

REGULAR SESSION

AUGUST 24, 2015

The City Council of the City of Athens met in Regular Session on Monday, August 24, 2015, 5:30 p.m. in the Council Chambers of the City Hall Annex, 501 N. Pinkerton St., Athens, Texas with the following members present, to-wit:

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

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

others present: David Hopkins, Gary Crecelius, Buddy Hill, Gordon Mayer, Sherri Skeeters, John McQueary, Chris Tinsley, Cindy Harris, Judy Jones, Deanna Dixon, Amy Lambert, David Thomas, Will Traxson, Deborah Deas, Richard and Shannon Pirtle, Rich Fowlers, Corey Frentress 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

Councilmember Elliott filed a conflict of interest concerning agenda item #14 discuss/consider first reading of an Ordinance regulating parking on a portion of McCaleb Street and a portion of Sawyer Street.

Mayor Vaught asked that the Opportunity for Citizens Comment be moved up on the agenda. Council agreed.

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

Bonnie Hambrick, City Secretary, read aloud the name of Deborah Deas.

Ms. Deas stated she is on the board of the East Texas Arboretum and Botanical Society located in the City of Athens, she stated she would appreciate the Council's consideration in placing the Arboretum in the 2016 operating budget. Ms. Deas said the Arboretum is a true tourist attraction as it brings revenue to the City.

Ms. Hambrick read aloud the name of Norma Lambert.

Ms. Lambert stated she represents the Henderson County Humane Society and thanked the Council for their continued support. She stated that she is speaking on behalf of the Cain Center. Ms. Lambert stated the Cain Center is the only facility large enough to hold fund raising events. She stated she did not realize the situation with the Cain Center and that she would be informing individuals who live outside of the city limits to make them aware of the situation with the Cain Center.

Ms. Hambrick read aloud the name of Jane Joslin and was informed that Ms. Joslin had to leave.

There was no further discussion.

**DIRECTOR OF PLANNING & DEVELOPMENT'S REPORT
A) STATUS REPORT ON CURRENT AND PROPOSED PROJECTS**

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

- 1) Raining Jewels & Fine Jewelry, new business
- 2) Todd Green home, 316 Timber Hills, frame work still in progress
- 3) Tidmore home, 811A Belmont, painting/MEP finish out work in progress
- 4) 407 Timber Hills, final inspection
- 5) Jackie Wilkes home, 408 Timber Hills, painting/MEP finish out work in progress
- 6) Tony Watson home, 813 Timber Hills, waiting on green tag
- 7) Fresenius Medical Care, 1220 S. Palestine, sheet rocking and framing
- 8) Usan Maddock home, 908 Maxine, final stage
- 9) AISD High School, 708 E. College, progressing
- 10) AISD Intermediate, 307 Madole, progressing
- 11) Anytime Fitness addition, 201 S. Palestine, framing
- 12) Tara Vineyard & Winery, 101 E. Tyler, framing
- 13) Country Place Living, 209 Wood Street, dirt work
- 14) Bean & Burger, 309 West Corsicana, waiting on AC/Heating replacement

FINANCIAL REPORT

David Hopkins, Director of Finance presented June financials stating all funds have a positive fund balance.

DISCUSS POLICY MAKING PLAN FOR FISCAL YEAR 2016

Philip Rodriguez, City Manager, informed the City Council that discussion regarding aid to other organizations will continue during the meeting. Mr. Rodriguez invited the public to attend the public hearings concerning the budget on September 14th and 28th. He also informed the Council and audience beginning September 14, 2015 all City Council, Board and Commissions meetings will be held in the Derek D. Daniels Conference Room of the Athens Partnership Center, 201 W. Corsicana St., Athens, Texas.

CONSENT AGENDA;

A) CONSIDER APPROVING MINUTES OF THE AUGUST 10, 2015 REGULAR SESSION

A motion was made by Councilmember Montgomery, seconded by Councilmember Whatley to approve the Consent Agenda. The motion carried unanimously.

PUBLIC HEARING CONCERNING REZONING OF LOTS 1, 2, 3, 4, 5 & 6 FRIZZELL PLACE AND LOT 2E, BLOCK 73 ATHENS ORIGINAL TOWN FROM SINGLE FAMILY RESIDENTIAL 5 AND AGRICULTURE TO MULTI FAMILY RESIDENTIAL 5, OWNED BY RICHARD AND SHANNON PIRTLE (324 FRIZZELL)

Mr. Crecelius explained the Lots should be 1, 2, 4, 5, and 6 that 3 was inadvertently inserted. Mr. Crecelius explained that the property is being rezoned with the property owner's intent to build apartments of five (5) or more, with thirty one (31) surrounding property owners being notified, no responses were received, and the Zoning and Planning Commission approved the rezoning on August 18, 2015.

The public hearing was closed.

DISCUSS/CONSIDER FIRST READING OF AN ORDINANCE REZONING OF LOTS 1, 2, 3, 4, 5, & 6 FRIZZELL PLACE AND LOT 2E BLOCK 73 ATHENS ORIGINAL TOWN FROM SINGLE FAMILY RESIDENTIAL 5 AND AGRICULTURE TO MULTI FAMILY RESIDENTIAL 5, OWNED BY RICHARD AND SHANNON PIRTLE (324 FRIZZELL)

Bonnie Hambrick, City Secretary, read the Ordinance aloud. A motion was made by Councilmember Winn, seconded by Councilmember Whatley to approve first reading of an Ordinance rezoning Lots 1, 2, 4, 5, & 6 Frizzell Place and Lot 2E Block 73 Athens Original Town from Single Family Residential 5 and Agriculture to Multi Family Residential 5. The motion carried unanimously.

PUBLIC HEARING AMENDING TEXT OF ZONING ORDINANCE #O-12-01

Mr. Crecelius explained the City Council requested that the Zoning Ordinance be amended to limit the age of manufactured homes placed in the City to be no older than five years. He stated the item was on the Planning and Zoning Commission's August 18, 2015 agenda, and the Commission felt that limiting manufactured homes to not being older than five (5) years old would limit the number of residents who could afford a manufactured home since the price difference between a five year old home and a ten year old home could be significant. The Commission felt that when Zoning Ordinance #O-12-01 was initially enacted it allowed manufactured home to be ten years old. They felt that any change to the Ordinance should follow those same guidelines of allowing a home to be ten years old. They felt that this should be done by changing the text to read that a home may not be more than ten years old and by not stating a specific model year of the home as the Ordinance now does. The Planning & Zoning Commission voted unanimously against the text amendment as presented.

After discussion the public hearing was closed.

DISCUSS/CONSIDER FIRST READING OF AN ORDINANCE AMENDING TEXT OF ZONING ORDINANCE #O-12-01

Ms. Hambrick read the Ordinance aloud. A motion was made by Mayor Vaught, seconded by Councilmember Montgomery to approve first reading of an Ordinance amending text of Zoning Ordinance #O-12-01 limiting manufactured homes to not being older than five (5) years old. The motion carried unanimously.

FIRST PUBLIC HEARING ON TAX INCREASE FOR FISCAL YEAR 2016

Mr. Hopkins explained this is the first public hearing on the Tax Increase for Fiscal Year 2016 with a proposed tax rate being .645140.

Mayor Vaught opened the public hearing on the tax increase for fiscal year 2016. There was no discussion and the public hearing was closed.

DISCUSS CURRENT PROPOSED SPECIFIC TAX RATE OF .645140 FOR FISCAL

Mr. Hopkins explained this item appeared on the agenda in the event the City Council decided to adopt a higher tax rate than what was provided in the public notice and this item would essentially start the process over and staff would need to provide notice of the higher tax rate.

No action was taken.

DISCUSS/CONSIDER PLACING PROPOSED SPECIFIC TAX RATE, TAX RATE ADOPTION AND ALL RELATED MATTERS ON FUTURE CITY COUNCIL AGENDA

No action was taken on this agenda item per Mayor Vaught's recommendation.

DISCUSS/CONSIDER FIRST READING OF AN ORDINANCE REGULATING PARKING ON A PORTION OF MCCALED STREET AND A PORTION OF SAWYER STREET

Chief of Police Buddy Hill explained that a business owner on McCaleb Street has requested the establishment of no parking areas in the vicinity of his business. Mr. Hill explained that staff recommends approval of an Ordinance Regulating No Parking areas on McCaleb Street, West side, from Corsicana Street to Sawyer Street and Sawyer Street, North side, from Aaron Street to McCaleb Street.

Mayor Vaught exited the room.

Councilmember Montgomery asked if there was anyone in the audience wanting to speak to the agenda item. There were no responses.

Mayor Vaught entered the room.

Bonnie Hambrick read the Ordinance aloud.

A motion was made by Councilmember Montgomery, seconded by Councilmember Whatley to approve first reading of an Ordinance regulating parking on a portion of McCaleb Street, West side, from Corsicana Street to Sawyer Street and Sawyer Street, North side, from Aaron Street to McCaleb Street. The motion carried by the following vote: Ayes: Mayor Vaught, Councilmembers Montgomery, Winn, and Whatley. Nays: None. Councilmember Elliott abstained.

DISCUSS/CONSIDER AUTHORIZING THE CLOSURE OF PRAIRIEVILLE STREET AND TYLER STREET AND APPROVE RESOLUTION AGREEMENT AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT WITH TXDOT FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY FOR THE UNCLE FLETCHER DAVIS HAMBURGER FESTIVAL, AS REQUESTED BY UNCLE FLETCH, LLC

Chief Hill explained that Garrett Hope and Michael Hannigan are representing Uncle Fletch, LLC and that an event permit was completed requesting the temporary closure of the north and west sides of the courthouse square to conduct the Uncle Fletcher Davis Hamburger Festival. The closure is for Saturday, September 26, 2015 from 6 am to 6 pm. He explained the time frame would accommodate the following activities: 6 am to 10 am event setup; 10 am to 2 pm event operation; and 2 pm to 4 pm event tear-down and clean up; 4 pm to 6 pm street sweeping performed by City employees.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve the closure of Prairieville Street and Tyler Street and approve a Resolution Agreement authorizing the Mayor to execute the agreement with TxDOT for the temporary closure of state right-of-way for the Uncle Fletcher Davis Hamburger Festival. The motion carried unanimously.

DISCUSS/CONSIDER RENEWAL OF PROPERTY/LIABILITY/WORKERS'
COMPENSATION INSURANCE

Haven Cox, Director of Human Resources, explained to the council that it is staff's recommendation to renew the City's Property/Liability/Workers' Compensation Insurance with Texas Municipal League (TML) on 10-1-15. Ms. Cox explained the City has been with TML for several years and they provide excellent services and the rates are very competitive.

Councilmember Elliott asked the amount of the increase and Ms. Cox stated the Liability increase was 4% and Workers' Compensation increased 7%.

Councilmember Montgomery stated that TML has always been the most competitive and asked when was the last time the City did a Request for Proposal (RFP). Ms. Cox stated she believes that the last RFP was in 2010.

Councilmember Elliott stated he would like to see an RFP for the Property/Liability/Workers' Compensation Insurance in 2016.

A motion was made by Councilmember Elliott, seconded by Councilmember Montgomery to renew the Property/Liability/Workers' Compensation Insurance with Texas Municipal League. The motion carried unanimously.

DISCUSS/CONSIDER FUNDING AID TO OTHER ORGANIZATIONS FOR FISCAL
YEAR 2016

- A) GENERAL FUND
- B) UTILITY FUND
- C) HOTEL OCCUPANCY TAX FUND

Mayor Vaught stated the City Council will begin discussion with item (C) Hotel Occupancy Tax Fund.

C) HOTEL OCCUPANCY TAX FUND

Mike Coston, Chairman Tourism Advisory Council, informed the City Council there is a two-part test that expenditures of local HOT funds must meet in order to be valid:

Part One: Expenditures must directly enhance and promote tourism and the convention and hotel industry.

Part Two: Expenditures of HOT funds must clearly fit into one of the nine statutorily provided categories for expenditure of HOT revenues, which are defined below.

The nine categories for expenditure of the Hotel/Motel Occupancy Tax are as follows:

- 1) Visitor Information Centers
- 2) Convention Registration
- 3) Advertising
- 4) Promotion of the Arts
- 5) Historical Restoration and Preservation
- 6) Sporting Event Promotion
- 7) Upgrading Existing Sports Facilities
- 8) Tourist Transportation System
- 9) Signage

He explained the Department of Tourism issued its first call for Projects for Fiscal year 2016 which are designed to attract overnight visitors to Athens. He stated the Tourism Advisory Council heard presentations from three (3) applicants in the order applications were received requesting hot funds:

- 1) Athens Teenage Baseball Association's request for \$15,000 to bid for Athens to host the Dixie Youth Baseball State Tournament in the summer of 2016
- 2) Henderson County Regional Fair Park Complex's request for \$12,973 to go toward the purchase of 20 new stalls
- 3) East Texas Arboretum's request for \$7,500 to be used for advertising of the Haunted Halloween and Fall Festival in October 2015.

Chairman Coston stated after the presentations the Tourism Advisory Council agreed unanimously that both the Athens Teenage Baseball Association and the Henderson County Regional Fair Park Complex requests clearly met the 2 part test for hot funds expenditures and the

East Texas Arboretum's application did not meet the two part test. He stated the Tourism Advisory Council is recommending full funding for the Athens Teenage Baseball Association request for \$15,000, and the Henderson County Regional Fair Park Complex's request for \$12,973. Chairman Coston explained that he and Ms. Skeeters, Tourism Coordinator, met with the East Texas Arboretum and explained the application process to their staff and offered assistance with any advertising.

Councilmember Montgomery asked if there was an accounting procedure to ensure the money is used as stated. Chairman Coston stated there is a contract that must be signed by the applicants and the City Council will approve it.

Councilmember Elliott asked Mayor Vaught if he would separate the vote for hotel occupancy tax funding as he is a member of the Henderson County Regional Fair Park Board and would declare a conflict of interest and abstain from voting.

Mayor Vaught stated he would separate the vote.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve hotel occupancy tax funding in the amount of \$15,000 for the Athens Teenage Baseball Association to bid for Athens to host the Dixie Youth Baseball State Tournament in the summer of 2016.

A motion was made by Councilmember Winn, seconded by Councilmember Whatley to approve hotel occupancy tax funding to Henderson County Regional Fair Park Complex in the amount of \$12,973 to go toward the purchase of 20 new stalls. The motion carried by the following vote: Ayes: Mayor Vaught, Councilmembers Montgomery, Winn, and Whatley. Nays: None. Councilmember Elliott abstained.

B) UTILITY FUND

Mr. Rodriguez explained funding aid for the following organizations:

- A) Keep Athens Beautiful \$15,000
- B) Henderson County Clint W. Murchison Library \$12,000
- C) Henderson County Humane Society \$52,000
- D) Cain Center a portion of the funding comes from Utility Fund and the General Fund in the amount of \$63,694

Councilmember Winn stated he was considering a motion, however who would like to seek Legal Counsel for advice on the parameters.

The City Council adjourned to Executive Session at 6:22 p.m.

The City Council returned to Regular Session at 6:33 p.m.

Mayor Vaught asked City Attorney, Blake Armstrong, to provide a brief explanation as to why the City Council convened into Executive Session. Mr. Armstrong explained that under the Texas Opens Meeting Act 551.071 it states the City Council can convene in Executive Session at anytime the City Council needs to seek legal advice on any legal matter to preserve the Attorney/Client privilege on legal matters.

Mayor Vaught recommended splitting the vote for the funding aid to other organizations with the entire City Council concurring.

Mr. Rodriguez read aloud funding aid for the following organizations:

- A) Keep Athens Beautiful \$15,000
- B) Henderson County Clint W. Murchison Library \$12,000
- C) Henderson County Humane Society \$52,000

A motion was made by Councilmember Elliott, seconded by Councilmember Whatley to fund Keep Athens Beautiful \$15,000, Henderson County Clint W. Murchison Library \$12,000 and Henderson County Humane Society \$52,000 in Fiscal year 2016. The motion carried unanimously.

The next item discussed was funding aid to the Cain Center. After discussion, a motion was made by Councilmember Winn, seconded by Councilmember Whatley to fund the Cain Center with \$63,694 plus an additional \$100,000 in fiscal year 2016. The motion failed due to the lack of a majority vote: Ayes: Councilmembers Winn and Whatley, Nays: Mayor Vaught and Councilmember Montgomery with Councilmember Elliott abstaining.

There was additional discussion.

A motion was made by Councilmember Elliott seconded by Councilmember Winn to fund the Cain Center with \$50,000, plus an in-kind amount of \$63,694 for water, sewer and property insurance and an additional \$100,000 earmarked for capital improvement as per the lease agreement that the City will oversee. 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
- B) PURSUANT TO THE TEXAS GOVERNMENT CODE, SECTION 551.071 SEEK LEGAL ADVICE FROM CITY ATTORNEY REGARDING ROLES, RESPONSIBILITIES AND CONFLICTS OF INTEREST OF CITY COUNCIL.
- C) PURSUANT TO THE TEXAS GOVERNMENT CODE, SECTION 551.072 (DELIBERATION REGARDING THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY).
 - OLD HENDERSON COUNTY HOSPITAL

The City Council adjourned to Executive Session at 6:53 p.m.

The City Council returned to Regular Session at 7:45 p.m.

CONSIDER ACTION RESULTING FROM DELIBERATIONS IN EXECUTIVE SESSION.

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

A motion was made by Councilmember Elliott, seconded by Councilmember Winn authorizing City Attorney, Blake Armstrong to pursue all legal options available to the City regarding the Wood Street Project. The motion carried unanimously.

II. PETER RUNNING, JAMIE RUNNING, AND CINDY WILKINS

No action was taken.

B) LEGAL ADVICE FROM CITY ATTORNEY REGARDING ROLES,
RESPONSIBILITIES AND CONFLICTS OF INTEREST OF CITY COUNCIL

No action was taken.

C) DELIBERATION REGARDING THE PURCHASE, EXCHANGE, LEASE OR
VALUE OF REAL PROPERTY
OLD HENDERSON COUNTY HOSPITAL

No action was taken.

CITY MANAGER'S UPDATE

No updates.

MAYOR AND COUNCIL UPDATE

No updates.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 28th day of September, 2015.

Jerry D. Vaught, Mayor

ATTEST:

Bonnie Hambrick, City Secretary