

SPECIAL SESSION

JULY 23, 2014

The City Council of the City of Athens met in Regular Session on Wednesday, July 23, 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
Charles Elliott
Joe Whatley

Pam Burton, City Administrator
Pam Watson, City Secretary

others present: Glen Herriage, Gary Crecelius, Buddy Hill, John McQueary, David Hopkins, Haven Cox, Sherri Skeeters, Kelly Morgan, Lowayne Scarbrough, Mary Waddell, Elizabeth Kellow, Charles Spann, Rich Flowers, Michael Hannigan 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.

DIRECTOR OF PLANNING & DEVELOPMENT'S REPORT

A) STATUS REPORT ON CURRENT & PROPOSED PROJECTS

Gary Crecelius, Director of Planning & Development, reported on the following projects:

- 1) Seafood restaurant at Pinkerton St. & W. Larkin St. is progressing
- 2) MUD Technologies, Hwy. 31 W., foundation work underway
- 3) Three (3) houses permitted
- 4) Liberty Tax Office, expansion underway
- 5) Cotton Patch Café, oil & fuel tanks uncovered on property, working with TCEQ to mediate, creating a possible 6 week delay
- 6) TDJC Office, 1645 Enterprise St., progressing
- 7) Cowboy Church, plumbing roughed in
- 8) Various pools, porches, and miscellaneous permits issued

FINANCIAL REPORT

David Hopkins, Director of Finance

- 1) Presented the May financials.
- 2) Electricity Contract has been signed with Reliant Energy at the rate of .047567 per kwh, creating an estimated \$122,000 in savings for the upcoming budget year.

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 THE CITY ADMINISTRATOR

Mayor Vaught explained that Pam Burton's contract was discussed in Executive Session last week, with legal opinions being provided by City Attorney Conor Bateman and Texas Municipal League that the contract is legal and sound. He expressed his feelings that the Council should honor the contract and approve the budget adjustment.

Councilmember Whatley questioned the amount of money that would be paid out, with Mayor Vaught stating that it would be approximately \$239,000.

The Council discussed whether the payment should be made at Ms. Burton's rate of pay when the time was earned or at her current rate of pay, with Mayor Vaught explaining that contract does not specify the rate and feels they are delaying the inevitable. Councilmember Montgomery explained that the contract states to pay at the time of retirement and does not state to go back in the rate of pay. Councilmember Whatley expressed his feelings that since the contract does not state the rate, it should be based upon her rate of pay at the time it was earned, recommending that a legal opinion be obtained to determine the procedure for determining the rate of pay. He expressed his feelings that the amount being paid to Ms. Burton is a big point of contention.

Councilmember Winn expressed his feelings that the Council must do the right thing, whether it is the most popular decision or not, and that the Council must go by the City Attorney's opinion. Councilmember Elliott questioned as to what the right thing would be, mentioning other attorney opinions he had received.

A motion was made by Councilmember Winn, seconded by Councilmember Whatley to table the item until legal advice is received from City Attorney Bateman as to what point and time the payment is based on. After discussion, the motion carried by the following vote: Ayes: Councilmember Winn, Councilmember Whatley, Councilmember Elliott. Nays: Councilmember Montgomery, Mayor Vaught.

DISCUSS/CONSIDER AUTHORIZING BUDGET ADJUSTMENT FROM PRIOR YEAR RESERVES TO FUND PAYMENT TO PAM WATSON, CITY SECRETARY UPON RETIREMENT; PAYMENT OF 720 HOURS OF ACCRUED UNUSED SICK LEAVE AND ANY UNUSED VACATION TIME, AS AUTHORIZED BY THE CITY COUNCIL ON MAY 7, 2014 AND AUTHORIZING THE DIRECTOR OF FINANCE TO MAKE PAYMENT ON THE FINAL DAY OF EMPLOYMENT OF THE CITY SECRETARY

Mayor Vaught explained that prior City Council voted unanimously to provide this payment to Pam Watson as a type of severance package upon her retirement. He expressed his feelings that this action should be honored and the budget adjustment should be approved.

Councilmember Whatley expressed his feelings that this is fair, however, he discussed the issue of whether it should be paid at the rate of pay it was earned or at today's rate, with Councilmember Winn explaining that if she takes a sick day it is paid at the current rate.

Councilmember Elliott asked if this would be done for all City employees in the future, with Mayor Vaught explaining that Ms. Watson is also Assistant City Manager and upon appointment she did not receive any type of contract which should have possibly been provided by the Council, therefore, this was considered as a type of severance package due to her serving as Assistant City Manager and having no contract.

Councilmember Elliott stated that he had no problem with the money, however, he had a problem with the manner it is being done. He expressed his feelings that Ms. Watson should be paid for being Assistant City Manager and this should not be paid as a severance package, stating that he does not want to set a precedence for every employee.

After discussion, a motion was made by Councilmember Elliott, seconded by Councilmember Whatley to authorize a budget adjustment from prior year reserves to fund payment to Pam Watson, City Secretary upon retirement, for performing as Assistant City Administrator and not as a severance package; payment of 720 hours of accrued unused sick leave and any unused vacation time and authorize the Director of Finance to make payment on the final day of employment of the City Secretary. The motion carried by the following vote: Ayes: Councilmember Elliott, Councilmember Whatley, Councilmember Montgomery and Mayor Vaught. Nays: Councilmember Winn.

DISCUSS ITEMS FOR FUTURE AGENDAS;

- A) DISCUSS 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, informed the Council 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 is appealing the denial and a public hearing concerning the appeal will be held on Monday, 7/28/14.

- B) DISCUSS 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**

Michael Hannigan explained that they are requesting to close portions of N. Prairieville St. and Tyler St. on 9/20/14 for the Uncle Fletch Hamburger Festival. Ms. Burton explained that after Council approval, the request will be provided to Texas Department of Transportation for their approval. The item will appear on the agenda Monday.

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

This item will appear on the agenda Monday.

- D) DISCUSS 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 replat on 7/15/14. The item will appear on the agenda Monday.

- E) DISCUSS AUTHORIZING SOLUTIENT GEOSCIENCES, INC. TO PERFORM ANNUAL SOIL-SLUDGE MONITORING REQUIREMENTS AND ANNUAL SLUDGE SUMMARY REPORT**

Glen Herriage, Director of Utilities, informed the Council that this item was previously paid by Athens Municipal Water Authority (A.M.W.A.), with the sludge being carried to and disposed onto property owned by A.M.W.A. He explained that annual soil-sludge monitoring is required and a sludge summary report must be generated and submitted to the State annually, with Solutient GeoSciences, Inc. providing an estimated cost of \$3,802.55 to perform this service, as they have provided in the past.

Councilmember Montgomery questioned A.M.W.A. owning this property and the fact that this is not addressed in the new contract between the City of Athens and A.M.W.A. Councilmember Elliott stated that he does not think it will be a problem to get this in the contract.

The item will appear on the agenda Monday.

F) DISCUSS AUTHORIZING STAFF TO ADVERTISE FOR REMOVAL AND DISPOSAL OF SLUDGE FROM THE SURFACE WATER PLANT LAGOONS

Mr. Herriage explained that during the backwash operation the sludge is pumped to lagoons, and the sludge must be removed from the lagoons and disposed of annually. He explained that this item was previously paid by Athens Municipal Water Authority. The item will appear on the agenda Monday.

G) DISCUSS AUTHORIZING THE MOWING AND PLOWING OF SLUDGE SITE

Mr. Herriage explained that the sludge site must be cut three (3) times 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 Athens Municipal Water Authority. The item will appear on the agenda Monday.

H) DISCUSS 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

Mr. Crecelius informed the Council that the City has received notification from the Federal Aircraft Aviation (FAA) indicating that there are possibly 14 groups of trees located off of Runway 35 that penetrate the IAP Visual 20:1 visual surface for Runway 35. He explained that the penetration must be mitigated by either lighting the trees, topping the trees, or removing the trees.

Mr. Crecelius informed the Council that on 7/10/14, the Airport Advisory Board voted to recommend that the City acquire the services of a licensed professional surveyor for the purpose of locating, identifying, marking and determining the height of the trees reported and to take measures to mitigate the trees found to be penetrating the IAP Visual 20:1 visual surface for Runway 35. Mr. Crecelius explained that letters have already been sent to eleven (11) property owners requesting authorization to allow a surveyor to come onto their property for this purpose, asking the Council for direction with the acquisition of these services.

After discussion, Councilmember Montgomery expressed his feelings that the bid process will be the best procedure for handling the acquisition of these services. The item will appear on the agenda Monday.

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

Mr. Herriage explained that one (1) ½-ton pickup for the Wastewater Treatment Department is included in the current budget for replacement of a 2004 Ford F-150 with 150,000 miles, and staff is requesting authorization to advertise for bids. The item will appear on the agenda Monday.

DISCUSS ITEMS FOR FUTURE CONSENT AGENDA;

A) DISCUSS APPROVING MINUTES OF THE JULY 14, 2014 REGULAR SESSION

This item will appear on the Consent Agenda on Monday.

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

1. Charles Spann, 702 Mulberry, Athens

Expressed desire for Council to follow consistent pattern for interpreting all contracts and records to reflect what and why decision was made.

2. James Robertson, 4030 Hwy. 31 East, Athens
Expressed support of the rezoning of 726 Underwood, as appealed by Jeffery Enoch.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 28TH DAY OF JULY, 2014.

Jerry D. Vaught, Mayor

ATTEST:

Pam Watson, City Secretary