

REGULAR SESSION

MARCH 11, 2019

The City Council of the City of Athens met in a Regular Session on Monday, March 11, 2019, 5:30 p.m. in the Council Chambers of the City Hall Annex, 501 N. Pinkerton St, with the following members present, to-wit:

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

Elizabeth Borstad, City Manager  
Bonnie Hambrick, City Secretary

others present: Buddy Hill, Thanasis Kombos, Russ Marshall, Jennifer Robertson, Audrey Sloan, Randy Williams, Mandie Quigg, Pam Burton, Lisa Denton, Rich Flowers, Deborah Deas, Chet Patel, Denise York, Michael Hannigan, Sue Brannon, Michelle Korenek, Anne Perryman, Jack Bailey, Mark Carroll, Dr. Steve Woodruff, Marisa George, Gene Keenon, Gary Penn, Mary Bess, Kristen Brown, Scott Hendrix, Janette Absher, Jamie Henry, Matthew Akin, Jesse Smith, Anete Akin, Magnolia Akin, Charlene Holcomb, Rick Brown, C.W. Bess, and other interested citizens;

with the following member absent: Toni Clay

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

INVOCATION

The Invocation was given by Councilmember Smith.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

PROCLAMATION - ATHENS THRIFT STORE

Mayor Montgomery read a proclamation proclaiming March 11<sup>th</sup> through March 15<sup>th</sup> as “Athens Thrift Store Week”. Staff members and volunteers from Athens Thrift Store were present for the reading of the Proclamation.

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

Mayor Montgomery announced the following events:

- Joint Open for House Oh Baby, 4D Ultrasound, Elite Therapeutic Massage, Shelli Nicole Photography, and Caring Companions at Home Tuesday, March 12<sup>th</sup> 4:00pm - 5:30pm Ribbon Cutting at 4:30pm
- Monthly Chamber Luncheon Wednesday, March 13<sup>th</sup> 11:30am, Athens Country Club
- Just Us Guys (J.U.G.S.) Barbecue Sale March 15<sup>th</sup>

- City of Athens received a letter of compliance from Texas Commission on Environmental Quality, (TCEQ) regarding the violation of low water pressure east of town. Mayor Montgomery thanked Randy Williams, Elizabeth Borstad, and staff for their hard work. Mayor Montgomery read the following: The Texas Commission on Environmental Quality Tyler Region Office, has received the compliance documentation that you submitted for the alleged violations noted during the complaint investigation of the above-reference facility conducted on December 5<sup>th</sup>. The compliance documentation was sufficient to resolve three (3) alleged violations.

Mayor Montgomery stated he wanted to say something about Bob Gould. He stated that Mr. Gould was a longtime Councilmember and a pillar in the community. He stated that he asked former City Manager, Pam Burton, to share information regarding Mr. Gould. Ms. Burton stated she worked with Mr. Gould for over thirty years. She stated he was a very dedicated City Councilmember with a sense of humor. She also stated every time you think of Bob Gould it always comes back to; "I love Athens, I love my family, and I love my friends".

Ms. Burton read a proclamation honoring the late Bob Gould. There was a round of applause.

#### CITIZENS COMMUNICATIONS

There was no discussion.

#### CONSENT AGENDA

- a) CONSIDER APPROVING THE MINUTES OF THE FEBRUARY 25, 2019 REGULAR SESSION
- b) CONSIDER FINAL READING OF AN ORDINANCE AMENDING TOTAL APPROPRIATIONS BUDGET FOR FISCAL YEAR ENDING SEPTEMBER 30, 2019 FOR ALLOCATION OF GENERAL FUND \$38,322.00, EQUIPMENT REPLACEMENT FUND \$62,645.00, HOTEL OCCUPANCY TAX FUND \$18,596.76, AND UTILITY FUND \$56,817.53

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

Mayor Montgomery stated the City Council would move to agenda item sixteen (16): [Discuss consider and take, action, as necessary, directing the City Manager on the future use of the property located at 405 Lindsey Lane.]

#### DISCUSS CONSIDER AND TAKE, ACTION, AS NECESSARY, DIRECTING THE CITY MANAGER ON THE FUTURE USE OF THE PROPERTY LOCATED AT 405 LINDSEY LANE

Ms. Borstad explained the last direction she received from the City Council regarding the property at 405 Lindsey Lane was to have the property appraised. She stated the property was appraised this year. She stated there are 3.6 acres of property appraised at \$152,000; with a current zoning of Multi – Family -5 (MF-5). She stated she is seeking direction from the City Council on the future use of the property.

Mayor Montgomery stated prior to the City Council's deliberation, he would allow comments from the citizens.

Mark Carroll spoke in favor of selling the property and allowing someone a chance to develop it into something nice.

Ms. Hambrick read aloud a letter from Lacey Lowry. Ms. Lowry is in favor of a park or green space.

Dr. Steve Woodruff spoke in favor of a park or doing something for the children.

Anne Perryman stated the property should be used for residential use since it already has curb, gutter, and utilities.

Mayor Montgomery stated he had felt the property should stay a greenbelt for several years to have the site of the old hospital out of the neighbor's minds. He further stated "here we are, it's been two (2) or three (3) years. He stated he agrees with Dr. Woodruff that the city does need more park space.

Mayor Montgomery stated there are two developments going on that are not developing smoothly. He stated both developments have hiccups. They've been stalled and the people around them are having to put up with water, mud and issues going on. Mayor Montgomery further stated if the direction is to sale the property for development, the City Council should require a timeframe, and insurance.

Councilmember Smith stated having the availability of utilities, curb, and gutter makes the property promising for development that would return the land to the tax rolls.

Councilmember McCain and Councilmember Gross agreed that the property should be zoned for development.

There was much discussion regarding the possible zoning of the property.

After discussion a motion was made by Councilmember Smith, seconded by Councilmember Gross directing the City Manager to move forward with a zoning change from Multi-Family – 5 (MF-5) to Planned Development with Multi-Family – 2 base zoning (PD/MF-2) for the property located at 405 Lindsey Lane then sell the property for private development.

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

Mayor Montgomery stated the City Council would move to agenda item ten (10) [Public hearing concerning a request from Marisa George for approval of a zoning change from Single-Family – 10 (SF-10) to Two-Family Residential (MF-2) for Lot 7 of Block 12 of the T. Parmer Survey A-782, also known as 801 Maryland Drive.]

**PUBLIC HEARING CONCERNING A REQUEST FROM MARISA GEORGE FOR APPROVAL OF A ZONING CHANGE FROM SINGLE-FAMILY – 10 (SF-10) TO TWO-FAMILY RESIDENTIAL (MF-2) FOR LOT 7 OF BLOCK 12 OF THE T. PARMER SURVEY A-782, ALSO KNOWN AS 801 MARYLAND DRIVE**

Audrey Sloan, Director of Development Services, explained the property is a vacant lot located at the southeast corner of Maryland Drive and East Clinton Avenue. There was previously a single-family home on the property that was demolished due to substandard conditions. Ms. Sloan explained the property owner is requesting a zoning change from Single-Family -10 (SF-10) to Two-Family Residential (MF-2). Notice letters were sent to the twelve surrounding property owners within two hundred feet. Two (2) protests were returned, and during the Planning and Zoning Commission meeting two (2) property owners protested. Ms. Sloan stated the Planning and Zoning Commission voted to recommend denial of the application due to concerns that there were not any other MF-2 zoned lots in the immediate area. She explained that a three-fourths majority vote is required from Council to approve a zoning application that was recommended for denial by the Planning and Zoning Commission.

She explained the applicant did send an appeal letter outlining their reason for the request.

Marisa George explained she and her spouse own rental property in the DFW area and after research they discovered there is a large need in the city for family suitable rental properties in Athens.

Discussion occurred.

Councilmember Gross stated new construction would help the area.

Councilmember McCain stated there is a need for housing and he supports the idea of new construction.

Mayor Montgomery opened the Public Hearing.

Jack Bailey stated new construction would help the area and possibly have others looking at their own property for improvements.

Mark Carroll explained that the Planning and Zoning Commission voted to deny the request in an effort to maintain the zoning integrity of the area.

The Public Hearing was closed.

DISCUSS FIRST READING OF AN ORDINANCE CONCERNING A  
REQUEST FROM MARISA GEORGE FOR APPROVAL OF A ZONING  
CHANGE FROM SINGLE-FAMILY – 10 (SF-10) TO TWO-FAMILY  
RESIDENTIAL (MF-2) FOR LOT 7 OF BLOCK 12 OF THE T. PARMER  
SURVEY A-782, ALSO KNOWN AS 801 MARYLAND DRIVE

Ms. Hambrick read the caption of the Ordinance aloud.

UPDATE ON 2015 WATER RATE STUDY

Elizabeth Borstad, City Manager, presented information and the results of the 2015 Water Rate Study.

UPDATE ON ATHENS MUNICIPAL AIRPORT EXPANSION PLAN

Ms. Borstad stated staff has met with Texas Department of Transportation (TxDOT) twice regarding the airport expansion. She stated she has asked TxDOT what kind of match would be required from the city; should the city receive a grant for expansion at Athens Municipal Airport.

She stated she has asked how the current property that is owned would be incorporated as a match and how future land would be counted. She further stated she has sent a letter to TxDOT requesting in writing as to what type of match the city will need to plan for and how the original purchase of the property by Athens Economic Development Corporation will count toward the airport project. As well as how future land would count. She stated she has not received a response yet, however, she did receive a response that TxDOT is working on a response.

PUBLIC HEARING CONCERNING PROPOSED AMENDMENTS TO THE FOLLOWING SECTIONS OF THE ZONING ORDINANCE REGARDING ACCESSORY BUILDING REGULATIONS: 14.2(A)(2) – (6), 14.3(A)(3), 14.4(B)(3), 14.5(D), 15.3(A)(2), 15.4(B)(3), 15.5(D), 16.3(A)(2), 16.4(B)(3), 16.5(D), 17.3(A)(2), 17.4(B)(3), 17.5(D), 18.3(A)(2), 18.4(B)(3), 18.5(D), 19.3(A)(2), 19.4(B)(3), 19.5(F), 19A.5(F)(2), 19A.5(I), 20.3(A)(2), 20.4(C)(3), 20.5(E), 21.3(A)(2), 21.4(B)(3), 21.5(E), 22.3(A)(2), 23.3(A)(2), 24.3(A)(4) & (5), 25.3(A)(2), 26.3(A)(2), 27.3(C)(2), 28.3(A)(2), 29.3(2) & (3), 35, AND A-3 DEFINITIONS: ACCESSORY BUILDING (RESIDENTIAL) & ACCESSORY BUILDING (BUSINESS OR INDUSTRY). THE PURPOSE OF THE PROPOSED AMENDMENTS IS TO ELIMINATE REDUNDANCIES AND CORRECT ERRORS IN THE EXISTING ACCESSORY BUILDING REGULATIONS AND TO COMPILE ALL SUCH REGULATIONS INTO SECTION 35 OF THE ZONING ORDINANCE

Ms. Sloan explained the purpose of the proposed amendments are to eliminate redundancies and correct errors in the existing accessory building regulations and to compile all such regulations into Section 35 of the Zoning Ordinance. Ms. Sloan stated several discrepancies concerning accessory building regulations have been identified in the Zoning Ordinance. In addition, a portion of the accessory building regulations was omitted from the code entirely by error during a previous ordinance amendment. She stated this is a housekeeping item to correct any errors and to clarify regulations.

Ms. Sloan reviewed the following amendments:

Amendment to Section 14.2(A)

This amendment is proposed to remove redundant information from the code. All uses governed by the zoning ordinance, including those outlined below, are listed in the Use Regulations charts found in Section 32.

Amendment to Sections 14.3(A), 15.3(A), 16.3(A), 17.3(A), 18.3(A), 19.3(A), 20.3(A), 21.3(A), 22.3(A), 23.3(A), 25.3(A), 26.3(A), 27.3(C), 28.3(A), and 29.3(A)

These amendments are proposed to remove accessory building regulations regarding height from the Zoning Districts portion of the code and relocate these regulations to Section 35 known as “Accessory Building and Use Regulations”. The purpose is to locate all accessory building regulations to one section within the code. These height regulations have been moved to Section 35.1(A)(2).

Amendment to Sections 14.4(B), 15.4(B), 16.4(B), 17.4(B), 18.4(B), 19.4(B), 20.4(C) and 21.4(B)

These amendments are proposed to remove the overly strict rear setback requirement of 25 feet for accessory buildings. This conflicts with typical setback requirements of three feet used previously in the code. In addition, the amendment removes the separation requirement from this Zoning District section of the code, as it will be found in Section 35. See Section 35.1(A)(3)(c) for rear setback requirements and Section 35.1(A)(5) for separation requirements.

Amendment to Sections 14.5(D), 15.5(D), 16.5(D), 17.5(D), 18.5(D), 19.5(F), 20.5(E), and 21.5(E)

These amendments are proposed to clarify this specific regulation applies to attached garages and carports, rather than detached. An attached garage or carport is considered to be a part of the main structure and, therefore, would have different setback requirement than a detached structure.

Amendment to Section 19A.5(F) and (I)

The amendment to Section 19A.5(F) is proposed to remove this regulation regarding setbacks from the Zoning District section of the code, as the regulation will be located in Section 35. See Section 35.1(A)(3).

The amendment to Section 19A.5(I)(1) is proposed to remove an unnecessary regulation in the code.

The amendment to Section 19A.5(I)(2) is proposed to remove the architectural requirements for accessory buildings in the Cottage Housing District from the Zoning District section of the code to Section 35. See Section 35.1(A)(6).

Amendment to Section 24.3(A) and (E)

The amendment to 24.3(A)(4) is proposed to remove this regulation regarding setbacks from the Zoning District section of the code, as the regulation will be located in Section 35. See Section 35.1(A)(3).

The amendment to 24.3(A)(5) is proposed to remove this regulation in its entirety from the code. This regulation conflicts with the separation requirement of a minimum of 10 feet from a residential accessory building and the main building found in Section 35.1(A)(5).

The amendment to 24.3(E) is proposed to remove accessory building regulations regarding height from the Zoning Districts portion of the code and relocate these regulations to Section 35 known as “Accessory Building and Use Regulations”. See Section 35.1(A)(2).

Amendment to Section 35

This amendment repeals Section 35 – Accessory Building and Use Regulations in its entirety and replaces it with new text. The new text includes the accessory building regulations removed from the Zoning District sections of the code in amendments outlined above. It also includes regulations that were omitted in error during a previous code amendment ordinance.

Section 35 consists of two sections: Accessory Buildings and Accessory Dwelling Units. No changes to the Accessory Dwelling Unit section are proposed under this amendment.

Amendment to A-3 Definitions

This amendment is proposed to remove discrepancies and redundancies in the existing definitions, so they do not conflict with the regulations outlined in Section 35.

Ms. Sloan stated the Planning and Zoning Commission did recommend approval.

DISCUSS FIRST READING OF AN ORDINANCE CONCERNING PROPOSED AMENDMENTS TO THE FOLLOWING SECTIONS OF THE ZONING ORDINANCE REGARDING ACCESSORY BUILDING REGULATIONS: 14.2(A)(2) – (6), 14.3(A)(3), 14.4(B)(3), 14.5(D), 15.3(A)(2), 15.4(B)(3), 15.5(D), 16.3(A)(2), 16.4(B)(3), 16.5(D), 17.3(A)(2), 17.4(B)(3), 17.5(D), 18.3(A)(2), 18.4(B)(3), 18.5(D), 19.3(A)(2), 19.4(B)(3), 19.5(F), 19A.5(F)(2), 19A.5(I), 20.3(A)(2), 20.4(C)(3), 20.5(E), 21.3(A)(2), 21.4(B)(3), 21.5(E), 22.3(A)(2), 23.3(A)(2), 24.3(A)(4) & (5), 25.3(A)(2), 26.3(A)(2), 27.3(C)(2), 28.3(A)(2), 29.3(2) & (3), 35, AND A-3 DEFINITIONS: ACCESSORY BUILDING (RESIDENTIAL) & ACCESSORY BUILDING (BUSINESS OR INDUSTRY). THE PURPOSE OF THE PROPOSED AMENDMENTS IS TO ELIMINATE REDUNDANCIES AND CORRECT ERRORS IN THE EXISTING ACCESSORY BUILDING REGULATIONS AND TO COMPILE ALL SUCH REGULATIONS INTO SECTION 35 OF THE ZONING ORDINANCE \

Ms. Hambrick read the caption of the Ordinance aloud.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY,  
CONCERNING THE APPOINTMENT OF BRANDON SMITH TO THE  
PLANNING AND ZONING COMMISSION

Ms. Hambrick explained there was a vacancy on the Planning and Zoning Commission. A motion was made by Councilmember McCain, seconded by Councilmember Gross to appoint Brandon Smith to the Planning and Zoning Commission. The motion carried unanimously.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY,  
CONCERNING THE APPROVAL OF A RESOLUTION AUTHORIZING THE  
CITY MANAGER TO EXTEND THE PRESENT ELECTRICITY CONTRACT  
WITH RELIANT ENERGY FOR A PERIOD NOT TO EXCEED 120 MONTHS  
AND TAKING EFFECT JULY 2022

Thanasis Kombos, Public Works Director, introduced Jack Bailey of Texas Power Consultants.

Mr. Kombos explained City Staff was recently contacted by Texas Power Consultants regarding an opportunity to extend the City's electrical contract with Reliant Energy for a ten-year period beginning July 2022. The rate for that period is currently quoted at \$0.03254 per kilowatt hour.

Mr. Kombos further explained that Mr. Bailey spoke with Reliant Executives on Friday after the agenda was posted. He stated Reliant Executives have given approval to extend the contract 11½ years at a slightly reduced rate instead of \$0.03254 it would be \$0.032.

Mr. Bailey stated the city has a unique opportunity as the rate is as low as you can get and encouraged the City Council to consider locking it in for 138 months.

After discussion, it was the consensus of the City Council to meet in a Special Session to take advantage of the opportunity to lock in the rates for 138 months.

No action was taken on the above referenced agenda item.

EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE,  
SECTION 551.071 CONSULTATION WITH ATTORNEY; CLOSED  
MEETING; REGARDING PENDING LITIGATION: DR. VERNON JOHNSON

The City Council adjourned to Executive Session at 7:05 p.m.

The City Council returned to Regular Session at 7:19 p.m.

CONSIDER AND TAKE ACTION, AS NECESSARY, RESULTING FROM  
DELIBERATIONS IN EXECUTIVE SESSION PURSUANT TO THE TEXAS  
GOVERNMENT CODE, SECTION 551.071 CONSULTATION WITH  
ATTORNEY; CLOSED MEETING; REGARDING PENDING LITIGATION:  
DR. VERNON JOHNSON

No action was taken.

MAYOR AND CITY COUNCIL'S REQUEST FOR FUTURE AGENDA ITEMS

Ms. Hambrick read the following future agenda items:

- Design Standards
- Building Codes

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- Work Session with Athens Economic Development Corporation
- Update on Street repairs will occur on the City Council's March 25<sup>th</sup> agenda
- Special Session on 3/15/19

ADJOURN

The meeting adjourned at 7:21 p.m.

PASSED AND APPROVED THIS THE 25<sup>th</sup> DAY OF MARCH, 2019.

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Monte Montgomery, Mayor

ATTEST:

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Bonnie Hambrick, City Secretary