

REGULAR SESSION

JANUARY 8, 2018

The City Council of the City of Athens met in Regular Session on Monday, January 8, 2018, 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:

Monte Montgomery, Mayor
Ed McCain, Mayor Pro-Tem
Toni Clay
Robert Gross
Aaron Smith

Gary Whittle, Interim City Manager
Bonnie Hambrick, City Secretary

others present: Joe Whatley, Thanasis Kombos, Ryan Adams, Barbara Holly, Jennifer Robertson, Adrianna Hinds, John McQueary, Buddy Hill, Randy Williams, Linda Stepp, Carol and Bob Morton, Lacey Lowry, Matthew Bars, Cole Woodard, C.J. Ponton, Tere Lawyer, Judy Jones, Cliff Bomer, Connor Bateman, Anne Perryman, Lisa Montgomery, Denise York, Rich Flowers, Willy Robson, Gene Keenon, Steve Grant, Chris Tinsley, Mary Waddell, Randy McIntyre, John and Felicia Cain, Armando Rincon, Paul Ingram and other interested citizens;

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

INVOCATION

The invocation was given by Gary Whittle.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

RECOGNIZE COUNCILMEMBER JOE WHATLEY AND INTRODUCTION
OF COUNCILMEMBER AARON "BUBBA" SMITH

Mayor Montgomery recognized outgoing Councilmember Joe Whatley. He stated Councilmember Whatley has been invaluable to the City.

Mayor Montgomery presented Councilmember Whatley with a plaque. There was a round of applause.

Mayor Montgomery introduced newly appointed Councilmember Smith.

MAYOR, CITY COUNCIL AND/OR INTERIM CITY MANAGER UPDATES
INVOLVING COMMUNITY EVENTS AND ISSUES OF PUBLIC SAFETY

Mayor Montgomery thanked the media and recognized the following:

- Michael Hannigan – Henderson County Now
- Rich Flowers – Athens Review
- Denise York – The Monitor

Gary Whittle, Interim City Manager, provided the following updates:

- Save the Fiddler Shindig is scheduled for January 12, 2018
- Athens Chamber of Commerce Gala is scheduled for January 19, 2018

CONSENT AGENDA

- a) CONSIDER APPROVING THE MINUTES OF THE DECEMBER 11, 2017 REGULAR SESSION
- b) CONSIDER APPROVING THE MINUTES OF THE DECEMBER 13, 2017 SPECIAL SESSION
- c) CONSIDER APPROVING THE MINUTES OF THE DECEMBER 14, 2017 SPECIAL SESSION
- d) CONSIDER APPROVING THE MINUTES OF THE DECEMBER 28, 2017 SPECIAL SESSION
- e) CONSIDER APPROVING THE MINUTES OF THE JANUARY 2, 2018 SPECIAL SESSION
- f) CONSIDER FINAL READING OF AN ORDINANCE TO INCREASE THE FISCAL YEAR 2018 BUDGET APPROPRIATIONS BY \$414,799, DUE TO WORK IN PROGRESS ENCUMBRANCES FROM FISCAL 2017 NOT COMPLETED AT SEPTEMBER 30, 2017
- g) CONSIDER THE REAPPOINTMENT OF LARRY BABB TO THE AIRPORT ADVISORY BOARD
- h) CONSIDER THE REAPPOINTMENT OF JOHN CAIN TO THE AIRPORT ADVISORY BOARD
- i) CONSIDER THE REAPPOINTMENT OF CHRIS TINSLEY TO THE PARKS ADVISORY BOARD
- j) CONSIDER THE REAPPOINTMENT OF ANDREA COPELAND TO THE PARKS ADVISORY BOARD
- k) CONSIDER THE REAPPOINTMENT OF BOB MORTON TO THE PARKS ADVISORY BOARD
- l) CONSIDER THE REAPPOINTMENT OF JUSTIN BOSWELL TO THE PARKS ADVISORY BOARD
- m) CONSIDER THE REAPPOINTMENT OF PAUL INGRAM TO THE PLANNING AND ZONING COMMISSION
- n) CONSIDER THE REAPPOINTMENT OF BRADY AUTRY TO THE PLANNING AND ZONING COMMISSION
- o) CONSIDER THE REAPPOINTMENT OF JACK BATEMAN TO THE ZONING BOARD OF ADJUSTMENTS
- p) CONSIDER THE REAPPOINTMENT OF MAMIE STAFFORD TO THE ZONING BOARD OF ADJUSTMENTS
- q) CONSIDER THE REAPPOINTMENT OF BILLY MURPHREE TO THE SUBSTANDARD BUILDING COMMISSION
- r) CONSIDER THE REAPPOINTMENT OF GARRETT HOPE TO THE SUBSTANDARD BUILDING COMMISSION
- s) CONSIDER THE REAPPOINTMENT OF CODY CRAIG TO THE SUBSTANDARD BUILDING COMMISSION

Councilmember Smith asked that Items a, b, c, d and f be pulled as he would like to abstain from voting.

Bonnie Hambrick, City Secretary read the Ordinance aloud.

A motion was made by Councilwoman Clay, seconded by Councilmember Gross to approve the following items from the Consent Agenda: a, b, c, d and f.

The motion carried by the following vote: Ayes: Mayor Montgomery, Councilmembers McCain, Gross, and Clay, Nays: None, Abstain: Councilmember Smith.

A motion was made by Councilmember Gross, seconded by Councilmember Smith to approve the following items from the Consent Agenda: e, and g through s. The motion carried unanimously.

CITIZENS COMMUNICATIONS:

There was no discussion.

Mayor Montgomery stated that the City Council would move to Agenda Items 17 and 18.

**DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY,
CONCERNING THE APPOINTMENT OF KATHY MEANS TO THE
CULTURAL RESOURCES COMMISSION**

Ms. Hambrick explained there is a vacancy on the Cultural Resources Commission due to the resignation of Brad Smiley. She stated that Kathy Means has expressed interest in serving on the Commission. A motion was made Councilmember Smith, seconded by Councilwoman Clay to appoint Kathy Means to the Cultural Resources Commission to fill the unexpired term of Brad Smiley. The motion carried unanimously.

**DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY,
CONCERNING THE APPOINTMENT OF ARMANDO RINCON TO THE
PLANNING AND ZONING COMMISSION**

Ms. Hambrick unexplained there is a vacancy on the Planning and Zoning Commission due to Aaron Smith being appointed to the City Council. She stated Armando Rincon has expressed interest in serving on this Commission. A motion was made by Councilwoman Clay, seconded by Councilmember McCain to appoint Mr. Rincon to the Planning and Zoning Commission. The motion carried unanimously.

**DISCUSS CAIN CENTER PROJECT COMPONENTS AND ASSOCIATED
COST ESTIMATES**

Mayor Montgomery stated he would allow comments from the Citizens prior to the City Councils deliberation.

He opened the floor for Public Comments.

Mayor Montgomery recognized John and Felicia Cain and Cliff Bomer past President of the Cain Center.

Several Citizens spoke regarding the Cain Center Project.

Much deliberation occurred regarding the Cain Center Project.

Mr. Whittle stated that staff is at a standstill without direction from the City Council.

Councilmember McCain provided some background information and the initial conversations that transpired regarding the Cain Center Project.

Additional discussion and deliberation occurred from the City Council.

Mr. Whittle stated that staff did provide a recommended funding. He stated the percentage of funding allocation is 49.2% for the Cain Center and 20.8% for Utility projects. He stated \$2.75 Million is allocated for Utility Projects.

Thanasis Kombos, Assistant City Manager, presented funding opportunities and options. He stated that Staff recommends spending \$9,048,320 on the project, which includes \$6,548,320 in Certificates of Obligation and the \$2.5 Million donation from the Cain Foundation to build a new pool.

Mr. Kombos also presented a comparison of the Quality of Life Budgets for Fiscal Year 2018 for the City of Athens and other peer cities.

The City Council recessed at 7:32 p.m.

The City Council returned to Regular Session at 7:43 p.m.

Mayor Montgomery continued the discussion regarding Cain Center Project components and associated cost estimates.

No action was taken.

PUBLIC HEARING CONCERNING A REQUEST FROM AMPLER DEVELOPMENT, LLC FOR SITE PLAN APPROVAL AND A SPECIFIC USE PERMIT FOR A FAST FOOD RESTAURANT WITH DRIVE THROUGH SERVICE AT 1004 E. TYLER STREET, LOT 3, BLOCK 119 – ORIGINAL TOWN SUBDIVISION (Z-01-18-001)

Barbara Holly, Managing Director of Development Services, informed the Council the proposed restaurant is 2,896 square feet. She stated the site plan meets all the conditions established with the Triton and Dairy Queen Site plans including buffering, setbacks, and tree preservation. She further explained parking requirements are for eighteen (18) spaces, however the company has thirty eight (38) spaces, with the building height being 22 feet.

Ms. Holly stated the Planning and Zoning Commission unanimously recommends approval, with eleven (11) notices mailed out. Two (2) in favor and four (4) in opposition comprising 32.82% opposition. Because of that, she stated it requires a super majority vote.

Ms. Holly read a letter from Tina Elkins who opposes this development.

Mayor Montgomery recognized Paul Ingram from the Planning and Zoning Commission for being in attendance.

Mayor Montgomery opened the Public Hearing.

Jim Kerlin asked the City to encourage consistency in the size of wall across the back.

Marcia Warren asked that the wall be built first and stated there is a concern for the traffic on Crestway.

Anne Perryman asked the City Council to think ahead when additional sections become developed to have design guidelines adopted in the Planned Development overlay district that create a quaint and charming look.

Bill Packer expressed concern with traffic on Crestway Drive.

Mr. Cole Woodard, Construction Manager, Ampler Realty, further explained the décor package of the restaurant.

Mayor Montgomery asked if the developer was ok with the 8 foot wall on the back with Mr. Woodard stating yes and that it would be matched for consistency.

C.J. Ponton stated any engineering related questions would be taken back to the team.

Mayor Montgomery asked if water detention was figured in; with Mr. Ponton stating the calculations are currently being worked on and water would discharge on the north side of the site.

Matthew Bars, Director of Operations, provided an overview of the culture of the company.

Mayor Montgomery inquired about the exterior cladding of the building is. Ms. Holly stated it was presented as stucco. Ms. Perryman said it was artificial stucco or EIFS. The mayor asked for clarification since the city has disallowed the use of EIFS in the past.

The Public Hearing was closed.

DISCUSS FIRST READING OF AN ORDINANCE CONCERNING A REQUEST FROM AMPLER DEVELOPMENT, LLC FOR SITE PLAN APPROVAL AND A SPECIFIC USE PERMIT FOR A FAST FOOD RESTAURANT WITH DRIVE THROUGH SERVICE AT 1004 E. TYLER STREET, LOT 3, BLOCK 119 – ORIGINAL TOWN SUBDIVISION (Z-01-18-001)

Ms. Hambrick read the Ordinance aloud.

PUBLIC HEARING CONCERNING A REQUEST FROM THE BOYCE FAMILY TO REPLAT LOT 1 OF THE BOYCE SUBDIVISION INTO LOTS 1-A AND 1-B AT 1200 KAUFMAN ROAD TO ALLOW FOR A FUTURE MANUFACTURED HOME ON THE ADDITIONAL LOT (P-01-18-001)

Ms. Holly explained the request is from the Boyce Family. Mr. Boyce is dividing the land to allow his daughter to move in a second manufactured home onto the property. She stated the plat meets all requirements and the Planning and Zoning Commission unanimously recommends approval.

Mayor Montgomery opened the Public Hearing.

There were no comments.

The public hearing was closed.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY, CONCERNING A REQUEST FROM THE BOYCE FAMILY TO REPLAT LOT 1 OF THE BOYCE SUBDIVISION INTO LOTS 1-A AND 1-B AT 1200 KAUFMAN ROAD TO ALLOW FOR A FUTURE MANUFACTURED HOME ON THE ADDITIONAL LOT (P-01-18-001)

A motion was made by Councilwoman Clay, seconded by Councilmember Smith to approve a request from the Boyce Family to replat Lot 1 of the Boyce Subdivision into Lots 1-A and 1-B at 1200 Kaufman Road to allow for a future manufactured home on the additional lot. The motion carried unanimously.

DISCUSS FIRST READING OF AN ORDINANCE TO INCREASE THE FISCAL YEAR 2018 BUDGET APPROPRIATION BY \$136,598 IN THE HOT OCCUPANCY TAX FUND FOR RECONSTRUCTION OF THE SOUTH WALL OF THE TEXAN THEATER

Mr. Kombos explained the City Council approved the entire reconstruction of the South Wall at the Texan Theater on 12/11/17. He stated the Ordinance will authorize the funding. He stated the increase is for \$97,565 and \$30,000 would come from the Certificates of Obligation.

There was discussion regarding the Error and Omissions claim.

Ms. Hambrick read the Ordinance aloud.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY, REGARDING APPROVAL OF A TEXAN THEATER FURNISHINGS, FIXTURES, AND EQUIPMENT (FF&E) PACKAGE AND AUDIO/VISUAL (A/V) PACKAGE, INCLUDING ANY ASSOCIATED SUPPLEMENTAL APPROPRIATION

Mr. Kombos explained the item for consideration is the furnishings, fixtures, and equipment (FF&E) package and Audio/Visual (A/V) package for the Texan Theater. He stated the package was presented to the City Council on 12/11/17 in the amount of \$240,000 to fully equip the building.

Councilwoman Clay asked what was the total cost of the project, with Mr. Kombos stating it is approaching \$2 million.

After discussion of the furnishings and fixtures options, a motion was made by Councilmember McCain, seconded by Councilwoman Clay to approve the Texan Theater furnishings, fixtures, and equipment (FF&E) package and Audio/Visual (A/V) package, including any associated supplemental appropriation.

The motion carried by the following vote: Ayes: Mayor Montgomery, Councilmembers: McCain, Clay, and Smith, Nays: Councilmember Gross, Abstain: None.

DISCUSS, CONSIDER AND TAKE ACTION AS NECESSARY, REGARDING FUTURE OPERATIONS AT THE COLLECTION STATION, CURBSIDE BULK PICK UP ALTERNATIVES, AND COSTS

Ryan Adams, Managing Director of Public Services, stated this issue was briefly discussed at the June 19, 2017 Council Budget Workshop and additional information was presented during the November 27, 2017 City Council Meeting with a more detailed cost and logistics information.

Mr. Adams presented current Bulk Garbage:

Dispose at City Collection Station

- Open Saturdays from 8:30 AM – 3:30 PM
- Accepts residential waste with proof of residency
- Rates generally lower – DOES NOT COVER FULL COST

Dispose at County Waste Stations

- Open Weekdays and Saturday
- Rates generally higher
- Takes all refuse

He further presented the four (4) challenges with the Collection station:

- Regulatory Requirements
- Cost Recovery
- Restriction Management
- Limited Access

Mr. Adams stated the cost to run the collection site is \$55,500 per year and last year it only brought in approximately \$14,201.

Mr. Adams presented the following options for Bulk Garbage Pick-up:

- Option #1
 - Twice per month pick up
 - The cost is \$1.03 per account, per month
 - 3 cubic yards
 - Excess garbage allowed
 - Call 48 hours ahead

- Option #2
As needed concierge service
Cost charged to only those who use service
\$50 per pickup

Councilmember Gross expressed concerns regarding liability issues.

Mr. Adams also presented the following options for the City Council to consider:

- Move toward curbside bulk pick-up with a corresponding closure of Collection Station
- Move toward curbside bulk pick-up keeping Collection Station open for brush only
- Continue Collection Station operations with objective for full cost recovery (with necessary fee adjustments)
- Discontinue Collection Station operations (residents use County stations)

There was additional discussion.

A motion was made by Councilmember Gross, seconded by Councilmember McCain to Discontinue Collection Station operations (residents use County stations).

The motion carried by the following vote: Ayes: Councilmembers: McCain, Clay, Gross and Smith, Nays: Mayor Montgomery, Abstain: None.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY, REGARDING APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING AND PROFESSIONAL SERVICES ASSOCIATED WITH THE EVALUATION AND DESIGN OF AN INTERIM HIGH PRESSURE PLANE BOOSTER PUMP STATION WITH GARVER USA, FOR AN AMOUNT NOT TO EXCEED \$69,499, AND COUNCIL DIRECTION OF THE INTERIM CITY MANAGER TO EXECUTE SAME ON BEHALF OF THE CITY

Mr. Adams provided background information regarding low water pressure in North East Athens. He stated during the December 4, 2017 City Council meeting results of the water model were presented and on December 5, 2017 a TCEQ Compliance Investigator responding to a low water system pressure complaint observed pressure of approximately 12 psi at a location on Sand Springs Road. The Investigator then advised the City that the observation would result in a Notice of Violation (NOV) and instructed the City to issue a Boil Water Notice for affected connections.

City staff explored the option of serving the low pressure area by utilizing a connection with the Bethel Ash WSC, however, that option was abandoned as inadequate capacity of the Bethel Ash system became known. Garver USA, benefitting from previous work and familiarity with the water system modeling, was asked to provide an Opinion of Probable Construction Cost (OPCC) for an interim solution to resolve the TCEQ violation. Garver submitted a rough estimate of \$400,000 for the construction of a booster station and associated pipeline modifications with the caveat that the estimate will be refined as the design evolves.

Mr. Adams presented a breakdown of the agreement with Garver USA.

After discussion a motion was made by Councilmember Gross, seconded by Councilmember Smith approving a Professional Services Agreement for engineering and professional services associated with the evaluation and design of an Interim High Pressure Plane Booster Pump Station with Garver USA, for an amount not to exceed \$69,499, and Council direction of the Interim City Manager to execute same on behalf of the City. The motion carried unanimously.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY, CONCERNING THE DECLARATION OF A PUBLIC HEALTH EXCEPTION FROM THE STATE PURCHASING LAWS (TEXAS LOCAL GOVERNMENT CODE CHAPTER 252) RELATING TO THE CONSTRUCTION OF AN INLINE HYDRAULIC BOOSTER STATION AND AUTHORIZE STAFF TO DIRECTLY SELECT THE CONSTRUCTION SERVICES PROVIDER FOR SUCH PROJECT

Mr. Adams explained that state law regulating municipal procurement procedures allow a local government to make an exception to the requirement to competitively bid projects in cases where the procurement is “necessary to preserve or protect the public health or safety of the municipality’s residents” (LGC 252.022). He stated this item is for the City Council to acknowledge and declare that the low pressure in the northeast portion of town and the associated boil water notice has the potential to adversely affect public health. Additionally, expedient procurement of an inline booster pump station outside of a competitive bid process will preserve or protect the same public health.

Mayor Montgomery strongly expressed his concern with Staff’s ability to select a contractor.

After discussion, a motion was made by Councilmember McCain, seconded by Councilmember Gross to the declare a public health exception from the state purchasing laws (Texas Local Government Code Chapter 252) relating to the construction of an inline hydraulic booster station and authorize staff to directly select the construction services provider for such project. The motion carried unanimously.

EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE, SECTION 551.074 (PERSONNEL MATTERS; CLOSED MEETING) DELIBERATIONS REGARDING FUTURE DUTIES AND EMPLOYMENT OF THE PROSPECTIVE CITY MANAGER

The City Council adjourned to Executive Session at 9:22 p.m.

The City Council returned to Regular Session at 9:50 p.m.

CONSIDER AND TAKE ACTION, AS NECESSARY, RESULTING FROM DELIBERATIONS IN EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE, SECTION 551.074 (PERSONNEL MATTERS; CLOSED MEETING) DELIBERATIONS REGARDING FUTURE DUTIES AND EMPLOYMENT OF THE PROSPECTIVE CITY MANAGER

A motion was made by Councilmember Gross, seconded by Councilmember McCain to extend an offer of employment to Elizabeth Borstad. The motion carried unanimously.

MAYOR AND CITY COUNCIL’S REQUEST FOR FUTURE AGENDA ITEMS

Councilmember McCain requested future agenda items for the following:

- “Mother in Law” Suites
- Consistency of Plan Development Standards
- Pursue the “Citizens Academy”

Councilmember Gross requested a future agenda item for the following:

- Selecting a funding opportunity for the Cain Center Project for cost containment

Mayor Montgomery requested future agenda items for the following:

- Tom Pothoff disannexation
- Disannexing strips of property around Lake Athens

ADJOURN

The meeting was adjourned at 9:58 p.m.

PASSED AND APPROVED THIS THE 22nd DAY OF JANUARY, 2018.

Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary