

REGULAR SESSION

FEBRUARY 8, 2016

The City Council of the City of Athens met in Regular Session on Monday, February 8, 2016, 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:

Jerry D. Vaught, Mayor
Monte Montgomery, Mayor Pro-Tem
Tres Winn
Joe Whatley
Charles Elliott

Philip Rodriguez, City Manager
Bonnie Hambrick, City Secretary

others present: David Hopkins, Buddy Hill, John McQueary, Gordon Mayer, Gary Whittle, Blake Wilson, Thanasis Kombos, Amy Williams, Janet Melancon, Neal Velvin, Michael Hannigan, Rich Flowers, David Cundieff, Charlie Bullock, Lance Vincent, and other interested citizens;

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

The invocation was given by Mayor Pro-Tem Montgomery.

DECLARATION OF CONFLICT OF INTEREST

There was no action.

Mayor Vaught stated that he was moving the item for citizen's comment after the Declaration of Conflict of Interest.

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

Charlie Bullock stated that he heard of the possibilities of the Texan Theater, and the possible uses of the facilities. He stated that he did some sketches and plans of the theaters in the past, and he wished to be a part of the project.

Scott Mckee stated that there are 17 (seventeen) municipalities throughout the County. He stated that he is here to help the City, and that the District Attorney's Office is available to help in any way possible.

CONSENT AGENDA

A) CONSIDER APPROVING MINUTES OF THE JANUARY 25, 2016
REGULAR SESSION

A motion was made by Councilmember Montgomery, seconded by Councilmember Whatley. The motion carried unanimously.

CONSIDER FINAL READING OF AN ORDINANCE REVISING SITE PLAN
AND REZONING OF LOT 1 BLOCK 86, ATHENS ORIGINAL TOWN FROM
AGRICULTURE (A) SPECIFIC USE PROVISION (SUP) TO AGRICULTURE
(A) SPECIFIC USE PROVISION (SUP) TO ALLOW FOR A CANOPY OVER
AN EXISTING PRIVATE SOCCER FIELD, OWNED BY PEDRO CARRILLO
(701 WEST COLLEGE)

Gordon Mayer, Interim Director of Development, stated the public hearing and first reading of the Ordinance was passed on the last Council meeting.

Councilmember Montgomery asked if the concrete foundation under the column was going to be engineered. Mr. Mayer stated that the foundation will have to be engineered to receive a permit.

Bonnie Hambrick, City Secretary, read the Ordinance aloud.

A motion was made Councilmember Elliott, seconded by Councilmember Winn to approve final reading of an Ordinance revising site plan and rezoning of Lot 1 Block 86, Athens Original Town from Agriculture (A) Specific Use Provision (SUP) to Agriculture (A) Specific Use Provision (SUP) to allow for a canopy over an existing private soccer. The motion carried unanimously.

PUBLIC HEARING AMENDING TEXT OF ZONING ORDINANCE #O-12-01
TO ADD TEMPORARY USE PERMIT

Mr. Mayer stated that this item was instigated by an individual who owned a business selling seasonal trees and landscaping materials at a temporary location. He stated that when looking through the Zoning Ordinances the City did not have a language that pertained to this use specifically.

The draft has a 90-day term for the temporary use. He further stated that Council may want to consider a 120-day term. There would be a maximum two permits per calendar years.

Also, this permit has to be compatible with the surrounding land use. If the Ordinance passes it would be granted by Staff approval of the Temporary Use Permit.

Mayor Pro-Tem Montgomery stated that it seemed like with the Market Square there was an issue selling livestock. He stated at the time that issue came up the current Council was against the sale of livestock.

Mayor Vaught stated that he thought it could have been related to health issues.

Mayor Pro-Tem Montgomery stated that is could have also been an odor issue while the market is going on.

Mr. Mayer stated that it is in the purview of Council to strike any items to be sold, including livestock. He stated to add the items that were not going to be allowable to be sold in the motion on the next item.

Councilmember Winn asked if this pertained to strictly the Market Square, with Mr. Mayer stating that this would be City wide.

Mr. Mayer stated that due to this being new, we could ease into this process and just allow a few uses with the temporary permit.

Mayor stated that in the Walmart parking lot, people are parking in their parking lot and selling animals. He asked if the Ordinance passed would those people have to get a permit to sell, with Mr. Mayer stating they would have to get a permit.

Mr. Mayer stated also that the seller would have to get permission from the land owner.

Councilmember Winn stated that he wouldn't ask those people to pay for a permit to sell their animals at Walmart.

Mayor Vaught stated that it is becoming more common, there are at least four (4) to five (5) cars at least on the weekend. He stated that we require people to get a permit for

garage sales, so why would we not want them to get a permit to sell their animals. He further stated that they could always go to First Monday to sell them. Councilmember Winn stated that First Monday is only once a month, and if puppies are six weeks old and ready to go, and he only has three (3) puppies to sell, he isn't sure he would want to come buy a twenty or thirty dollar permit to go sit at Walmart for two (2) hours to get them sold.

The public hearing was closed.

CONSIDER FIRST READING OF AN ORDINANCE AMENDING TEXT OF ZONING ORDINANCE #O-12-01 TO ADD TEMPORARY USE PERMIT

Ms. Hambrick read the Ordinance aloud.

A motion was made by Mayor Pro-Tem Montgomery, seconded by Councilmember Whatley, to approve the Ordinance amending the text of Zoning Ordinance #O-12-01 to add temporary use permit with livestock being removed and being extended to 120 days.

The motion carried by the following votes. Ayes: Mayor Vaught, Mayor Pro-Tem Montgomery, Councilmember Whatley, and Councilmember Elliott. Nays: Winn.

DISCUSS/CONSIDER CURRENT COLEMAN PARK BUDGET AND ANY RELATED ADJUSTMENTS TO THE CONSTRUCTION BUDGET

Mr. Mayer stated that the draft building was approximately 4500 square feet. The price estimate from architects was \$700,000 to \$800,000 for that building. The building was reduced to just under 1,300 square feet, with the all of the necessary essentials and functionality of the building. The value now is \$343,000 from the original budgeted price of \$315,000. We are continuing to seek out alternative construction methods to try and reduce the cost and get closer to the \$315,000 budgeted amount.

Councilmember Whatley asked what is left to demolish, with Mr. Mayer stating the existing concession stand in the middle of the four (4) fields is what needs to be demolished for the pavilion area that they wish to construct.

Councilmember Elliott asked if the price is \$275 per square feet, with Mr. Mayer stating it was. Councilmember Elliott stated that was astronomical.

Mayor Pro-Tem Montgomery asked if that price included the electrical components, with Mr. Mayer stating it included electrical, sidewalks, and demolition. He stated there is more to that price than just the structure itself. He stated it also includes the covered building around the concession stand.

Councilmember Elliott stated he has not had the opportunity to look it and he would be in favor of tabling the item until Council has a chance to review it.

Mr. Mayer stated the item was before the Council to start the conversation.

Mr. Rodriguez stated that Staff is enlisting Council's involvement because we have squeezed out every possible avenue that Staff could think of, but we need Council assistance due to the building still being over budget.

Mr. Rodriguez stated the electrical contractor is \$60,000 and paving is \$25,000. The majority is the sidewalks to be ADA compliant from the parking lot and baseball fields over to the building. He stated those items are something that will not be seen in a square footage price.

Mayor Vaught asked what the current budget was, with Mr. Mayer stating the current budget is \$315,000.

Mayor Pro-Tem Montgomery stated that he saw the original plan, and it was a wonderful plan, but it was valued at \$600,000, and Staff has done a great job to get the project where it is now.

Mayor Vaught asked if Council approved this rendition, would a budget adjustment be needed.

Mr. Rodriguez stated that we would need to make a budget adjustment, and the reason we didn't set a dollar amount is because Staff is not proposing that, we are just trying to capture this as it sits. He stated more than anything Staff wanted to bring this to Council's attention, and to let them know that Staff is not sure if there is much more that can be taken away from the cost.

Mayor Vaught stated that the pathways are lengthy from the fields to the parking lots. He stated that Council needed to allow some coverage to this.

Councilmember Winn asked if they have considered only having (1) one concession stand vs having the (2) two concession stands. He stated that while that is not his ideal it would allow the facility to become smaller and further reduce the price.

Mayor Pro-Tem Montgomery asked if the interior walls were masonry as well, with Mr. Mayer stating it was.

Mayor Vaught asked if the demolition had to be done by a contractor, or could the City demolish it, with Mr. Mayer stating that Staff could look into that possibility, but there are possibly some concerns on what Staff could actually do.

Councilmember Elliott asked if there is a possibility that they would agree to have one concession stand instead of having to build two. He stated they could share one concession stand.

Mr. Rodriguez stated that this question has been asked, but Staff has not been to this particular level yet.

Mayor Vaught asked if it was a possibility that the Teenage Baseball Association to put some more money toward this. Mr. Rodriguez stated that Staff had approached that option, but they have spent significant dollars at their cost.

Councilmember Elliott stated that at a price of \$250 per square foot is outrageous, with Mayor Pro-Tem Montgomery stating that comparison is not a fair comparison because the electrical component alone is \$60,000, and the parking lot and baseball fields or not in the square footage.

Mr. Rodriguez stated that \$125,000 is the bonds, electrical, plat work, and demolition.

Mayor Vaught asked where the budget adjustment would need to come from, with Mr. Rodriguez stating it would be his suggestion to make the adjustment from the unallocated fund balance.

Mr. Rodriguez asked Council for the go ahead to start the project, then if later Council wanted to pull items out and look at them, then they could do that.

A motion was made by Mayor Vaught, seconded by Councilmember Whatley to approve a \$20,000 budget adjustment from the unallocated fund balance spending up to \$335,000, for the current Coleman Park Project. The motion carried unanimously.

DISCUSS/CONSIDER A RESOLUTION ORDERING THE MAY 7, 2016 CITY OF ATHENS GENERAL ELECTION

DISCUTA UNA RESOLUCIÓN ORDERNAR 7 DE MAYO, 2016 LA CIUDAD DE ATHENS ELECCION GENERAL)

Ms. Hambrick stated that the Resolution will Order the May 7, 2016 City of Athens General Election for Councilmember Place 2, 3, and 4, with each term being 2 years. The date is a mandated by the State.

A motion made by Mayor Pro-Tem Montgomery, seconded by Councilmember Winn, to approve the Resolution ordering the May 7, 2016 City of Athens General Election. The motion carried unanimously.

DISCUSS/CONSIDER A RESOLUTION AUTHORIZING JOINT ELECTION AGREEMENT WITH ATHENS INDEPENDENT SCHOOL DISTRICT

Ms. Hambrick explained that the Resolution will allow a joint election with Athens Independent School District. Henderson County Election Center will do the polling on Election Day.

A motion made by Councilmember Whatley, seconded by Councilmember Winn approving the Resolution authorizing Joint Election Agreement with Athens Independent School District. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING INTERLOCAL AGREEMENT WITH HENDERSON COUNTY FOR ELECTION SERVICES AND CONDUCTING ELECTION DAY VOTING

Ms. Hambrick stated the agreement will authorize the Mayor to enter into an Interlocal Agreement with Henderson County for early voting and Election Day services on May 7, 2016, General Election the cost is \$2,538. There will be a separate fee paid to Hartford Civic for the ballots.

A motion was made by Councilmember Elliott, seconded by Councilmember Whatley, authorizing the interlocal agreement with Henderson County for election services and conducting Election Day Voting. The motion carried unanimously.

DISCUSS/CONSIDER ISSUING A REQUEST FOR QUALIFICATIONS (RFQ) – ARCHITECTURAL DESIGN SERVICES FOR THE DESIGN OF THE TEXAN THEATER

Thanasis Kombos, Community Development Manager, stated that Staff is moving ahead with the refurbishment of the Texan Theater. He stated that the community forum was a success and there was a lot of good input. Staff is seeking to issue this request for qualification for the architectural design services for the design of the Texan Theater, to make us aware of what options that we might have as Staff.

Mayor Pro-Tem Montgomery asked if this fee would be coming out of the money budgeted for this project.

Mr. Rodriguez stated that it would be, and the next step would be to find a good architect to work with Staff to come up with ideas. He stated that one thing Staff wanted is an architect that understands historic properties, and what the cultural significance is to the community.

A motion was made by Mayor Pro-Tem Montgomery, seconded by Councilmember Whatley, to approve the issuance of a Request for Qualifications – Architectural Design Services for the design of the Texan Theater. The motion carried unanimously.

DISCUSS/CONSIDER CREATING AN ADVISORY COMMITTEE FOR THE
TEXAN THEATER PROJECT, TO BE DISSOLVED AT THE COMPLETION
OF THE PROJECT

Mr. Kombos stated because of the importance of the project to the community, Staff is recommending establishing a five member committee with at least two member being Councilmembers, with the remaining three being citizens. He stated that Council was supplied with a list of individuals that were interested in various ways to help with the project.

Mayor Vaught asked how to proceed on picking the names on the list, with Mr. Kombos stating he would like for Council to pick the names from the list.

Mr. Rodriguez stated that this is not limited to just five (5) individuals on this board, it is strictly up to Council on how many individuals they would like have.

Councilmember Winn and Elliott both stated that because the Texan Theater came from the Head family, it would only be right to add Fred and Marsha Head.

Mayor Vaught suggested to Council to make the board two (2) Councilmembers and five (5) citizens.

The following names were selected to be on the board:

Fred and Marsha Head
Emily Mcgraw
Gordon Mayhall
Charles Tidmore
Charlie Bullock
Councilmember Winn
Mayor Pro-Tem Montgomery
The first alternate would be Ann Perryman.

A motion was made by Councilmember Elliott, seconded by Councilmember Whatley, creating an Advisory Committee for the Texan Theater Project, to be dissolved at the completion of the project. With the committee consisting of the following members:

Fred and Marsha Head
Emily Mcgraw
Gordon Mayhall
Charles Tidmore
Charlie Bullock
Councilmember Winn
Mayor Pro-Tem Montgomery
The first alternate would be Ann Perryman.

The motion carried unanimously.

EXECUTIVE SESSION
A) PURSUANT TO THE TEXAS GOVERNMENT CODE, SECTION 551.071
(CONSULTATION WITH ATTORNEY REGARDING CONTEMPLATED
AND PENDING LITIGATION).

- i. WOOD STREET PROJECT
- ii. PETER RUNNING, JAMIE RUNNING, AND CINDY WILKINS

Before Council went into Executive Session, Mayor Vaught stated that Velvin and Weeks had their attorney present, to join in Executive Session to discuss remedy of the Wood Street Project. He further stated to keep this transparent, he asked if Velvin and Weeks would like to present the remedy in Public Session, the Council would be happy to let them speak.

Mr. Neal Velvin stated that was not what they understood initially, with Mayor Vaught stating due to the situation that it is, and it was using tax payers' money to create the project. The citizens of Athens should be made aware of the remedy. Full transparency should be made aware in this situation.

Blake Armstrong, City Attorney, stated that he spoke with Mr. Alexander, the lawyer for Velvin and Weeks, and he had a doctor's appointment at the last minute, so he was unable to make it to the meeting. He stated that since the Mayor is the Presiding Officer of the meeting, he can ask for a public presentation.

Mayor Vaught stated that in the last nine (9) years Council has never allowed a company to come into Executive Session to discuss possible remedy. Due to the nature of this project it should be made available to the public, and if it was going to be made available in Executive Session then the public should be made aware of it as well.

Velvin and Weeks stated that it doesn't seem this would be the best solution, and they assume to wait until the next meeting while their attorney was present.

Council adjourned to executive session at 6:25 p.m.

The following Reconvened at 7:43 to open session.

**CONSIDER ACTION RESULTING FROM DELIBERATIONS IN
EXECUTIVE SESSION.**

- A) CONSULTATION WITH ATTORNEY
 - a. WOOD STREET PROJECT

No action was taken.

- B) PETER RUNNING, JAMIE RUNNING, AND CINDY WILKINS

No action was taken.

CITY MANAGER'S UPDATE

Mr. Rodriguez introduced Interim Human Resources Director, Janet Melancon. She is a Human Resource Certified Coach in her own consulting firm, but prior to that she was employed by Baylor University, the City of Waco, and the City of Burleson. He stated that she is one of the most distinguished Human Resource Director in the State of Texas.

Many citizens started calling the City today, regarding the TCEQ letter mail out, regarding the Haloaceticacid levels. The water is in compliance with TCEQ according to the independent analysis separate from what TCEQ does, but because the water sample is an average over one year, the levels still might appear to be above the TCEQ level. Even though the current levels are fine, we might have to publish a few more letters to the City public because it is an average and TCEQ mandates that we notify the public, so we as a City want to be compliant with those standards.

MAYOR AND COUNCIL UPDATE

There was no update.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 14th DAY OF MARCH, 2016.

ATTEST:

Jerry D. Vaught, Mayor

Bonnie Hambrick, City Secretary