

REGULAR SESSION

JANUARY 25, 2016

The City Council of the City of Athens met in Regular Session on Monday, January 25, 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, Nasi Kombos, Amy Williams, Tom and Lynn Leathem, Father Matthew Frick, Cindy Williams, Keith Knighton, Peggy Gould, Larry Ball, Pedro Carrillo. Bryan Baker, Sandy Gregory, Michael Hannigan, Michael Medford, Donald Ball, and other interested citizens;

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

The invocation was given by Monte Montgomery.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

READING OF PROCLAMATION HONORING ST. MATTHIAS EPISCOPAL SMORGASBORD

Mayor Vaught asked members of the St. Matthias Episcopal Church to stand, stating it was his honor and privilege to recognize them, as he read aloud the Proclamation honoring St. Matthias Episcopal Smorgasbord.

Philip Rodriguez, City Manager, asked the Mayor if we could reorder the agenda. He stated Staff would like to request to pull off the following agenda items 18, 19, and the subsequent actions relating: items 21, and 22.

He stated he would like to request that we move after the Consent Agenda item numbers 20, 23, and 24.

CONSENT AGENDA;

A) CONSIDER APPROVING MINUTES OF THE JANUARY 11, 2016 REGULAR SESSION

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

EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS: NAUTICAL AFFORDABLE HOUSING, INC

The City Council adjourned to Executive Session at 5:35 p.m.

The City Council returned to Regular Session at 6:18 p.m.

CONSIDER ACTION RESULTING FROM DELIBERATIONS IN EXECUTIVE SESSION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS: NAUTICAL AFFORDABLE HOUSING, INC.

Mr. Rodriguez recommended to the City Council to not take any action until the next agenda item which is Mr. Donald Ball's presentation.

DISCUSS/CONSIDER A RESOLUTION AUTHORIZING FUNDING SUPPORT FOR NEW HAVEN APARTMENTS AND AGREEMENT TO CONVEY BLOCK 7, LOT 3, OUT OF ABSTRACT 782 T. PARMER SURVEY, BISHOP HEIGHTS ADDITION, HENDERSON COUNTY, TEXAS TO NAUTICAL AFFORDABLE HOUSING, INC.

Mr. Ball thanked the Council and stated he appreciated each one of the Councilmembers for taking the time to hear his presentation. He stated there has been some planning for what they would like to do with the land out there, and actually we kept coming back to what would the City like to do with the land. He stated in planning what they want to do with the extra land we needed to consult with the Council to see what your wishes are. He stated there is approximately (39) thirty nine acres there which is a lot of land.

He stated Mr. Rodriguez had mentioned a service station. Mr. Ball stated he has contacted a gentleman that builds service stations and truck stops and he is doing some figuring on it, however that may not be who the City Council wants to build a service station. He stated he wanted to work out an agreement that would involve the City in the planning of what they will do with the property.

He stated that is the only way to get the highest and best use out of the property. Mr. Ball stated he has spoken with a Master Planner and a couple other business people that have developed pieces of property similar to this and all (3) three advised me to come back to the City and let you be involved in what we plan to do with the property.

He stated there are some alternatives as to what they can do. He stated if it is approved they can go ahead and build the apartments. He stated there is a need for a service station out there, as there is not one on the loop. He stated they will need to spend the money to get the water and sewer out there. Mr. Ball further stated he had spoken with Bill Casey from Athens Municipal Water Authority (AMWA) and Lisa Denton of Athens Economic Development Corporation and they have stated they are on board.

Mr. Ball stated that they can build houses, apartments an assisted living facility on the property. He stated there are a number of things that can be built on the property. He stated he would like to involve the City Council, the City Manager and other people in the town that are visionaries that the City would like to bring in on the planning.

Monte Montgomery, Mayor Pro-Tem stated the City had a developer come in, and the original presentation was one building but when it came time to come in and build it, it was something completely different. Councilmember Montgomery stated he would personally request that there be some guidelines and recommend what you bring forward is what we agree on.

Mr. Ball stated the apartments he proposed to build the plans are not drawn yet. He stated when the plans are drawn he will bring them before the City Council. Mr. Ball stated the only request he has is where the apartments are set as he wants to sit them where the other property can be developed around it.

Mayor Vaught asked what the plans would be for the New Haven Units, with Mr. Ball stating that the units may be demolished or sold. He stated if the property is demolished he would bring it back to grade, and put it up for sale.

Mr. Ball stated he is asking the City for support in the amount of \$2000.00.

Councilmember Elliott asked what the timeframe is to tear it down, with Mr. Ball stating within in weeks or months.

Mayor Vaught asked Mr. Ball if he would be willing to include the timeframe to tear the apartments down in the agreement.

A motion was made by Councilmember Winn, seconded by Councilmember Elliott, to approve the Resolution authorizing funding support for New Haven Apartments and the City's support is contingent upon applicant's ability to establish developer's agreement specifying the design criteria and placement of the structure on the property. The motion carried unanimously.

PLANNING & DEVELOPMENT REPORTS

A) STATUS REPORT ON CURRENT AND PROPOSED DEVELOPMENTS PROJECTS

Gordon Mayer, Interim Director of Development, updated Council on the development projects.

1. Preliminary Site plan approved for 1103 E. Tyler St. Demo of existing building and construction of new AT&T phone store.
2. Jewelry store, 2009 Crestway, foundation in place, framing is in final stages, interior trades to start soon.
3. AISD High School, 708 E. College St., all inspections complete, Certificate of occupancy issued.
4. AISD intermediate School, 307 Madole St., all inspections complete, Certificate of occupancy issued.
5. Fresenius Medical Center, 1220 S. Palestine Interior of building has received all finals. Building passed first round of State inspections for interior. State Health Inspector will be conducting final health inspection this week. Contractor is working on exterior parking lot and landscaping.
6. Sweet Pea, 127 E. Tyler, on the Square is nearing completion. Glass is ordered and painting to begin soon.
7. Winery on the Square is progressing. No inspections called this month.
8. Country Place Living, 209 Wood St., framing continues, no inspections called this month.
9. 45 permits issued since last meeting and 68 inspections completed.

B) STATUS REPORT ON CURRENT AND PROPOSED UTILITY PROJECTS

Gary Whittle, Interim Operations Manager, updated Council on the utility projects for January 2016.

1. Water Storage Tank Rehab, Hwy 19 S Elevated Storage Tank and Lane St. Ground Storage Tank Pre-Construction Meeting held January 19, 2016
Notice to Proceed on or about February 1, 2016
End of Project around May 15, 2016
2. Sink Holes: Sink hole in the 900 block of Cayuga (completed) and 700 block of Southwood. Partially covered with barricades protecting the sink hole waiting to dry up. Both sinkholes were around manholes.
3. December Utility Numbers:
 - 6 Water and Sewer taps
 - 8 Valves installed
 - 65 meter cut offs for non-payment
 - 60 re-connects
 - 36 Sewer blocks
 - 74 manholes cleaned and trouble spots run
 - 56 work orders

FINANCIAL REPORT

David Hopkins, Director of Finance & Technology, presented the December Financials.

PUBLIC HEARING CONCERNING REVISION OF 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 informed the Council that the application and site plans were in their packets. He stated the Zoning Commission conducted a public hearing on 1/19/16 and recommended that City Council approve the rezoning request, with a vote of (3) three to (0) zero.

He stated that Mr. Carrillo was authorized by Ordinance #O-36-03 to install a private soccer field, and now the applicant proposes to install a canopy over the existing private soccer field.

Monte Montgomery, Mayor Pro-Tem, asked if the canopy was going to be required to have an engineering on the foundation, with Mr. Mayer stating that Mr. Carrillo is proposing an engineered steel structure design.

Councilmember Winn asked if the owner had a picture of the proposed canopy, with Mr. Carrillo presenting the proposed canopy to Council.

Mr. Mayer stated that (11) eleven surrounding property owners were notified, no responses were received and the Zoning Commission approved the revision of the site plan and the rezoning on 1/19/16.

The public hearing was closed.

CONSIDER FIRST 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 SPECIFIC USE PROVISION (SUP) TO ALLOW FOR A CANOPY OVER AN EXISTING PRIVATE SOCCER FIELD, OWNED BY PEDRO CARRILLO (701 WEST COLLEGE).

Bonnie Hambrick, City Secretary, read the Ordinance aloud.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn, to approve the first 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 Specific Use Provision (SUP) to allow for a canopy over an existing private soccer field. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING CONTRACT WITH CLEVER MUTT, LLC FOR WEBSITE DESIGN SERVICES AND APPROVING A SUPPLEMENTAL BUDGET APPROPRIATION IN THE AMOUNT OF \$11,000 FROM THE GENERAL FUND UNASSIGNED FUND BALANCE

Blake Wilson, Finance & Compliance Specialist, updated Council on the current City website, as well as the Tourism website, and Clever Mutt's responsive design technology.

Mr. Hopkins, discussed with Council about the company Clever Mutt, LLC. He further stated that in times past we have discussed not paying for old technology. This amount of \$11,000 includes monthly service charges and contingency.

Mr. Rodriguez stated that the Tourism website would be a component of the new City's website. The new website would house all information regarding the City. He further stated that we have purchased a new domain name of www.athenstx.gov.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn, to authorize the contract with Clever Mutt, LLC for website design services and approving a supplemental budget appropriation in the amount of \$11,000 from the General Fund unassigned fund balance. The motion carried unanimously.

DISCUSS/CONSIDER LOGO DESIGN CONTEST

Mr. Rodriguez stated Staff has talked internally about the new excitement that is beginning to form in the City with all of the new projects that are beginning to take place. He stated that he feels like it is time to take a look at the design of the current logo that has not been updated since the mid-1990s. There has been some questions as if the logo actually makes a statement of Athens as a community from a development standpoint. He stated that typically when a city is looking to redesign their logo, they will go to a design firm and spend thousands of dollars, engage public forums, surveys, and eventually come down to a design.

Mr. Rodriguez stated that he would want Council to allow this design contest to open it up to citizens. There would be prizes available to designs that the City used the idea or even the theme. We could declare 1st, 2nd, and 3rd place winners and have prizes attached to those places. Many cities have gained attraction by partnerships with the community.

Mayor Jerry Don Vaught stated that he thinks the idea is a great idea. He also stated that the logo was old and wore out, and it was time to bring it to a new level.

Councilmember Winn stated that he does not disagree with anything that was stated. He stated that he would prefer that it was kept in the Athens High School and Middle School, not the college. Mr. Rodriguez stated that the way the draft was listed currently that any individual of any age could submit a logo design for consideration. He further stated that this was the largest net that Staff could cast, but also, we could work closely with AISD's Art Department.

Councilmember Elliott stated that the citizens of Athens have been excited. He stated that he doesn't have a concern who submits the design as long as it shows that the City is advancing and moving forward.

A motion was made by Councilmember Winn, seconded by Councilmember Elliott, to approve the logo design contest. The motion carried unanimously.

DISCUSS/CONSIDER REAPPOINTMENT TO ZONING COMMISSION

Ms. Hambrick stated that Aaron Smith has served one (1) term on the Zoning Commission and his term expires in January. She stated he does desire reappointment.

A motion was made by Mayor Pro-Tem Montgomery, seconded by Councilmember Winn, approving the reappointment of Aaron Smith to the Zoning Commission. The motion carried unanimously.

DISCUSS/CONSIDER APPOINTMENTS TO ZONING COMMISSION

Ms. Hambrick stated that Chris Tinsley and Donna Meredith have both served two (2) terms and are not eligible for reappointment. She stated that Mr. Ed McCain has expressed interest in the

Zoning Commission Board. Staff is also seeking an additional appointment to that board due to Lisa Rivera being pulled because she currently lives outside of city limits.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn, approving the appointment of Mr. Ed McCain to the Zoning Commission. The motion carried unanimously.

**DISCUSS/CONSIDER A RESOLUTION EXPRESSING SUPPORT FOR A
RECREATIONAL TRAILS GRANT APPLICATION.**

Thanasis Kombos, Community Development Manager, stated that Schaumburg and Polk informed Staff about a grant opportunity through the Texas Parks and Wildlife Department. This grant is specifically given to cities that plan to expand recreational trails. The grant is an 80/20 matching grant with a \$200,000 maximum. The City would be potentially liable of up to a \$50,000 match. The grant can be used for pedestrian trails, biking trails, and equestrian trails.

Mr. Kombos stated that this Resolution specifically is just a statement of support from Council that will be attached to the application. Mr. Kombos presented Council with a copy of some proposed trails that could be created from this grant. Essentially the proposed project is a three (3) phase project that Staff would look at applying consecutive years to finish all three parts.

Mr. Kombos stated that the first phase of the proposed project would be an update to the existing trail at Cain Park. He then stated that the second phase would be to create a recreational trail at Coleman Park. He further stated that the third phase would be to connect the two trails together.

Mr. Kombos stated that he has three letters of recommendation by Chris Tinsley, Jeaneane Lilly, and Jess Laird.

A motion was made by Mayor Pro-Tem Montgomery, seconded by Councilmember Winn to approve a Resolution expressing support for a Recreational Trails Grant Application. The motion carried unanimously.

**DISCUSS/CONSIDER AWARDED A CONTRACT TO EUBANKS HARRIS
ROBERTS CRAIG ARCHITECTS, INC. FOR A STUDY UPDATE TO THE CAIN
CENTER FEBRUARY 2012 FACILITIES STUDIES IN THE AMOUNT OF \$13,400**

Mr. Kombos stated that there was a facility study completed on the Cain Center in 2012 to determine what maintenance and upkeep was needed. The study consisted of three components one for architectural, one for aquatics, and one for plumbing and mechanical components.

Mr. Kombos stated that staff has reached out to the engineering firm again to get a refresh of the study. He further stated that he would like to take this proposal to the Cain Board. The dollars that are intended to be used for this study are the dollars that Council had allocated for repairs to the exterior of the building. With only one part of the study pertaining to the architectural aspect of the building, Staff thinks it is necessary to bring this before the Cain Board to let them make the decision how the funds are being used.

Mayor Pro-Tem Montgomery stated that one thing that concerns him is that he has seen the original study. One of the concerns of the Cain Board is the structure on the northeast corner by the pool. The Cain Board was in favor of coming in with a structural study because there was some separation that could cause a long term problem. He asked if there was a way to incorporate that into the study with Mr. Kombos stating that Staff can communicate that to the engineers.

Mr. Rodriguez stated that if Council makes a motion it would be up to \$13,400 pending the outcome of the Cain Center Board recommendation.

Councilmember Elliott stated he didn't feel that spending 13.4% of the budget was a good use of the money to do a refresh of a study that was completed three years ago. He further stated that he

did not vote on this money to be spent on studies, but rather he voted on the money to be spent on the Cain Center.

Mayor Pro-Tem Montgomery stated this study was brought up because of the structural issue. He stated that contractually the City's obligation is the walls and the roof, and if there is a structural issue it could affect the walls that the City is responsible for.

Councilmember Winn stated that if a study is to be done it should be done on the walls and the roof to find out what is going to need to be fixed. Mr. Kombos stated that the price is due to the study being a refresh and if a new study was going to be completed the cost would most likely be much higher.

Mr. Rodriguez stated that there were new Staff members involved now rather than when the study was first conducted, and there has been some pretty significant modifications that have taken place. As a City we just want to make sure that we have a good blueprint on how to proceed. He stated the refreshed study for just the architectural section is \$3,600.

Councilmember Winn stated that he thinks Council should just focus on the architectural study at the present time. To address the issues that Council is under contract to be liable for.

Mr. Rodriguez stated that the Eubanks, Harris, Roberts, Craig Architects is who is responsible for the architectural study. The pool study would be subcontracted out to a pool expert. He further stated that the contract was bid in a way that there were multiple components to the study.

A motion was made by Councilmember Winn, seconded by Councilmember Elliott, to award the contract for the architectural study in the amount of \$3,600, with Eubanks, Harris, Roberts, Craig Architects, Inc. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING KSA ENGINEERS, INC. TO CONDUCT A STUDY AND REPORT PHASE TO EVALUATE LOW PRESSURES IN THE DISTRIBUTION SYSTEM ALONG HWY 31 IN THE AMOUNT OF \$13,000 PLUS REIMBURSABLE EXPENSES NOT TO EXCEED \$1,000

Amy Williams, Director of Development, stated that it has been identified that there are potential low pressure issues in the distribution system along Highway 31, from the Royal Mountain Sandpipe to Loop 7, then along Loop 7 near the TxDOT facility, and also northeast along Highway 31 past the loop. She stated there is a concern that these pressures have the potential of nearing the TCEQ boil water notice level. Staff is recommending that we hire KSA Engineers to conduct a study in a report phase to provide a recommendation on a way to remedy this issue.

Mayor Pro-Tem Montgomery stated that he has a little bit of a problem with studies, as we just talked about the Cain Center on a study updating the previous one of what needs to be done and when. On this situation you have a study, we know what the problem is, it is low water pressure and we have talked to a couple of others who had the recommendations. Why are we not just hiring an engineer to fix it, or putting it out to bid, or going out for request for proposals to engineering firms that we can bring in to fix it. Why do we need a study?

Ms. Williams stated there is actually a couple of issues as to why we are recommending the study. First of all, there is more than one way to fix the issue. We can go out and spend five to six hundred thousand to create a new pressure plane to revamp it, it could even be up to a million plus, or we can have them conduct a study and see if there is an alternative to really remedy the issue at a much lower cost to us. Mr. Montgomery stated that if an engineering firm has addressed this before they should know what the remedy is in the front. Ms. Williams stated that when you are dealing with hydraulic pressure issues, you have to look at the entire system, so unfortunately we don't have our hands on a good hydraulic model that previous engineers have used so in order for them to actually provide us with a recommendation that will really fix the issue and allow us to stay in compliance with TCEQ they would have to conduct a study. It is really a wise decision on our part instead of having them just go ahead and do the high dollar fix.

Mayor Pro-Tem Montgomery stated that if we are hiring an engineer that is going to be high dollar, then we don't need to use that engineer, we need an engineering company that is doing the best job for the buck that is trying to take care of our customers. If we are looking at an engineering company that can do that, then I say not do it. When I first got on the Council, there was an issue about the new municipal building, and one of the architects that we talked about had to have a study, we knew what the problem was, we knew what the building was, we knew what we needed and we told him what we want, can you not do it without the study. He said no, I have to have the study. It was roughly fifteen to sixteen percent. I talked to (3) three other architects and they said no we do not need a study because we know what we are doing, we know the fix, we know we are going to look at this we are going to come up with the very best for our customer. Personally, I have problems with studies. I mean, we know there is a problem and we know that it has to be fixed. Why don't we just go out for RFPs. Let's say we do hire KSA to do the study, do they automatically design the system or does it go out for RFPs after that?

Ms. Williams stated that her response to that would be, it is not proven to do the most inexpensive fix. We need to really come up with a true solution to our problem and not band aid it. So, just to say an engineering firm that has a high dollar fix isn't a good solution isn't a very fair statement. They are going to provide their best recommendation, and ultimately their goal is to provide us with a fix that is the lowest possible cost, but with that being said we want it to be functional and work. Mayor Pro-Tem Montgomery stated that when they design it they put their name and their guarantee on the line.

Councilmember Elliott stated that his problem with this is about like Mayor Pro-Tem Montgomery's. He stated that he is going to speak pretty bluntly. A guy that is an engineer with an engineering firm, that has an engineer degree, and deals in water and hydraulics, and doesn't know the best way and cheapest way to repair the problem, then he doesn't need to be the Athens engineer, plain and simple. Ms. Williams stated that she agrees with that, however we have to decide the best way to actually fix the problem. Councilmember Elliott stated that he doesn't waste money, with Ms. Williams stating that it wouldn't be a waste of money, with Councilmember Elliott stating that he considers it a waste of money. Ms. Williams stated that it would really be our opportunity to work with the engineer to get a solution to actually fix a problem. That might be a lower dollar amount or a higher dollar amount. That would be something internally that we would decide, because ultimately we all want our city to provide safe and compliant drinking water.

Mayor Pro-Tem Montgomery asked if there was a representative of KSA in the room, with Ms. Williams stating that there was.

Councilmember Winn stated that about five minutes ago Ms. Williams stated that there was a study done by an engineer. Have we had a study done and we don't have a copy of it, by an engineer, on this particular situation?

Mayor Vaught stated that he would throw it out there because people will hear it, we had a City Engineering firm that worked for this city that did this, and they are not going to give us the information. Councilmember Winn asked if the City paid for that study. Mayor Vaught stated that any information done by the City Engineer should be the City's information.

Councilmember Winn asked again if the City had paid for that study, with Mr. Rodriguez stating that we were not aware of a specific study like this, but we are aware that we have paid for a number of years for an engineer to understand our system and look at solutions of our system that will not provide the information to us that we need. Mayor Vaught stated that they had this information available to us. Councilmember Winn stated that if we paid for it, and they have the information that should be available for us, and we are not getting it, then we need to do something about getting it.

Mayor Vaught stated that Council could go the legal route and try to get it. Councilmember Winn stated whatever it takes, if we paid for information and we are not getting, then we paid for

nothing. If we paid for information and they have information and are refusing to give it to us, then we need to get it.

Mr. Rodriguez stated that there is another piece of this. The current City Staff has to have great confidence for the information that another engineering firm has. He stated that Staff is in a situation right now that, even if we got that information, could it really be information that we could rely on. So, this we know can provide us information that we can rely on, that we can go out and create the fix to the problem that exists, that has existed for a number of years. We can now actually put feet to a problem that can cause some implications for us.

Mayor Vaught stated that apparently this has been going on for well over (11) eleven years and has been known about.

Councilmember Elliott stated that there is not a city in Texas that he knows of that has not had pressure and hydraulic problems. Pretty much every city that he has ever known of has had the same problem. Now, unless there is some new science that he does not know of, he is not willing to spend the money on a study. He is willing to spend the money on an engineer that will tell him what needs to be done, but not come to him with a price on what he thinks it is going to be, not just to have him a study.

Ms. Williams stated that actually the study would result in an engineer telling you what needs to be done. Councilmember Elliott asked would it also include the price. Ms. Williams stated that they would actually do the change, so of course there would be other construction and equipment cost associated with that. That is a completely different contract, but this study would result in them saying you need to do this to fix your pressure problem.

Mayor Vaught stated that it would fix it permanently for years to come. Ms. Williams stated that there are several different options that you can go. There can be a temporary fix, there can be a ten year fix, or you can spend more money and ultimately it would fix it. So in that study they will itemize all of our different options. John will be able to tell you more on what the report would entail when he comes up, but ultimately we would have a fix and a solution. We would know where to go from that point on, and we would be able to have a good overview of how much money we are looking at to budget for this.

Mayor Pro-Tem Montgomery asked if it could not go out for RFPs and say engineers this is the problem, we need the design and the fix. Interview however many architectural firms that wants to address this, and want to go after that project. Mr. Rodriguez stated that by state law we could do a Request for Qualifications, but you cannot ask financial information by state law. You could find a qualified firm, but you don't know if that is going to be a financially sound choice. Mayor Pro-Tem Montgomery stated that with the Park Street job, we had (4) four engineering firms come in. We picked the most qualified for the City, then in phase (2) two we qualify them out on their fee. If the fee wasn't there then you move right along to number (2) two.

Mr. Rodriguez stated that one thing that he wanted to challenge is that we have a Director of Development with qualifications for a reason. We have somebody that is an expert in the field that we pay great money to, to bring recommendations to us, and this is her recommendation. We then have to say, do we question either the competency of the person making the recommendation or do we trust the ethics of the person making the recommendation. If we trust that the person that is in the position that was hired to do the job, then we have to let them do the job, and that would include bringing forward recommendations.

Mayor Pro-Tem Montgomery stated that he disagrees. We are not questioning the integrity or anything like that, and he knows that she is qualified, however this is a little bit like the example of a water leak in a pipe. Let's bring in a study to determine what to do instead of hiring a plumber to just come in and fix it. He stated that he thinks there are places for a study. If the City had a grant giving us a million dollars, and we had several issues, then we bring in a study.

Mayor Vaught stated that he doesn't mean to disagree with Mayor Pro-Tem Montgomery, but he does. He feels like a study is going to give us the best information to take care of the problem. To take the best or cheapest route, whichever route we need to take for the citizens of Athens to make sure the job is done correctly.

Councilmember Winn stated that if the City does not do the study, and let's just say that we get (4) four people to come in here, and they all say yea three hundred thousand to five hundred thousand is the range. How do we know that we could not have gotten it done cheaper if we do not do the study? If everyone walks in and says yea I can fix it you have low water pressure. They don't know what is wrong with it, they just know they can fix it, and they are going to go this route.

Mayor Vaught stated the prudent route is always to do the study to know what you are dealing with.

Councilmember Winn stated that he understands what Mayor Vaught is talking about with studies.

Councilmember Elliott stated that we didn't have a study done for the water tanks repaired. We don't do a study when we go to an attorney's office and ask him to draw us up a deed. We don't pay him for a study, we pay him for the deed. We don't do a study when we go to a doctor's office to find out what is wrong with us. Councilmember Winn stated that if you pay for lab work that is a study. Councilmember Elliott stated that this is something new that the engineers are trying to pull on us and he is not going to approve it.

Ms. Williams stated that it would be unethical for her not to recommend a study because we would not know if we had the best fix for this issue.

Mayor Pro-Tem Montgomery stated that you are going off of one engineering firm's study. What if another engineering firm comes in and their study shows something completely different. This engineering firm KSA comes in and says you need a booster pump here and this. Then you bring in another engineering firm and they say no you need to increase the size of the lines here.

Ms. Williams stated that comes into play with her professional recommendation. She has personally had extreme success with KSA on multiple projects, ranging from very small to twenty million dollar projects. They stand behind their work and they are exceptional engineers.

Mayor Pro-Tem Montgomery asked if there are any engineering firms that won't stand behind their work, with Ms. Williams stating yes. Mayor Pro-Tem Montgomery asked who, with Ms. Williams stating she would not answer that. He further said, let's assume KSA does the study, they come in and make their recommendations, then what happens.

Ms. Williams stated that internally we would decide what would be the best route for the city, what is the long term fix. We look at the budget.

Mayor Pro-Tem Montgomery stated that he meant does KSA turn around and do the work, or the design, or do you put it out for RFQ.

Mr. Rodriguez stated that he felt that would be rebooting the whole process. You would be talking about taking one engineer just as you described, one engineers preferred solution that we bought into, and then asking other engineers to sort of restudy that study, to say the validation of it.

Mayor Pro-Tem Montgomery stated that if we agree to let KSA do the study, then they automatically do the design. Mr. Rodriguez stated that it would logically lend itself to say that this is who would do the design. Unless something took place in the study that showed a character or competency issue, I do not know why we wouldn't.

Mayor Pro-Tem Montgomery stated again this is not a character or competency issue, but it is potentially a million dollar issue and we are handing it over to one firm, without finding the best deal, not the best value, not the cheapest, but the highest rate of work for the best deal. We are blindly turning it over, we are not going for requests, and we are not seeing comparisons. It is one thing to do it on ten thousand dollars, but it is something else to do it on a million.

Mr. Rodriguez stated that if it is a million dollar project, then we want to spend (1) one percent of the total cost to ensure we know the answer.

Councilmember Elliott asked where did it get to be a million dollar project, with Mayor Pro-Tem stating that number was just what we were using for illustration. Councilmember Elliott stated that he was sorry, but pressure tanks do not cost that much. Back pressure valves do not cost that much, with Mayor Pro-Tem Montgomery stating that he just threw out a number.

Mayor Vaught stated that we are talking about a very low pressure system situation that really could get us in a situation.

Ms. Williams stated that the City has known about it for around (10) ten plus years. As a city we have to step up to the plate and take care of this.

Mr. Rodriguez stated that you have a professional that I hired to bring forward recommendations to fix issues that the City has sat upon for (10) ten plus years. We are asking for the opportunity to fix those issues and to find a solution to fix the problem, not keep pushing them to the next budget year or next City Council. If you would like us to belabor the process to go through the RFQ process then we have to do that every single time. We did not do that, and I hate to single out Robert with SPI, but we did not do that on the water tank rehabilitation. We trusted that SPI would be able to perform the design and construction management that was competent, and I don't recall anyone on this Council arguing the point that we had not gone out for RFQs. He asked if it was an idea that this was a study without solution, because I think that if it is a study without solution then I will back up, but if this is a study so that we can arrive at a solution then I have to have us pressed. I have to get it in front of Council, resolving problems that are almost as old as my youngest daughter in this town.

Councilmember Elliott stated that first of all, part of this Council has not known about this for (10) ten years.

Councilmember Winn stated that no one on this Council knew about it.

Councilmember Elliott stated that he would vote tonight to take bids to repair that, but he is not going to vote tonight to spend thirteen thousand dollars on a study.

Mr. Rodriguez asked if Councilmember Elliott felt like the city was equipped to know what that solution is.

Mayor Pro-Tem Montgomery stated that no not as a city, but engineering firms are very in the know.

Ms. Williams stated that if we had an engineer propose a solution to this problem without doing a study, then she would not recommend them because they are not doing their due diligence, and they are not being prudent about the process. They are just being quick to spend the city's money.

Councilmember Winn stated that he could be wrong, but if we do not vote to do this study tonight, and we are going to put it out for bids. If you think for one second that whoever bids on it does not throw in a study fee on top of it to do it, then you are wrong. So if you say yay or nay to this, but let's say you say nay and then Bryan Barker Engineering Firm comes in here and he

is going to give us a bid to fix our problem, then he has done a study, he has thrown thirteen thousand or whatever amount he wants to throw in there, without us ever knowing that he did the study. His thirteen may not be thirteen it may be twenty six, it may be forty-six, it may be six, but they are going to do a study and it is going to be in that price whether we know it or not.

Councilmember Elliott stated that they want to get the bid so they are going to do it as cheaply as they can do it, and as effectively as they can do it because their neck is on the line with the City.

Mayor Vaught stated that the key word there is effectively because we had a city engineering firm that we thought was effective, that was not and now we are having to fix a problem because of that. So we want to make sure that we are effective with citizen's tax dollars to make sure we get the job done right. So in my opinion a study is needed to make sure we do our due diligence, and that everything is done right. Councilmember Winn and Mayor Vaught both stated and for the right price.

Councilmember Winn stated that unfortunately there are only (4) four of us here, and he thinks he knows how this is going to go.

Ms. Williams stated that if there aren't any other questions then she would like to bring up John Wringler with KSA Engineers.

Mr. Wringler stated that there was a lot of good discussion. He stated that he could agree, he is not a guy that enjoys paying for studies, but I think that if you listen to the conversation out in the audience then you need a study because there are so many questions. Part of my work is to look at the different issues, bring all of those issues together and put together the different options and put together a cost impact of those options. We can do a pressure tank, we can do a ground storage tank, we may even be able to do an elevated storage tank, we may be able to account for pressure problems with a high service pump at the water plant, but we don't know because we have to get in there to look at it. For the city to move forward on a job this important, in my opinion you really need to have a study and report done. You need to know what the hydraulics are in your system. He stated that his report is not going to give Council one option. You will get multiple options with the costs for those options. You are not just going to get the construction costs for those options, you are going to get the operating costs too. You have to know if they do a pump station or booster pump station, that it is going to cost you "x" dollars per year, you will have to figure that into your budget. If it is a static situation then you will know what the cost of the system is there also. He stated if Council hired him tonight, then they could send in a different agreement that says KSA will do the design, the preliminary design, the final design, bidding administration, construction administration, RPR services, we offer all of that. In that, we calculate our fees based on the very first thing we do is a study and report. Part of that is the process, we don't want to get going down the road that you guys do not want to go down. We want to make sure everybody is going in the same direction, we look at all the options let the Council look at it, we give you the pros and cons. We help you make a decision to move in the right direction. We do the same thing in preliminary design, final design, before we even move to the bidding phase. So it is really not a simple answer, I have done hydraulic analysis, I have done design for 28 years, I can do it on anything for anyone. The best route to go on is to do a study to cross your "t's" and dot your "i's" to make sure everything is taken care of or you end up with some kind of Frankenstein monster that doesn't work right.

Councilmember Elliott said to Mr. Wringler, so you are basically telling me that this man sitting right here who has an engineering degree that he would have to have a study done by you for him to fix it. Mr. Wringler stated that he as an engineer would come up here and want you to do a study first thing. There is no way he knows what to do in the distribution system, what is most cost effective in either capital costs or operating costs without doing a study. Councilmember Elliott stated that he begs to differ with his opinion.

Mr. Wringler stated that he has done a lot of different work for people without study and report phase. We could go out there, I could put together a price and we could do a design for a hydropneumatic tank, a booster pump station, and a ground storage tank. I wouldn't have to do a study and report phase, but I can't tell you how much it is going to cost, I can't tell you how it is going to impact your operating budget, and I can't tell you if that is the cheapest alternative or most cost effective alternative. I can't tell you what the impact would be to the rest of your distribution system. You have a water plant and (4) four or (5) five wells, and I don't know how that is going to affect your THNs, HHNs, your chlorine residuals, or your disinfection residuals. Until we look at it as a whole we don't know what the pieces and parts add up to.

Mayor Pro-Tem Montgomery asked if it was put out for RFQ, there is no way to bid that. I noticed that your contract talked about interviewing personnel, coming in and talking to the City, looking at reports am I correct, with Mr. Wringler stating yes.

Mayor Pro-Tem Montgomery stated that if you bid it out right with a RFQ, this is our fee and this is what we are wanting to do, would you not still go through that process. Mr. Wringler stated yes, KSA does not bid engineering work, we send out for Request for Qualifications and Statement of Qualifications. We would come forward with whatever the RFQ form was, if you stated we needed to do a study and report then go all the way through it to construction administration, we would offer a presentation of those services that we have and our history of those to you. We hope that you would see that we are a very qualified firm, we have been in East Texas for (40) forty years. We have a lot of experience with things going on in the area.

Mayor Pro-Tem Montgomery asked if we did that RFQ and we had (5) five firms out there that did the same thing, doing the interviews and providing the documents and information and turned in the proposal, obviously not based on fee, but based on service. When the interview process is done, then you look at the fee and then you say the fees are (20) twenty percent separate. You have the same ones doing the same type of study, doing the same type work, then you get a comparison on the best deal for the citizens.

Mr. Wringler stated that you would have to talk to the City Attorney about that, it doesn't sound to him that the way that RFQ was proposed that it meets the state laws of selection for professional services.

Mayor Pro-Tem Montgomery stated the way he takes it is you send it out there to get the best firm to do the best deal for the citizens. You pick on qualifications first, then after that the firm that is picked submits their price. Mr. Wringler stated that you would then negotiate scope and fees.

Mayor Pro-Tem Montgomery stated then if that does not fit your budget then you move to company number two. If you have (4) four companies come in you list them 1, 2, 3, 4. If you don't work out a deal with number (1) one then you move to number (2) two.

Mr. Wringler stated that is allowable, but you would negotiate scope and budget. So, say your budget doesn't fit your first selection as the most qualified, then I would say you would want to go back and revise your scope and see if it fits in your budget.

Mr. Rodriguez stated that to have any negotiation of fee, even via the budget. In other words you say we only have two hundred thousand dollars to spend if that first firm can't deliver, then you would have to amend scope and go back. You can't go to the next and say hey, can you do this for this price because then you are negotiating fee by default.

Mayor Pro-Tem Montgomery stated that he believes it is written in the law somewhere where you can go to firm number two, with Mr. Rodriguez stating that he disagrees.

Mr. Wringler stated that in this agreement, even in your RFQ path, if you went that way, part of that would be your RFQ information is general information, it is not specific to your distribution

system, or your processes. You would get general list of qualifications that you could review and decide which one you think is more qualified in that you would still be selecting the firm that, my hope would be would want to do a study and report so that you could evaluate the situation. There is nothing in that agreement that we sent to the city that keeps you hiring us. If we do the study and report there is no continuation clause. You don't have to keep selecting KSA to do any additional work after that. We would hope that you enjoy doing business with us, and would want us to do any design work that came out of it, but if you decide to go with RFQ you would have the study and report to say look guys this is the problem, these are the issues this study and report is available for you to look at, we want you to send in your qualifications so that we can go through the process.

Ms. Williams stated that this is comparable to taking your truck to the mechanic because you have some kind of knock under the hood. You describe to the mechanic what the problem is and the mechanic says yea I can fix that. Write me a check for twenty five hundred dollars I can put a new engine in it. He did not even open the hood to take a look at it and test drive it to see exactly what the symptoms would be. It could have been you just needed oil, or you got bad gas, or you needed your spark plug changed. It could have been a simple fix but unless he actually opens the hood to look at it we are not going to know.

Councilmember Winn stated to Council to remember that this has been an ongoing situation for about (10) ten years. We have the obligation to get it fixed as soon as possible, as financially responsible as possible. We have all kinds of commissions breathing down our neck, and I am not trying to convince you to vote one way or another, but it needs to be done as soon as possible.

A motion was made by Councilmember Winn, seconded by Mayor Vaught, authorizing KSA Engineers, Inc. to conduct a study and report phase to evaluate low pressures in the distribution system along Highway 31 in the amount of \$13,000 plus reimbursable expenses not to exceed \$1,000.

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

Mr. Rodriguez stated that he would like to go on record to say that TCEQ will be aware of this issue, and he is very confident that when fines start coming our direction, they will exceed the thirteen thousand dollars. He stated he wasn't sure where to go next.

Mayor Pro-Tem Montgomery stated that he would also like to go on record by saying that we were all in the same meeting at the Freshwater Fishery Center when it was brought out that there was a low pressure system problem. This is the day that it has been addressed.

Councilmember Elliott stated that he would like to point out that he fully intends to see this fixed as soon as possible, but I don't intend to start a dangerous precedence that every time we have some little problem that we are going to hire an engineering firm to do a study. This is not a little problem, but it is somewhere from a five hundred thousand to a million dollar project, but pretty soon you will be wanting a study for a ten thousand dollar project. I am sorry I am not going to start that precedence with me being on this Council.

Councilmember Winn stated that since we are all going on record, this has been there for (10) ten years, we found out about it, a year or a little less than a year ago and we are doing something about it. It is like everything else that we didn't know about and we are trying to find out about, and we are trying to fix as it shows up. So to sit here and say so since we knew about it (9) nine months ago and we are all pathetic for not doing anything between now and then is the wrong way to look at it because the problem has been there for (10) ten plus years. I have been here two years, Councilmember Elliott has been here two years, with Mayor and Mayor Pro-Tem being here longer, not throwing it out on you two because I honestly don't believe you knew either so sitting here and putting (9) nine months of blame on me is not going to do the trick for me. It should have been done a long time ago. If we would like to go to item number (16) sixteen I am

sure we are going to get the same result so we can all save our breath. I am not mad, it is just upsetting.

DISCUSS/CONSIDER AUTHORIZING KSA ENGINEERS, INC. TO CONDUCT A STUDY AND REPORT PHASE TO EVALUATE THE EXTERIOR WALL OF THE TRICKLING FILTER AT THE NORTH WASTEWATER TREATMENT PLANT IN THE AMOUNT OF \$11,000 PLUS REIMBURSABLE EXPENSES NOT TO EXCEED \$1,000

Councilmember Winn made a motion to table this item until the next meeting, he stated because we know what the answer will be without the fifth person being here. He stated it will allow us to come to a majority vote. Mayor Vaught stated to agree with that statement.

Agenda Item #16 was tabled.

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

There was no discussion.

CITY MANAGER'S UPDATE

There was no update.

MAYOR AND COUNCIL UPDATE

There was no update.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 8th DAY OF FEBRUARY, 2016.

Jerry D. Vaught, Mayor

ATTEST:

Bonnie Hambrick, City Secretary