 at Athens Municipal Airport. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING STAFF TO ADVERTISE FOR ONE (1) ½-TON PICKUP FOR WASTEWATER TREATMENT DEPARTMENT

After discussion, a motion was made by Councilmember Whatley, seconded by Councilmember Winn to authorize staff to advertise for one (1) ½-ton pickup for the Wastewater Treatment Department. The motion carried unanimously.

CONSENT AGENDA:

A) CONSIDER APPROVING MINUTES OF THE JULY 14, 2014 REGULAR SESSION AND JULY 23, 2014 SPECIAL SESSION

After discussion, a motion was made by Councilmember Elliott, seconded by Councilmember Winn to approve the Consent Agenda. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING BUDGET ADJUSTMENT FROM PRIOR YEAR RESERVES TO FUND SEVERANCE BENEFIT TO PAM BURTON, CITY ADMINISTRATOR; PAYMENT OF SIX MONTHS SALARY, PAYMENT FOR ACCRUED UNUSED SICK TIME AND ACCRUED UNUSED VACATION TIME, AS AUTHORIZED BY THE CITY COUNCIL ON MAY 7, 2014 AND AUTHORIZING THE DIRECTOR OF FINANCE TO MAKE PAYMENT ON FINAL DAY OF EMPLOYMENT OF CITY ADMINISTRATOR

Mayor Vaught stated that he has received a legal opinion from Texas Municipal League (TML) regarding the payment to Ms. Burton under her contract, expressing his feelings that there is no further need to delay the approval of this payment to Ms. Burton.

City Attorney Conor Bateman supported the legal opinion provided by TML.

After discussion, a motion was made by Mayor Vaught, seconded by Councilmember Montgomery to authorize budget adjustment from prior year reserves to fund severance benefit to Pam Burton, City Administrator; Payment of six months salary, payment for accrued unused sick time and accrued unused vacation time, as authorized by the City Council on May 7, 2014 and authorizing the Director of Finance to make payment on final day of employment of City Administrator. The motion carried by the following vote: Ayes: Mayor Vaught, Councilmember Montgomery, and Councilmember Winn. Nays: Councilmember Elliott and Councilmember Whatley.

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

Charles Spann, 702 Mulberry,

- 1) Expressed his feelings that it is premature to make a decision on a budget adjustment and payment to Ms. Burton at this time.

- 2) Expressed his concerns with the need for the City Council to address the ammonium nitrate issues.

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 RESULTING FROM DELIBERATIONS IN EXECUTIVE SESSION 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

No action was taken.

Mayor Vaught stated that the City of Athens and Athens Municipal Water Authority are getting closer to a resolution.

PASSED AND APPROVED THIS THE 8<sup>TH</sup> DAY OF SEPTEMBER, 2014.

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Jerry D. Vaught, Mayor

ATTEST:

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Pam Watson, City Secretary