

REGULAR SESSION

SEPTEMBER 11, 2017

The City Council of the City of Athens met in Regular Session on Monday, September 11, 2017, 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
Tres Winn, Mayor Pro-Tem
Ed McCain
Joe Whatley
Toni Clay

Gary Whittle, Interim City Manager
Bonnie Hambrick, City Secretary
Blake Armstrong, City Attorney

others present: Representative Lance Gooden, Thanasis Kombos, Ryan Adams, Barbara Holly, Marty Coursey, John McQueary, Buddy Hill, Jennifer Robertson, Stan Taylor, Will Traxson, Michael Hannigan, Rich Flowers, Lacey Lowry, Bob and Carol Morton, Wayne Weeks, Steve Barksdale, Jane Nettune, Lisa Montgomery, James and Carolyn Ray, Mark Carroll, Tom Potthoff, Deborah Deas, 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.

PROCLAMATION – UNCLE FLETCH HAMBURGER DAY

Mayor Montgomery read aloud a Proclamation for Uncle Fletch Hamburger Day.

CONSENT AGENDA

- a) CONSIDER APPROVING THE MINUTES OF THE AUGUST 24, 2017 SPECIAL SESSION
- b) CONSIDER APPROVING THE MINUTES OF THE AUGUST 28, 2017 REGULAR SESSION
- c) CONSIDER APPROVING THE MINUTES OF THE AUGUST 30, 2017 WORKSHOP SESSION
- d) JULY 2017 FINANCIALS
- e) CONSIDER AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH TXDOT FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY FOR THE UNCLE FLETCHER DAVIS HAMBURGER FESTIVAL ON SEPTEMBER 23, 2017, AS REQUESTED BY UNCLE FLETCH, LLC.

A motion was made by Councilwoman Clay, seconded by Councilmember Whatley to approve the Consent Agenda. The motion carried unanimously.

CITIZENS COMMUNICATIONS

Mark Carroll expressed concern with permitting authority within the 448 at Lake Athens.

Tom Potthoff thanked the City Council for considering his request for disannexation. Mr. Potthoff also thanked John McQueary, Fire Chief, for assessing how long it would take to get a fire truck to his property.

Mayor Montgomery recognized Representative Lance Gooden for being in attendance.

DISCUSSION AND CONSIDERATION OF ALL MATTERS RELATED TO SELECTION OF GALLAGHER CONSTRUCTION COMPANY, LP FOR CONSTRUCTION MANAGEMENT SERVICES (CONSTRUCTION MANAGER AS ADVISOR) FOR THE CAIN CENTER PROJECT AND AUTHORIZE THE INTERIM CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT

Gary Whittle, Interim City Manager, explained the item is to select Gallagher Construction as the Construction Manager as Advisor for the Cain Center Project.

Steve Risser, with Gallagher Construction services provided background information and the history of Gallagher Construction Services. He explained the Construction Manager as Agent/Advisor method of construction delivery. He explained that Gallagher works specifically as the owner's representative. He further explained this form of construction delivery is considered a professional service. He stated bids are received, evaluated, safety background checks are performed, and then bids are ranked; followed by a recommendation to the Council.

Councilwoman Clay asked what makes the Construction Manager as Agent/Advisor method of construction delivery more transparent, with Mr. Risser explaining with the Bid-Tab process all public bids are received, evaluated and ranked. He stated everyone sees all bids and this is the transparency.

Mr. Risser provided an anticipated schedule for the Cain Center Project.

Mr. Whittle stated this is an opportunity to save dollars for the citizens and expedite the project as Gallagher is already in Athens. Mr. Whittle recommended a Council committee, along with Staff, work with the architect on the Cain Center Project.

Mayor Montgomery stated the contract should be comparatively bid. He stated he personally felt it should have been done old-school, with setting a budget and sending it out for a Request for Qualifications (RFQ).

After discussion a motion was made by Councilmember Whatley, seconded by Councilwoman Clay, to approve all matters related to selection of Gallagher Construction Company, LP for construction management services (Construction Manager as Advisor) for the Cain Center project and authorize the Interim City Manager to negotiate a professional services agreement.

The motion carried by the following vote: Ayes: Councilmembers Winn, Whatley, McCain and Councilwoman Clay, Nay: Mayor Montgomery, Abstained: None.

DISCUSSION AND CONSIDERATION OF ALL MATTERS RELATED TO THE FINAL READING OF AN ORDINANCE ADOPTING THE PROPOSED TAX RATE INCREASE FOR FISCAL YEAR 2018

Mayor Montgomery stated he has received calls regarding the Tax Rate. He further stated the Tax Rate has not changed. Marty Coursey, Finance Director, explained the city expects to have an increase in the amount of revenue collected through property tax this year. She stated the revenue is due to an increased appraised value of property. Ms. Coursey stated the Tax Rate remains the same as Fiscal Year 2017.

Bonnie Hambrick, City Secretary, read the Ordinance aloud.

On the following motion by Councilmember Winn; seconded by Councilmember McCain **I move that the property tax rate be increased by the adoption of a tax rate of .580501, which is effectively a 3.05% increase in the tax rate and to approve the final reading of an ordinance adopting a Maintenance and Operations Tax Rate of \$0.580501.**

Mayor Monte Montgomery Aye
Councilwoman Toni Clay Aye
Councilmember Ed McCain Aye
Councilmember Joe Whatley Aye
Councilmember Tres Winn Aye
5 voted in favor of the motion and
0 voted against the motion.
Motion carried 5-0.

On the following motion by Councilmember Whatley; seconded by Councilmember McCain **I move that the interest and sinking tax rate be increased by the adoption of a tax rate of .104720, which is effectively a .0622% increase in the tax rate to approve the final reading of an ordinance adopting an Interest and Sinking Tax Rate of \$0.104720.**

Mayor Monte Montgomery Aye
Councilwoman Toni Clay Aye
Councilmember Ed McCain Aye
Councilmember Joe Whatley Aye
Councilmember Tres Winn Aye
5 voted in favor of the motion and
0 voted against the motion.
Motion carried 5-0.

DISCUSSION AND CONSIDERATION OF ALL MATTERS RELATED TO A
RESOLUTION RATIFYING A PROPERTY TAX REVENUE INCREASE FOR
FISCAL YEAR 2018 BUDGET

Ms. Coursey explained the budget was approved on August 28, 2017. She stated this Resolution amends the first page of the budget recording how each Councilmember voted on the tax rate.

On the following motion by Councilwoman Clay; seconded by Councilmember Whatley **to approve a Resolution RATIFYING A PROPERTY TAX INCREASE FOR THE FISCAL YEAR 2018 FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT FOR THE CITY OF ATHENS; AND PROVIDING FOR A PUBLICATION CLAUSE, SERVERABILITY CLAUSE, AND REPEALING CLAUSE.**

Mayor Monte Montgomery Aye
Councilwoman Toni Clay Aye
Councilmember Ed McCain Aye
Councilmember Joe Whatley Aye
Councilmember Tres Winn Aye
5 voted in favor of the motion and
0 voted against the motion.
Motion carried 5-0.

HEAR UPDATE FROM STAFF REGARDING THE IMPACT OF
DISANNEXING PROPERTY WITHIN THE CITY LIMITS

Barbara Holly, Managing Director of Development Services, presented potential impact of disannexation. She stated approximately 106.5 acres could be disannexed. Ms. Holly further stated if the city disannexes property, per Chapter 43 of the Local Government Code, the owner is due a refund of the tax dollars he has spent while the property was in the city limits.

There was much discussion and deliberation.

Ms. Holly stated from a professional planning perspective staff's recommendation is to not disannex property due to the restricted growth boundary.

Mayor Montgomery asked the financial impact for the city with regards to staff manpower and fees regarding disannexing property one at a time. Ms. Holly stated the workload is manageable.

There was further discussion.

DISCUSS FIRST READING OF AN ORDINANCE DISANNEXING
PROPERTY WITHIN THE CITY LIMITS (31.374 ACRES), AS REQUESTED
BY TOM POTTHOFF

a) TRACT 4A, ABSTRACT 135 D CHERRY SUR

Ms. Holly explained that on August 14, 2017 the City Council voted to initiate a disannexing Ordinance as requested by Mr. Tom Potthoff. She stated staff has prepared an Ordinance to reflect the change. She stated this is the first reading of the Ordinance disannexing property and set the second reading for September 25, 2017.

Councilmember Whatley, stated "I have never been a proponent of disannexing anything here in Athens". He stated the city does not benefit. Councilwoman Clay said she also opposes disannexing property. She further stated it is not about tax revenue right now. She stated the Council's job is to have a vision for the future. She stated at some point the entire lake could be developed. She stated 40-60 years from now the Council would have made the wrong decision by disannexation especially since it will be difficult to annex.

Mayor Montgomery stated that Mr. Potthoff's property is a unique situation.

Ms. Hambrick read the Ordinance aloud.

DISCUSSION AND CONSIDERATION TO BRING FORTH AN ORDINANCE
RELATED TO A CITIZEN'S REQUEST FOR DISANNEXATION OF
PROPERTY WITHIN THE CITY LIMITS (0.260 ACRES), AS REQUESTED BY
JAMES AND CAROLYN RAY – MAYOR MONTGOMERY

a) F.M. TRIMBLE, A-766

Ms. Holly explained that on August 28, 2017 Council directed staff to analyze the impact of disannexation in terms of workload and economic impact. She stated the land is currently appraised at \$3,600 with an annual City of Athens estimated tax liability of \$24.67. She stated if the land is combined in one legal description, only one tax bill will be received by the party with all taxing jurisdictions included on that bill. Ms. Holly stated staff's recommendation is to maintain the current city limit boundaries.

Councilmember Whatley stated he opposes disannexing.

Mr. Stan Taylor stated the Rays want to replat the property and build a house with a porch.

Mayor Montgomery stated his original thought is no disannexing, however Mr. Potthoff's request was different.

Mr. Taylor thanked the City Council for their consideration.

Mr. James Ray stated it is a sliver of property and then trees. He stated he wanted to square off the porch and house.

Councilmember McCain stated he has no issue with cleaning up inaccurate surveys, with Ms. Holly stating it appears that the surveys are accurate.

Councilmember Winn stated it is no different than disannexing the 31 acres.

Mayor Montgomery stated he is on record stating Mr. Potthoff's situation is unique and he would not be in favor of disannexing any other property around the lake.

A motion was made Councilmember McCain, seconded by Councilmember Winn authorizing staff to bring forth an Ordinance related to a Citizen's request for disannexation of property within the city limits (0.260 acres), as requested by James And Carolyn Ray F.M. Trimble, A-766
The motion failed by the following vote: Ayes: Councilmember McCain, Councilmember Winn,
Nays: Mayor Montgomery, Councilwoman Clay, Councilmember Whatley, and Abstain: None

DISCUSS FIRST READING OF AN ORDINANCE AMENDING ORDINANCE
O-26-08 ASSIGNMENT PAY, SECTION THREE (3) IN THE POLICE
DEPARTMENT

Jennifer Robertson, Director of Human Resources, explained the Ordinance will amend Ordinance O-26-08 to reflect the increase in Assignment Pay in the Police Department. She further stated the increase was approved during the budget process for Fiscal Year 2018.

Ms. Hambrick read the Ordinance aloud.

HEAR UPDATE FROM STAFF REGARDING 2017 TEXAS LEGISLATIVE
SESSION

Ryan Adams, Managing Director of Public Services, provided a brief recap of the Legislation Session. He thanked Representative Gooden for the work he did during the session.

He stated some of the biggest issues were municipal issues. He identified the following issues:

- Sanctuary Cities
- "Bathroom Bill"
- Property Taxes
- Annexation, etc.

Mr. Adams provided summary of the following Legislative Changes:

- Taxation
- Elections and Open Government
- Finance and Administration
- Development
- Public Safety
- Transportation
- Utilities

Mayor Montgomery introduced Representative Lance Gooden.

Representative Gooden shared his thoughts regarding annexation. He stated he feels voters expressed a desire to have more control over annexation and as Henderson County's Representative in the State Legislature he worked to amend the annexation Senate Bill 6 to include Henderson County. He explained the bill only applies to a city within a county that has population over 500,000 and any county with a Texas Freshwater Fisheries Center that is operated by Texas Parks and Wildlife, which includes Henderson County.

Representative Gooden further stated that some people prefer to live outside the city limits and they should have a say in any annexation process that might affect them.

Mayor Montgomery thanked Representative Gooden.

There was additional discussion regarding annexation.

Councilmember McCain stated the city should look at Loop 7 and Airport for possible annexation.

Representative Gooden stated he would like to visit with Council and Staff the December prior to the next Legislative Session.

Councilwoman Clay stated that Representative Gooden is very accessible.

Councilmember McCain stated Representative Gooden is very effective.

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

- Councilmember McCain stated the Hamburger Festival is September 23, 2017
- Mayor Montgomery stated he read two (2) Proclamations for National Assisted Living Week
- Mr. Whittle stated the Early Warning System is installed
- Mr. Whittle reminded Council the Annual Texas Municipal League Conference will be held in Houston
- Mr. Whittle stated it is time for the third year review of the Athens Municipal Water Authority contract
- Councilmember McCain stated Athens Independent School District has officially opened Bruce Field. He stated this sets the bar on what the city should do with the Cain Center
- Councilwoman Clay stated all dollars are not going towards Bruce Field. She stated there is a new Career and Technology Education Building, new science labs, and a new library

MAYOR AND CITY COUNCIL'S REQUEST FOR FUTURE AGENDA ITEMS

- Mayor Montgomery requested an agenda item for the third year review of Athens Municipal Water Authority contract

ADJOURN

The meeting adjourned at 8:38 p.m.

PASSED AND APPROVED THIS THE 25th DAY OF SEPTEMBER 2017.

Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary