

REGULAR SESSION

JULY 9, 2018

The City Council of the City of Athens met in Regular Session on Monday, July 9, 2018, 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
Toni Clay
Ed McCain
Robert Gross

Elizabeth Borstad, City Manager
Bonnie Hambrick, City Secretary
Blake Armstrong, City Attorney

others present: Buddy Hill, Ryan Adams, Randy Williams, Jennifer Robertson, Mandie Quigg, Brandon Blue, Adrianna Hinds, Lisa Montgomery, Lisa Denton, Rich and Sandy Boister, Lonnie and Kim Hodges, Denise York, Pamela Smith, Carol Bailey, Tom Shepherd, Jack Bailey, Larry and Christine West, Cole Woodard, Bill Burton, Tom and Lynn Leathem, Gary Penn, Steve Barksdale, John McQueary, John Trent, Rich Flowers, Deborah Deas, Joe Elam, Mark Carroll, Drew Douglas, and other interested citizens;

with the following member absent; Councilmember Aaron Smith;

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

INVOCATION

The invocation was given by Steve Barksdale.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

Mayor Montgomery recognized Rev. Larry West, Pastor Bill Burton, and Drew Douglas, past Citizen of the Year recipient, for being in attendance at the City Council meeting.

PROCLAMATION – FISHER ALL SCHOOL REUNION

Mayor Montgomery read a proclamation proclaiming July 5, 2018 as “Fisher All School Reunion”.

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

Mayor Montgomery provided the following updates:

- The 4th of July celebration at the Fishery Center was outstanding and the partnership with the Fishery Center is great. He thanked the Fishery for hosting the event
- Thanked the Fisher Alumni Association for hosting the Fisher All School Reunion held at Mt. Providence Baptist Church. He stated there was a huge turn out

Elizabeth Borstad, City Manager, provided the following updates:

- “The Texan” Grand Opening event was held on Tuesday, July 3rd featuring the Tyler Dudley Band and Headliner: country music recording artist, Darryl Worley. She stated while weather moved the event indoors, Darryl Worley agreed to do an acoustic show inside; while outside, there were over 300 folks in attendance and approximately 200 folks came inside to see the rest of the show
- The final show of The Texan Summer Concert Series is scheduled for Saturday, July 21st featuring Hayes Carll with opener Meredith Crawford. General admission, floor seats are available for \$15.00 on our website www.thetexanathens.com. Food and beverage can be purchased inside of The Texan and seating is first come, first served

Ms. Borstad also provided the following updates on upcoming Chamber of Commerce events:

- Wed. Jul. 11th 11:30 am-1 pm Athens Chamber of Commerce – Monthly Luncheon @Athens Country Club
- Thur. Jul. 12th Chamber Day in Tyler – Tyler Pounds Regional Airport Business After Hours 5-7pm
- Thur. Jul. 19th Athens Country Club Business After Hours Christmas in July Party 5-7pm
- Sat. Jul. 21st Hayes Carll featuring Meredith Crawford Texan Summer Concert 6-11pm

CITIZENS COMMUNICATIONS

Carol Brinkman spoke in favor of the Cain Center renovations moving forward.

CONSENT AGENDA

- a) CONSIDER APPROVING MINUTES OF THE JUNE 25, 2018 REGULAR SESSION
- b) CONSIDER APPROVING MINUTES OF THE JUNE 28, 2018 BUDGET WORK SESSION
- c) CONSIDER FINAL READING OF AN ORDINANCE CONCERNING A REQUEST FROM BRINNAN PIERCE AND BRUCE HINDS FOR A ZONE CHANGE FROM OFFICE TO SINGLE FAMILY-5 (SF-5) FOR LOTS 14, AND 15, BLOCK 26A, PARK HIGHLANDS SUBDIVISION AT 609 AND 611 RICHARDSON (Z-06-18-003)
- d) CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH HENDERSON COUNTY FOR ASPHALT OVERLAY AND SEAL COAT OF APPROXIMATELY 500 FEET OF COUNTY ROAD 1408, WHICH IS INSIDE THE CORPORATE LIMITS OF THE CITY OF ATHENS
- e) CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO ISSUE A REQUEST FOR PROPOSALS (RFP) AND QUALIFICATIONS FOR SERVICES RELATED TO THE 2019-2020 COMMUNITY DEVELOPMENT FUNDS GRANT AS ADMINISTERED BY TEXAS DEPARTMENT OF AGRICULTURE
- f) CONSIDER A RESOLUTION REJECTING ALL BIDS RECEIVED ON JUNE 14, 2018 FOR THE CITY OF ATHENS CIVIC AND AQUATIC CENTER RENOVATION (CAIN CENTER PROJECT)
- g) CONSIDER A RESOLUTION TO DISSOLVE AN AGREEMENT BETWEEN THE CITY OF ATHENS AND GALLAGHER CONSTRUCTION COMPANY, LP, FOR CONSTRUCTION MANAGEMENT SERVICES (CONSTRUCTION MANAGER AS ADVISOR) RELATED TO THE ATHENS CIVIC AND AQUATIC CENTER RENOVATION (CAIN CENTER PROJECT)
- h) CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO RE-BID THE CITY OF ATHENS CIVIC AND AQUATIC CENTER RENOVATION (CAIN CENTER PROJECT) THROUGH THE COMPETITIVE SEAL PROPOSAL PROCESS

Councilmember Gross requested item g) Consider a Resolution to dissolve an agreement between the City of Athens and Gallagher Construction Company, LP, for Construction Management Services (Construction Manager as Advisor) related to the Athens Civic and Aquatic Center Renovation (Cain Center Project) be removed from the Consent Agenda for further discussion.

Bonnie Hambrick, City Secretary, read the caption of the Ordinance. A motion was made by Councilmember Gross, seconded by Councilwoman Clay to approve the following items from the Consent Agenda:

- a) Consider approving minutes of the June 25, 2018 Regular Session
- b) Consider approving minutes of the June 28, 2018 Budget Work Session
- c) Consider final reading of an Ordinance concerning a request from Brinnan Pierce and Bruce Hinds for a zone change from Office to Single Family-5 (SF-5) for Lots 14, and 15, Block 26A, Park Highlands Subdivision at 609 and 611 Richardson (Z-06-18-003)
- d) Consider a Resolution authorizing the City Manager to execute an Interlocal Agreement with Henderson County for asphalt overlay and seal coat of approximately 500 feet of County Road 1408, which is inside the corporate limits of the City of Athens
- e) Consider a Resolution authorizing the City Manager to issue a Request for Proposals (RFP) and qualifications for services related to the 2019-2020 Community Development Funds Grant as administered by Texas Department of Agriculture
- f) Consider a Resolution rejecting all bids received on June 14, 2018 for the City of Athens Civic and Aquatic Center Renovation (Cain Center Project)
- h) Consider a Resolution authorizing the City Manager to re-bid the City of Athens Civic and Aquatic Center Renovation (Cain Center Project) through the competitive seal proposal process

The motion carried unanimously.

- g) **CONSIDER A RESOLUTION TO DISSOLVE AN AGREEMENT BETWEEN THE CITY OF ATHENS AND GALLAGHER CONSTRUCTION COMPANY, LP, FOR CONSTRUCTION MANAGEMENT SERVICES (CONSTRUCTION MANAGER AS ADVISOR) RELATED TO THE ATHENS CIVIC AND AQUATIC CENTER RENOVATION (CAIN CENTER PROJECT)**

Councilmember Gross asked if any funds had been paid to Gallagher, with Ms. Borstad stating no funds had been paid.

Councilmember Gross asked Blake Armstrong, City Attorney, if there was anything in the release the City should be concerned about, with Mr. Armstrong stating he reviewed the release and there is clear language that the City is released from any further obligation per the contract. Mr. Armstrong stated he is comfortable with the release.

A motion was made by Councilmember McCain, seconded by Councilmember Gross to approve Consent Item g) a Resolution to dissolve an agreement between the City of Athens and Gallagher Construction Company, LP, for Construction Management Services (Construction Manager as Advisor) related to the Athens Civic and Aquatic Center Renovation (Cain Center Project). The motion carried unanimously.

PUBLIC HEARING CONCERNING A REQUEST FROM SMITH LIVING TRUST, N. KATE SMITH, TRUSTEE TO REPLAT PART OF LOT 20 & PART OF LOT 21, BLOCK 2 – BEL AIR ADDITION UNIT 4 TO CREATE LOT 20A, BLOCK 2, BEL AIR ADDITION UNIT 4; AND A REQUEST FROM WILLIAM AND MAY FARNHAM TO REPLAT LOT 22 AND PART OF LOT 21, BLOCK 2 – BEL AIR ADDITION UNIT 4 CREATING LOT 22A, BLOCK 2 – BEL AIR ADDITION UNIT 4 (P-07-18-001)

Ryan Adams, Interim Managing Director of Development Services, explained the request is to replat a portion of Guadalupe Drive specifically addresses 112, 114, and 116. The applicant is proposing to divide the middle lot which is vacant between the two lots on either side. Mr. Adams stated the plat meets all of the City Ordinance requirements and regulations.

Mayor Montgomery opened the Public Hearing, there were no comments.

The Public Hearing was closed.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY, CONCERNING A REQUEST FROM SMITH LIVING TRUST, N. KATE SMITH, TRUSTEE TO REPLAT PART OF LOT 20 & PART OF LOT 21, BLOCK 2 – BEL AIR ADDITION UNIT 4 TO CREATE LOT 20A, BLOCK 2, BEL AIR ADDITION UNIT 4; AND A REQUEST FROM WILLIAM AND MAY FARNHAM TO REPLAT LOT 22 AND PART OF LOT 21, BLOCK 2 – BEL AIR ADDITION UNIT 4 CREATING LOT 22A, BLOCK 2 – BEL AIR ADDITION UNIT 4 (P-07-18-001)

A motion was made by Councilmember McCain, seconded by Councilwoman Clay to approve a request from Smith Living Trust, N. Kate Smith, Trustee to replat part of Lot 20 & part of Lot 21, Block 2 – Bel Air Addition Unit 4 to create Lot 20A, Block 2, Bel Air Addition Unit 4; and a request from William and May Farnham to replat Lot 22 and part of Lot 21, Block 2 – Bel Air Addition Unit 4 creating Lot 22A, Block 2 – Bel Air Addition Unit 4. The motion carried unanimously.

PUBLIC HEARING CONCERNING A REQUEST FROM 1992 IRREVOCABLE TRUST, DANTE & SANDI PERANO TRUSTEES AND FIRST HYBRID INC., TO REPLAT LOTS 15, 16 & 17, COUNTRY CLUB PLACE TO LOTS 15-R, 16-R & 17-R, COUNTRY CLUB PLACE, PHASE I ADDITION (P-07-18-002)

Mr. Adams explained the proposed subdivision is located at 801 and Country Club Circle (Lot 16) and its two adjacent lots (Lots 15 and 17). The replat will expand the size of Lot 16 and reduce the size of Lots 15 and 17. The subdivision action will not affect the zoning designations that are currently in place. The new lots will continue to conform to the requirements of their respective zoning designations prior to the replatting. Mr. Adams explained the City Council's action is a subdivision action and not a zoning action.

He explained State Law requires, in addition to the Public Hearing, a notification to property owners within 200 feet. He stated staff received a lot of concern from the neighborhood which was voiced through written statements against the actual replat and the same concern was voiced at the Planning and Zoning meeting on July 2, 2018. He stated the neighborhood's concern was the expansion of the multifamily use on Lot 16. He explained the replat does conform to the City's Ordinance requirements, and State Law does require that if all the regulations are satisfied the City Council is compelled to approve the replat.

He further explained that would not be the case with any zoning change. He explained that should the property owners want to expand the multi-family use they would need to go back through the zoning process which would involve the property owners within 200 feet receiving notification, the item appearing on the Planning and Zoning Commission agenda and two (2) readings of the Ordinance during City Council meetings.

Discussion occurred.

Mayor Montgomery asked what is the current zoning, with Mr. Adams stating for the apartment complex the current lot is zoned Multi-family-2, the golf course is on the north and east side and is zoned Single Family 10 and everything to the west and south of the replat lots are Single Family-15 .

Councilmember McCain stated his understanding that independently of the City Council voting on the item it would ultimately be approved. Mr. Adams explained State Law regarding a Subdivision Ordinance.

Councilwoman Clay reiterated that the plat meets regulations, with Mr. Adams stating the plat does meet the regulations. Councilwoman Clay further stated the City Council would be in violation of State Law if they did not approve the plat, with Mr. Adams stating yes, and deferred to the City Attorney.

Mr. Armstrong explained that Chapter 212 of the Local Government Code governs platting. He stated that the code is very specific and very direct stating if the replat meets all the applicable regulations and standards of a City's Ordinance then the City Council must approve the plat. He stated from a pure platting standpoint, if it meets the City's Ordinance requirements it is not discretionary, the City Council has an obligation under State Law to approve the plat.

Discussion regarding the zoning occurred.

Mayor Montgomery welcomed Brandon Blue, Assistant Fire Chief.

Mayor Montgomery opened the Public Hearing.

Jack Bailey asked if the item could be tabled to allow time to speak with Steve Grant, Manager for the property owner, to discuss zoning for two single family lots. Mr. Bailey stated he is in favor of Single Family housing but opposes apartments.

Kim Hodges expressed concern with the size of one of the lots being 35 feet wide. She stated there is no way to build a house on a lot that size and no one wants a home less than 35 feet wide.

Sandy Boister expressed interest in wanting to keep the property as Single Family dwellings, and expressed concern of an unsightly dumpster that goes along with having apartments.

Rich Boister expressed concern that the north and south properties are too small to build houses.

John McQueary expressed concern with limited parking and noise issues, he stated he has no issues with single family houses.

Tom Sheppard expressed concern with any increase in traffic if the zoning changes.

Dianna Duff expressed concern with traffic congestion.

Steve Barksdale, Chairman of Planning and Zoning Commission, thanked the members of the community for coming out. He stated the Zoning Commission voted down the item due to a different understanding of what could be done.

There was discussion regarding tabling the item.

DISCUSS, CONSIDER AND TAKE ACTION, AS NECESSARY, CONCERNING A REQUEST FROM 1992 IRREVOCABLE TRUST, DANTE & SANDI PERANO TRUSTEES AND FIRST HYBRID INC., TO REPLAT LOTS 15, 16 & 17, COUNTRY CLUB PLACE TO LOTS 15-R, 16-R & 17-R, COUNTRY CLUB PLACE, PHASE I ADDITION (P-07-18-002)

A motion was made Councilmember McCain, seconded by Councilwoman Clay to table a request from 1992 Irrevocable Trust, Dante & Sandi Perano Trustees and First Hybrid Inc., to replat lots 15, 16 & 17, Country Club Place to Lots 15-R, 16-R & 17-R, Country Club Place, Phase I Addition (P-07-18-002). The motion carried unanimously.

PUBLIC HEARING CONCERNING A REQUEST FROM AMPLER DEVELOPMENT, LLC (BURGER KING) FOR A SITE PLAN AMENDMENT AT 1004 E. TYLER STREET, LOT 3 BLOCK 119 – R.A. CLARK SURVEY, ORIGINAL TOWN SUBDIVISION (Z-07-18-001)

Mr. Adams explained Ampler Development (Burger King) is requesting to make amendments to their approved site plan. Mr. Adams explained the following amendments to the site plan:

- Construction and maintenance of a masonry and cedar fence at or near the western property line as described in Exhibit A so long as the use of the property to the west remains residential;
- Construction of cross connection access to the western property line in the event that property is sold and designated for a non-residential use

Mr. Adams stated notifications were mailed to eleven (11) property owners within 200 feet of the proposed replat, and as of June 25, 2018, zero (0) notifications were returned in support or opposition of the amended site plan.

Discussion occurred.

Mayor Montgomery opened the Public Hearing.

Mayor Montgomery asked if any citizens attended the Planning and Zoning Commission meeting, with Mr. Barksdale stating there was one (1) Citizen present who was concerned with the masonry

Mayor Montgomery asked if the water from the retention pond goes onto the highway, with Ms. Borstad explaining she had contacted TxDOT regarding the release of the water and TxDOT has provided approval for the project for the drainage plan.

The Public Hearing was closed.

DISCUSS FIRST READING OF AN ORDINANCE CONCERNING A REQUEST FROM AMPLER DEVELOPMENT, LLC (BURGER KING) FOR A SITE PLAN AMENDMENT AT 1004 E. TYLER STREET, LOT 3 BLOCK 119 – R.A. CLARK SURVEY, ORIGINAL TOWN SUBDIVISION (Z-07-18-001)

Ms. Hambrick read the caption of the Ordinance.

UTILITIES UPDATE

Mayor Montgomery stated there was an article in the paper regarding the quality of water that quoted Randy Williams. The Mayor stated the article was really impressive.

Randy Williams, Utilities Director, provided updates related to following projects:

- West Wastewater Treatment Plant influent line project substantially complete
- TCEQ approved the construction of the Booster Station project to remedy low water pressure in the northeast area of town on June 11th
- Loop 7 EST is an Upcoming project
- North Wastewater Treatment Plant Trickling Filter
- North Plant Emergency Repair

Mr. Williams provided the City Council with Water Production and Use, presently tracking around 125 MG less for FY17/18 than same time FY16/17. This difference is something staff will investigate, including testing of all meters at the plant.

EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE, SECTION 551.087 (DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS; CLOSED MEETING) DELIBERATIONS REGARDING NEGOTIATIONS WITH THE FOLLOWING PROSPECT: PROSPECT #1593

The City Council adjourned to Executive Session at 6:41 p.m.

The City Council returned to Regular Session at 7:04 p.m.

CONSIDER AND TAKE ACTION, AS NECESSARY, RESULTING FROM DELIBERATIONS IN EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE, SECTION 551.087 (DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS CLOSED MEETING) DELIBERATIONS REGARDING NEGOTIATIONS WITH THE FOLLOWING PROSPECT: PROSPECT #1593

A motion was made by Councilmember McCain, seconded by Councilmember Gross to approve the incentives offered by the Athens Economic Development Corporation as listed in the public notice for Prospect #1593 Biomerics, FMI, and LLC. The motion carried unanimously.

MAYOR AND CITY COUNCIL'S REQUEST FOR FUTURE AGENDA ITEMS

Councilmember McCain requested staff to provide an update on development activity once a month. He stated particularly updates regarding the Substandard Building Commission.

ADJOURN

The meeting adjourned at 7:06 p.m.

PASSED AND APPROVED THIS THE 23rd DAY OF JULY, 2018.

Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary