

REGULAR SESSION

JULY 24, 2017

The City Council of the City of Athens met in Regular Session on Monday, July 24, 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

Philip Rodriguez, City Manager
Bonnie Hambrick, City Secretary
Blake Armstrong, City Attorney

others present: Ryan Adams, Thanasis Kombos, Barbara Holly, Gary Whittle, John McQueary, Buddy Hill, Jennifer Robertson, Marty Coursey, Adrianna Hinds, Annette Redfern, Tara Rigsby, Steve Barksdale, Will Traxson, Lacey & John Lowry, Rich Flowers, Tom & Lynn Leathem, Mary Waddell, Deborah Deas, Corporal Roger Keith, Officer Jonathan Hutchison, Jane Nettune, Aaron Smith, Patricia Gatlin, Lisa Montgomery, Steve Grant, Marion Klutts, Bob & Carol Morton, Billy Casey, Michael Hannigan, Lisa Echols, Blake Daniels, Denise York 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.

PRESENTATION OF LIFE SAVING AWARDS

Buddy Hill, Chief of Police, presented Life Saving Awards to Corporal Roger Keith and Officer Jonathan Hutchison for saving the life of a mobility disabled tenant who was trapped in a burning home. Chief Hill described how on June 28, 2017 the officers entered the burning structure and pulled the lady to safety. Chief Hill stated, "Had it not been for the bold, courageous and selfless action of Officer Hutchison and Corporal Keith, the resident would have surely perished". There was a round of applause from the public. John McQueary, Fire Chief, also acknowledged and thanked the officers for their bravery. There was an additional round of applause for the officers.

A RESOLUTION HONORING THE LIFE AND LEGACY OF ATHENIAN
RICHARD DWELLE

Councilwoman Clay read aloud a Resolution Honoring the Life and Legacy of Athenian Richard Dwelle.

CONSENT AGENDA

- a) CONSIDER APPROVING THE MINUTES OF THE JULY 10, 2017 REGULAR SESSION
- b) CONSIDER FINAL READING OF AN ORDINANCE AMENDING A CHARGE FOR COLLECTION OF SOLID WASTE TO BE CHARGED FOR RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CUSTOMERS
- c) JUNE 2017 FINANCIALS
- d) INVESTMENT REPORT THIRD QUARTER 2017
- e) TABLE - PUBLIC HEARING CONCERNING A REQUEST FROM TRITON ATHENS I, LLC FOR SITE PLAN APPROVAL AND SPECIFIC USE PERMIT FOR RETAIL, RESTAURANT (WITH DRIVE THROUGH), AND OFFICE DEVELOPMENT AT 1006, 1010, AND 1012 E. TYLER STREETS (LOTS 4, 81, 8B, AND 10, BLOCK 119 AND 23) (Z-06-17-001)
- f) TABLE - DISCUSS FIRST READING OF AN ORDINANCE REQUESTED FROM TRITON ATHENS I, LLC FOR SITE PLAN APPROVAL AND SPECIFIC USE PERMIT FOR RETAIL, RESTAURANT (WITH DRIVE THROUGH), AND OFFICE DEVELOPMENT AT 1006, 1010, AND 1012 E. TYLER STREETS (LOTS 4, 81, 8B, AND 10, BLOCK 119 AND 23) (Z-06-17-001)
- g) TABLE - PUBLIC HEARING CONCERNING A REQUEST FROM REGENCY MOBILE HOME PARK FOR A SPECIFIC USE PERMIT TO ALLOW FOR RV'S AT THE MOBILE HOME PARK (Z-07-17-002 SUP)
- h) TABLE - DISCUSS FIRST READING OF AN ORDINANCE REQUESTED FROM REGENCY MOBILE HOME PARK FOR A SPECIFIC USE PERMIT TO ALLOW FOR RV'S AT THE MOBILE HOME PARK (Z-07-17-002 SUP)
- i) CONSIDER A RESOLUTION IN SUPPORT OF THE TEXAN SUMMER CONCERT SERIES AS A PUBLIC PURPOSE; AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH TXDOT FOR TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY FOR THE TEXAN SUMMER CONCERT SERIES SHOW ON AUGUST 12, 2017

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

CITIZENS COMMUNICATIONS

Ms. Annette Redfern expressed the following concerns on behalf of the Garden of Athens residents:

- Speed on Wood Street
- Roaming animals
- Mosquitoes
- Drinking water
- Recent death caused by car crash on Wood Street

She also invited the City Council to a potluck lunch that the Garden of Athens residents have every month.

Philip Rodriguez, City Manager, explained to Ms. Redfern that the City Council is prohibited from speaking during Citizens Communication. Mr. Rodriguez informed Ms. Redfern that the City had recently sprayed for mosquitoes.

PUBLIC HEARING CONCERNING A REQUEST FROM THE CITY OF ATHENS, TEXAS FOR A TEXT CHANGE TO ALLOW HEAVY VEHICLES (18 WHEELERS, ETC.) IN COMMERCIAL PROPERTY WITH A SPECIFIC USE PERMIT AND BY RIGHT IN INDUSTRIAL (Z-07-17-001)

Barbara Holly, Managing Director Development Services, informed the Council that the request was received from Jerry Horn. She stated Mr. Horn would like to start a commercial vehicle sales (18 wheelers) operation on the east side of 175. She explained it is normal to sell commercial vehicles in a city. Ms. Holly stated the vehicles must be new and in operable condition and no salvage operation is allowed. Ms. Holly stated Staff had reviewed seventeen (17) peer cities and found the sale of commercial vehicles are allowed in commercial property with a Specific Use Permit and by right in Industrial in just under half of the surveyed cities. The Planning Commission voted to recommend a Specific Use Permit for both commercial and industrial zoning designations.

Mayor Montgomery asked Mr. Horn to address the City Council. Mayor Montgomery stated it will be new and used trucks, with Mr. Horn stating yes. Mayor Montgomery asked if there would be repairs or a mechanic shop, with Mr. Horn stating no.

The public hearing was closed.

DISCUSS FIRST READING OF AN ORDINANCE REQUESTED FROM THE CITY OF ATHENS, TEXAS FOR A TEXT CHANGE TO ALLOW HEAVY VEHICLES (18 WHEELERS, ETC.) IN COMMERCIAL PROPERTY WITH A SPECIFIC USE PERMIT AND BY RIGHT IN INDUSTRIAL (Z-07-17-001)

Ms. Hambrick read the Ordinance aloud.

DISCUSSION OF BUILDING PERMIT AUTHORITY AND PROVIDE GUIDANCE ON PERMITS AT OR BELOW THE 448 ELEVATION AT LAKE

Ms. Holly informed Council this item is the result of residents' concern regarding the location of a boat dock that was going in. She stated the City performed an investigation and found there was no building permit on the property. Ms. Holly stated the City Council adopted the International Residential Code in 2007 which mandates a building permit review and it "shall" apply to one and two family dwellings as well as their accessory structures.

Ms. Holly further stated Staff attended an Athens Municipal Water Authority meeting and stated staff would seek guidance from the City Council regarding the City issuing building permits at or below the 448 elevation at the Lake. She stated it appears in the past AMWA has had sole authority at least to the boat dock and AMWA would like to retain that. She stated Staff feels the City should maintain responsibility for its building safety codes in instances where the structure is able to be occupied regardless of the elevation. She stated it would be beneficial to both parties to have responsibilities explicitly set out and the renewal of the contact is an opportune time.

Blake Armstrong, City Attorney explained that no occupied structure can be built below the 448 elevation line and AMWA would continue its jurisdiction of this. If it is above the 448 elevation line, the City will have building inspections and code requirements.

Mr. Armstrong stated when it comes time to revisit the agreement with AMWA it should be explicitly stated for both sides.

Mayor Montgomery asked Bill Casey, Executive Director at Athens Municipal Water Authority (AMWA) to address the Council.

Mayor Montgomery asked Mr. Casey did he foresee any structure below the 448 other than boathouses. Mr. Casey stated only boathouses are allowed below the 448.

Mayor Montgomery stated homes within the City jurisdiction would be inspected by the City with Mr. Casey agreeing.

After much discussion it was the consensus of the City Council to assign the building permit authority to Athens Municipal Water Authority (AMWA) for boathouses below the 448 elevation line, with the City retaining responsibility for all occupiable structures.

**MANAGING DIRECTORS– REPORTS AND PROJECT UPDATES:
a) ADMINISTRATIVE SERVICES**

Ryan Adams, Managing Director of Administrative Services, provided the following updates:

1. Imhoff Tank cleaning project at the North Wastewater Treatment Plant is complete, 223,900 gallons of sludge and solids were pumped
2. First Special Session of the Legislature began on July 18, 2017
3. General status update on the Faulk Street Tank

b) DEVELOPMENT SERVICES

Barbara Holly, Managing Director of Development Services, provided the following updates:

1. The New Code Enforcement Officer issued two hundred twenty eight (228) notices of violations for the year and for the month of June one hundred eighteen (118) notices of violations
2. Total Value of Building Permit \$26.8 Million
3. AISD total permit value \$7.66 Million
4. New updates on the City's website that now has map gallery, including zoning and parcel layers

c) COMMUNITY SERVICES

Thanasis Kombos, Assistant City Manager, provided the following updates:

1. Final project for the 2017 street rehab and overlay have begun on Cream Level Rd.
2. Possible alternate street for 2017 – a portion of Ben Belt Dr.
3. Thanked Street Department Staff for all of their hard work
4. Kiwanis Park project will be starting soon
5. Will be receiving the O. D. Bagget Park project site plan next week
6. General status update on the Downtown Façade project

Mayor Montgomery asked for the status on Wood St. project. Mr. Kombos informed the Mayor that the Engineer is finalizing the contract to give to the City Manager for execution.

**DISCUSSION AND CONSIDERATION OF ALL MATTERS RELATED TO A
CITIZEN'S REQUEST FOR DEANNEXATION OF PROPERTY WITHIN THE
CITY LIMITS**

a) TRACT 4A, ABSTRACT 135 D CHERRY SUR

Mayor Montgomery, stated that the City is not in the practice of deannexing property. The Mayor allowed Tom Pothoff to present a brief presentation concerning the deannexation of the property owned by his family. Mr. Pothoff expressed that he would rather deannex so that he could develop the property.

After much discussion and deliberation, a motion was made by Councilmember Winn seconded by Councilmember Whatley to table the deannexation request of property within the city limits

a) Tract 4A, Abstract 135 D Cherry Sur to August 14, 2017 Regular Session.

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

**DISCUSSION AND CONSIDERATION OF ALL MATTERS RELATED TO
APPROVING A SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF
\$5,000 TO COMPLETE THE CLEANING OF THE NORTH IMHOFF TANK AT
THE NORTH WASTEWATER TREATMENT PLANT**

Mr. Rodriguez stated Staff is requesting the item be pulled from the agenda.

Mr. Adams informed the City Council that the cleaning of sludge from the North Imhoff Tank at the North Wastewater Treatment Plant is complete and the cost was under budget.

No action was taken

DISCUSSION AND CONSIDERATION OF ALL MATTERS RELATED TO
APPROVING A SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF
\$1,718.34 FOR EXPENSES ASSOCIATED WITH THE TEXAN THEATER
PROJECT

Mr. Kombos informed the Council the item had come before the Council about four weeks ago with the cost being approximately \$21,000. He stated through collaboration from the parties involved that Staff was able to bring two lower-cost proposals. He further stated the \$1,718 proposal is for the lines to be underground. Overhead service would not require a cost increase.

Mr. Kombos stated "We're very excited with the cost decrease".

Mayor Montgomery stated he had not received the documents he had requested on the project during the previous council meeting, and could not vote in favor of the cost increase.

Mayor Montgomery commended Mr. Kombos for getting the price down he stated, "and hats off to the Council for looking at this because it was a \$20,000 hit to the citizens, but by doing what we did it was a considerable savings for the citizens".

Councilmember McCain stated he is opposed to the supplemental appropriation because the Council had previously voted to place a hard cap on the cost of the Texan Theater Project.

After discussion, a motion was made by Councilwoman Clay, seconded by Councilmember Winn to approve a supplemental appropriation in the amount of \$1,718.34 for expenses associated with the Texan Theater Project.

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

DISCUSSION OF PARK, PRAIRIEVILLE & EAST CLINTON WATER
IMPROVEMENTS

Mayor Montgomery stated he received an inquiry from a constituent asking how the City is progressing on the Water Rate Study. He further stated that during his campaign several citizens had confronted him and stated the water was bad in that area with rust and discoloration.

Mr. Rodriguez stated that in 2015 Council directed the Staff to reroute Fiscal Year 2016 and Fiscal Year 2017 budgets to address the Texas Commission Environmental Quality (TCEQ) Compliance issues. He stated the engineering is complete.

Mayor Montgomery stated he would like to have discussion of water improvements on Park, Prairieville and East Clinton during the 2018 budget workshops.

DISCUSSION OF UTILITY DIRECTOR POSITION

Mayor Montgomery stated the City is without a Director of Utility. He stated this position is so critical he would like Council and Staff to consider outsourcing the position if needed or an interim person to fill the position, as the City's water situation is critical.

Mr. Rodriguez stated that Mr. Adams has done a tremendous job being the Administrator of Utilities in the absence of a Utility Director. He stated Mr. Adams has ensured us the City is in line with TCEQ Compliance requirements and communication.

Jennifer Robertson, Human Resources Director, stated the position was posted as a Utilities Manager position. She stated at the Manager's level the City did not receive any qualified candidates for the position. She stated the search to fill this position is very difficult due to competition from surrounding areas who offer higher pay per year.

Mr. Rodriguez stated Staff has discussed reposting the position in late August or early September in hopes of finding candidates that wish to make a career move.

Mayor Montgomery asked that Staff make this position a priority.

EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE,
SECTION 551.074 (PERSONNEL MATTERS; CLOSED MEETING) TO
ACCEPT THE RESIGNATION OF CITY MANAGER PHILIP RODRIGUEZ

The City Council adjourned to Executive session at 7:07 P.M.

The City Council returned to Regular Session at 8:16 P.M.

Mayor Montgomery announced that Councilmember Whatley had to leave due to an emergency.

CONSIDER ACTION RESULTING FROM DELIBERATIONS IN
EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE,
SECTION 551.074 (PERSONNEL MATTERS; CLOSED MEETING) TO
ACCEPT THE RESIGNATION OF CITY MANAGER PHILIP RODRIGUEZ

A motion was made by Councilmember McCain, seconded by Councilmember Winn to accept the resignation of Philip Rodriguez effective September 10, 2017 with his last day of responsibility being August 8, 2017 at 5:00 p.m. The motion carried unanimously.

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

- Mr. Rodriguez stated he appreciated the opportunity to serve in Athens; he further stated he is a big believer in the future of Athens. Mr. Rodriguez thanked the City Staff for their incredible team work. He stated it has been an honor to serve here.
- Mayor Montgomery thanked Mr. Rodriguez for his service and wished him well.
- Mr. Rodriguez informed the public of Texan Concert Series event on August 12, 2017
- Mayor Montgomery stated he presented a Proclamation for Ms. Ruby Stogner who celebrated her 100th birthday on July 20, 2017.

MAYOR AND CITY COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

There were no request for future agenda items.

ADJOURN

The meeting was adjourned.
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PASSED AND APPROVED THIS THE 14th DAY OF AUGUST, 2017.

Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary