

REGULAR SESSION

September 8, 2014

The City Council of the City of Athens met in Regular Session on Monday, September 8, 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  
Bonnie Hambrick, City Secretary  
Conor Bateman, City Attorney

others present: Pam Watson, Glen Herriage, Gary Crecelius, Buddy Hill, John McQueary, David Hopkins, Haven Cox, Sherri Skeeters, Michael Hannigan, Rich Flowers, Melinda Campbell, Charlotte Morgan, Melodie Alexander, Amanda Price, Dave Jensen 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.

SECOND PUBLIC HEARING ON TAX INCREASE FOR FISCAL YEAR 2014-2015

Mayor Vaught opened the public hearing on the tax increase for fiscal year 2014-2015. There was no discussion and the public hearing was closed.

PUBLIC HEARING CONCERNING THE BUDGET FOR FISCAL YEAR 2014-2015.

Dave Jensen , 11901 CR 168, explained the needs of Henderson County Humane Society. Mr. Jensen stated the Humane Society has an annual cost of \$240,000. He explained they are requesting funding in the amount of 25% from the City, 25% from the County, and 50% would be provided by the Humane Society. Mr. Jensen stated in anticipation of the proposal not being accepted by the City of Athens; the Shelter is submitting their 90-day letter of intent to terminate the present contract with the City of Athens to run the Shelter.

City Administrator, Pam Burton explained the City funds the Shelter with \$19,200 annually, pays the electricity, and provides water and sewer, for total funding in the amount of approximately \$34,000 per year.

Ben Callison of Black Beauty Ranch, expressed his feelings for the need of the Humane Society, feeling if it does not continue the City would have a much broader problem.

Melinda Campbell, 8597 Fallow Run, expressed her passion for the Humane Society, feeling that their money is not being spent frivolously and is needed to survive.

Charlotte Morgan, P.O. Box 1967, strongly urged the City to consider the safety and well being of the citizens, and to allow the shelter to continue.

After discussion, the public hearing was closed.

**RATIFY THE PROPERTY TAX INCREASE REFLECTED IN THE BUDGET  
FOR FISCAL YEAR 2014-2015.**

A motion was made by Councilmember Whatley, seconded by Councilmember Montgomery to ratify the property tax increase of \$122,691 reflected in the budget for fiscal year 2014-2015. The motion carried unanimously.

**CONSIDER FIRST READING OF AN ORDINANCE ADOPTING BUDGET FOR  
FISCAL YEAR 2014-2015.**

City Secretary Bonnie Hambrick read the Ordinance aloud. City Administrator Pam Burton recommended adopting budget presented and revisit the budget for consideration of the request from Henderson County Humane Society. A motion was made by Councilmember Montgomery, seconded by Councilmember Elliott to approve first reading of an Ordinance adopting budget for fiscal year 2014-2015. The motion carried unanimously.

**HEAR FORMAL PRESENTATIONS BY EXECUTIVE SEARCH FIRMS.**

Chris Hartung with Chris Hartung Consulting, LLC made his formal presentation for consideration as the Executive Search Firm for the position of City Administrator. He explained that he has spent 20 years in City Management, and started his consulting firm five (5) years ago. He explained his process would consist of: development of the profile and advertising strategy, recruitment of well qualified candidates for the position, initial screening of the applicant pool, gathering of background information, and final interview process and completions of search.

Councilmember Montgomery asked if his firm has a history of candidates staying longer than 10 years with a City. Mr. Hartung stated he has a client that has been with the City of Abilene for 12 years and a client with 8-10 years at the City of Pearland.

Councilmember Whatley questioned the time frame with Mr. Hartung explaining the process and predicting a January 2015 placement.

Mayor Vaught asked how many active searches does CHC consulting have, with Mr. Hartung stated 5 active searches.

Councilmember Whatley discussed the fact that Mr. Hartung would be very hands on during the search with Mr. Hartung stating he would be doing the work.

Mayor Vaught asked Chris Hartung if CHC would incur the client's expenses. Mr. Hartung stated he does not incur those expenses.

Mr. Hartung concluded and exited the room.

Ron Holifield with Strategic Government Resources, Inc. made his formal presentation for consideration as the Executive Search Firm for the position of City Administrator. He explained the search is like 3 legs of a stool and the candidate must connect with the Council, connect with the Community and connect with the Organization. He stated that he could market Athens differently due to his familiarity with Athens.

Councilmember Elliott asked him to introduce Tommy Ingram. Councilmember Elliott asked who would handle the search. Mr. Holifield stated Tommy will head the search, and 7 different individuals will help.

Councilmember Montgomery, stated the current City's staff is long term employees. He asked if Strategic Government Resources has any clients with longevity. Mr. Holifield stated he does not have many with 10 years with a City. He stated his company started in 2002.

Mayor Vaught stated that Strategic Government Resource, Inc. is a national company. He asked how would he advertise. Mr. Holifield stated both local and national advertising.

Councilman Whatley asked, how long will the search take. Mr. Holifield stated 4-6 months.

Mayor Vaught asked, how many searches is Tommy currently working. Mr Holifield stated he is currently working on 2 searches and 5 searches is considered a full time load. Mr. Holifield stated they would have their heart and soul, emotionally involved and would be completely accessible.

**DISCUSS/CONSIDER AUTHORIZING MAYOR TO EXECUTE CONTRACT WITH SELECTED EXECUTIVE SEARCH FIRM FOR CITY ADMINISTRATOR POSITION.**

Mayor Vaught stated that both search firms are very good.

Councilmember Whatley stated that Mr. Hartung would be hands on.

Mayor Vaught stated this was a tough decision.

Councilmember Montgomery, stated both are excellent.

After discussion, a motion was made by Councilmember Winn authorizing the Mayor to execute a contract with Chris Hartung Consulting for search of City Administrator, seconded by Councilmember Whatley. The motion carried unanimously.

**DISCUSS/CONSIDER AMENDING TEXT OF ZONING ORDINANCE #O-12-01**

City Attorney Connor Bateman reviewed the proposed draft Ordinance amending the text of the Zoning Ordinance to address Hydrous Ammonia and Ammonium Nitrate. He explained this amendment would go before the Zoning Commission, and if approved, brought back before the City Council for action. After discussion, a motion was made by Councilmember Whatley and seconded by Councilmember Winn to authorize staff to proceed with procedure for adoption of amendment to text of Zoning Ordinance # O-12-01. The motion carried unanimously.

**CONSIDER FIRST READING OF AN ORDINANCE GRANTING ELECTRIC FRANCHISE WITH ONCOR ELECTRIC DELIVERY**

City Secretary Bonnie Hambrick read the Ordinance aloud. A motion was made by Councilmember Montgomery, seconded by Councilmember Elliot to approve FIRST READING OF AN ORDINANCE GRANTING ELECTRIC FRANCHISE WITH ONCOR ELECTRIC DELIVERY.

**DISCUSS/CONSIDER APPROVING ANGELINA & NECHES RIVER AUTHORITY NECHES COMPOST FACILITY BUDGET FOR FISCAL YEAR 2015**

City Administrator Pam Burton explained the Angelina & Neches River Authority. A motion was made by Councilmember Montgomery, seconded by Councilmember Winn to approve Angelina & Neches River Authority Neches Compost Facility budget for fiscal year 2015. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENT TO ZONING BOARD OF  
ADJUSTMENTS

City Administrator Pam Burton explained that Morgan Jones has been recommended for appointment to the Zoning Board of Adjustments. A motion was made by Councilmember Whatley, seconded by Councilmember Winn to appoint Morgan Jones to Zoning Board of Adjustments. The motion carried unanimously.

CONSENT AGENDA;

- A) CONSIDER APPROVING MINUTES OF THE JULY 28, 2014 REGULAR SESSION.
- B) CONSIDER FINAL READING OF AN ORDINANCE REZONING OF LOT 55D, T. PARMER SURVEY FROM INDUSTRIAL TO COMMERCIAL, OWNED BY LUMBERJACK PARTNERS LLC (1220 S. PALESTINE ST.

City Secretary Bonnie Hambrick read the Ordinance aloud. A motion was made by Councilmember Whatley, seconded by Councilmember Montgomery to approved the Consent Agenda. The motion carried unanimously

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

Melodie Alexander, 19512 PonDerosa, would like to know when she will appear on the agenda to speak with the Council regarding conducting a Homeless survey. City Administrator Pam Burton stated she was on the September 17, 2014 Agenda.

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 at 6:46 p.m.

The City Council returned to Regular Session at 7:20 p.m.

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 taken.

DISCUSS/CONSIDER POSSIBLE ACTION REGARDING A NEW AGREEMENT  
WITH ATHENS MUNICIPAL WATER AUTHORITY.

Mayor Vaught stated the Council has been exhausted in their endeavors of reaching an agreement with Athens Municipal Water Authority (A.M.W.A.), feeling this has finally been accomplished. He pointed out positives in the agreement including: the agreement would be in effect for a period of 50 years, and renewable for another 50 years subject to approval by both the City and A.M.W.A.; the A.M.W.A. will offset additional cost incurred by the City in undertaking the operations, repair and maintenance of the facility by giving \$900,000 to the City to be disbursed over a 4-year term; the City agrees to pay \$48,000 annually for raw water furnished to the City by the Authority from Lake Athens Reservoir, the one well at the Water Treatment Plant, and all water that may be provided to the City from future wells that may be developed by A.M.W.A.

Councilmember Montgomery stated that he and Mayor Vaught were on the Council when the lawsuit was filed, which included the wording that the City either pay A.M.W.A. \$4 million dollars for bills in the past that were fraudulently turned in, and he does not feel anything in these negotiations brought anything forward that was fraudulent. He expressed his disappointment that the new contract has nothing regarding A.M.W.A. providing repairs and the contract requires the City to provide all repairs and maintenance. He stated that the \$900,000 will help the City over the next few years, but he expressed his concern for future generations. He stated that this action is setting a precedence for the future. He stated he does not like the contract, however he acknowledged the positives that are included. He stated that the City having a lawsuit over its head while waiting to sign this contract is a disgrace, however, he feels a positive vote is the best thing for the Citizens of Athens.

Mayor Vaught expressed gratitude to Councilmember Montgomery and Councilmember Elliott for working diligently with A.M.W.A. on this agreement, with Councilmember Winn being in agreement.

Councilmember Winn expressed his feelings that there are items included in the contract that are probably not in the best interest of either entity, however, he stated that he does like that the agreement will be revisited every three (3) years.

Councilmember Whatley expressed his feelings that by signing this contract it is positive thing for both sides and feels that there will be a very amicable working relationship moving forward.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve the proposed new Agreement with A.M.W.A. and authorize the Mayor to sign on behalf of the City of Athens, strictly subject to: A.M.W.A.'s approval and execution of this Agreement; and the dismissal of all claims in the pending lawsuit between the City of Athens and A.M.W.A.; and A.M.W.A.'s execution and filing of all settlement documents and dismissal pleadings required to effectuate the Agreement of the parties subject to final approval by legal counsel for the City of Athens and A.M.W.A. The motion carried unanimously

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 22nd DAY OF SEPTEMBER, 2014.

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Jerry D. Vaught, Mayor

ATTEST:

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Bonnie Hambrick, City Secretary